

Access and Benefit Sharing (ABS)

Basic Information Sheet

What is ABS?

Access and benefit sharing or “ABS” refers to the set of rules and principles governing the use of genetic resources and associated traditional knowledge, established by the Convention on Biological Diversity (CBD - see box).

In which cases is ABS relevant?

The CBD refers to ABS in relation to “genetic resources,” but the exact scope of this term has not been determined. Some national laws and experts understand the concept to include not only genetic information but also the biochemical substances in living organisms. The use of biodiversity for plant extracts, essential oils, active ingredients, colors or flavors, for example, would thus require compliance with ABS.

However, ABS is not meant to regulate each and every use of biodiversity. There is no intent to address the trade of biological resources as commodities, for instance. ABS does cover the collection and use of biodiversity as the basis for research and development, particularly for commercial purposes. It is these activities, also called “bioprospecting,” that must be conducted with adequate consideration of ABS principles.

Basic principles of ABS

The CBD recognizes the rights of countries, through their national governments, to regulate access to genetic resources. There are two basic principles for such regulation:

- > Any access or use of genetic resources must take place with the approval - or “prior informed consent” - of the country providing the resources,
- > The conditions for access or use of genetic resources, including on how any resulting benefits would be shared, must be agreed upon - access and benefit sharing must be based on “mutually agreed terms.”

Prior informed consent

Prior informed consent (PIC) is the explicit permission of the authorities of the provider country that may be required before access or use of plant material takes place. In practice, PIC is an administrative process established by national legislation on ABS (see box). Companies seeking access to biodiversity generally present an application to the competent authorities in the provider country, which would then grant a permit, license or accord for such access to take place. In addition, the Bonn Guidelines on ABS adopted by the CBD (see box) also establish that PIC must be obtained from indigenous and local communities where access to their resources or traditional knowledge is sought. In such cases, PIC would be the outcome of a consultative process with these communities.

Main rules and guidelines on ABS

- > **Convention on Biological Diversity (CBD).** Adopted in 1992, it is the most comprehensive international agreement on biodiversity. Over 190 countries have ratified the CBD. Its objectives are the conservation of biodiversity, the sustainable use of its components and the fair and equitable sharing of benefits derived from the use of genetic resources.
- > **Bonn Guidelines on ABS.** This set of voluntary provisions was adopted by the CBD in 2002. Their aim