

Argan: A Case Study on ABS?

Daniel Robinson and Eric Defrenne¹

There has been considerable industry and civil society interest in the use of argan (*Argania spinosa* (L.) Skeels – see Figure 1) products in the cosmetic industry in terms of its relation to the ABS framework of the Convention on Biological Diversity, but also more broadly due to commitments made by industry towards fair trade and sustainable supply. Of specific interest here is the corporate social responsibility (CSR) approach of Laboratoire Serobiologiques (LS) (a division of Cognis – now part of BASF), working with L’Oreal and the NGO Yamana, and their partners in Morocco – the Targanine cooperatives. The intention of this paper is to identify the positive aspects of this ongoing and current collaboration, as well as to raise questions and critiques such that industry might continually learn to improve their practices towards sustainable and fair supply of products and also fair and equitable ABS in the cosmetic industry. In this particular case, it is worth noting that Morocco currently has no ABS laws or regulations, and taking a literal view of the CBD text, there was

only limited expectation on companies to establish ABS agreements where ‘genetic resources’ are utilized. Therefore I use this case to present a hypothetical example of the sort of arrangements that might take place under the new internationally binding requirements under the Nagoya Protocol on ABS once national systems have been established. It was in this context that I have been analysing this CSR approach to argan products, in order to identify synergies between fair trade, sustainable use and (voluntary, but soon to be mandatory) ABS approaches for industry.

Figure 1: An Argan Tree in the Souss Valley, near Tioute.

(Source: Robinson, D. 4th August, 2010).



A tripartite partnership has been established since 2008 between LS, L’Oreal and Yamana for the implementation of a CSR program along the supply chain with Targanine. The Targanine cooperatives in Morocco supply argan oil (and related argan products, e.g. pressed oil cake and argan leaves) to LS under fair trade arrangements of prepayment for the product (e.g. 2 year contract for the supply of oil), agreed prices and a premium price paid (e.g. 5% premium paid for oil at the end of the year in 2010). L’Oreal is supplied with the processed products which it then incorporates into a number of cosmetics products that are distributed internationally, making the whole partnership viable. Yamana has a key role as a trainer and facilitator working with the cooperatives in Morocco, ensuring that local stakeholder expectations are being taken into consideration and to incorporate value addition into the supply chain.

Some of the most notable aspects of the supply chain and partnership include:

- Purchase of products specifically from Targanine cooperatives set up in conjunction with Prof. Zoubida Charrouf with the intention of providing not only employment but also shared ‘ownership’ in the cooperative and shared decision-making, a significant tool for empowerment of previously unemployed Berber women;
- The cost structure of argan oil was assessed to make sure that payment each year has been above market price since 2008 when EcoCert Fair Trade certification was achieved. Women are paid per kilo of crushed argan almond;
- LS’ introduction of co-products utilizing pressed cake and argan leaves for subsequent use in L’Oreal cosmetics. The cooperatives sell pressed cake to LS for approximately 15 times local market prices, substantially improving the viability of these operations. Of the total paid per kilogram, approximately 50% goes to a social fund for each cooperative, 25% to Economic Interest Group (EIG) Targanine for maintenance costs, machinery, investment and management and 25% to the cooperative (indirectly for incomes);
- The social fund of each Targanine cooperative noted above receives 50% of the pressed cake payment. The social fund has been spent on eye glasses, literacy programs, basic hygiene related products like washing machines and pharmacy products, and also TVs. Some cooperatives have purchased health insurance cover for the women and their families. As required by fair trade certification, a development fund monitored by the EIG receives 5% of the oil payment to finance social or technical investments;

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- The assistance of this Tripartite relationship has enabled the cooperatives to maintain their EcoCert certified organic compliance, with a strengthening of procedures and traceability. The certification of 'organic' reflects traditional harvesting practice of collecting fruit from trees that occur 'wild' across the landscape of the Souss Valley;
- A traceability program developed by EIG Targanine and Yamana is in place to ensure that products collected or purchased are organic. There is also a traceability program to monitor social fund expenditure to ensure that purchases made from it are those agreed upon by the cooperative in an annual forum.
- Environmentally benign collection activities that reflect traditional usufruct rights of village collection.

This approach presents an interesting CSR case study in itself, with the partners continuing to work to improve elements of the supply chain and partnership for continued social benefits to the Berber women in the cooperatives.

If we now turn to this case as an ABS hypothetical, we can also examine alignment with requirements under the 2010 Nagoya Protocol. Without an ABS law in Morocco, LS has not been subject to any access or benefit-sharing legal requirements for this project, but have voluntarily put together a benefit-sharing program as described above. "Temporal scope" questions relating to past uses, new uses or new benefits arising from already accessed genetic resources, were not fully resolved in Nagoya. Thus, it seems clear that new access and benefit-sharing requirements will not apply retroactively. What is less clear is if new uses/benefits arising from prior or ongoing uses (i.e. where industry accessed the genetic resources and/or traditional knowledge earlier) may also be considered as new situations for benefit-sharing requirements – this is something that may be left to national jurisdictions to resolve and pursue in terms of compliance and monitoring.² It is now up to the Moroccan Government (a Party to the CBD) to decide to sign and ratify the Nagoya Protocol, and following this to develop nationally appropriate laws/systems. What is clear from the Nagoya Protocol is that access and benefit-sharing conditions are required for R&D on utilization of genetic resources, including on 'biochemical composition' and 'derivatives' (see Box 1). It also imposes prior informed consent (PIC - of indigenous and local communities) and benefit-sharing requirements on access to traditional knowledge associated with genetic resources.

Box 1: *ABS and the Nagoya Protocol's 'Utilization of Genetic Resources'*

Under the Convention on Biological Diversity (CBD), the third main objective is for the "fair and equitable sharing of benefits arising from the utilization of genetic resources..." Until recently ambiguities over the 'utilization of genetic resources' have caused problems for national implementation of laws for ABS as well as for industry seeking to utilise these resources. The Nagoya Protocol provides clarity with the definition of utilization of genetic resources as such: "means to conduct research and development on the genetic and/or biochemical composition of genetic resources..." and includes reference to derivatives within that scope "mean[ing] a naturally occurring biochemical compound resulting from the genetic expression or metabolism of biological or genetic resources, even if it does not contain functional units of heredity.

If Morocco does implement an ABS law in the next few years, new uses of argan products, including innovations based on argan oil as a derivative of the genetic resource, could hypothetically require benefit-sharing. The existing tripartite partnership for supply of argan would only be subject to this if they came up with new uses for the argan products after such a legal requirement was in place.

² Oliva, M.J. (2010) 'Nagoya Protocol on Access and Benefit Sharing. Technical Brief.' *Union for Ethical BioTrade*, UEBT. Geneva.

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Another hypothetical question worth asking is if this CSR model fits the likely benefit-sharing framework that we might expect a country to implement under the Nagoya Protocol. The Protocol Annex on monetary and non-monetary benefits provides some insight. If we transposed the existing CSR partnership and supply chain into a theoretical national benefit-sharing framework, the following current benefits provided seem valid:

Monetary:

- Special fees to be paid to trust funds (although the Protocol specifies ‘supporting conservation and sustainable use of biodiversity’);
- Salaries and preferential terms where mutually agreed (the tripartite approach ensures cooperative ‘employment’ of women for the contract terms and potentially longer);
- Joint ownership of relevant intellectual property rights (in this case with a Moroccan national [Arab, not Berber], Prof. Zoubida Charrouf, who is joint author on a number of patents).

Non-monetary:

- Participation in product development (although not directly involved in product development, the cooperatives have benefited from argan product valorisation by their partners who have incorporated argan pressed cake and leaves into new cosmetic products. The cooperatives are involved in processing of these ingredients and this generates additional revenue for them);
- Collaboration and cooperation in education and training (particularly quality programs but to a certain extent on environmental impacts);
- Transfer of basic technologies (for roasting and pressing argan kernels);
- Contributions to the local economy;
- Food and livelihood security benefits; Social recognition, and potentially others.

Thus, although this project does not follow a typical milestone and royalty payment framework for benefit-sharing, it does align somewhat with a number of other suggested monetary and non-monetary benefits that could be provided as an alternative model towards meeting national ABS obligations under the Nagoya Protocol.

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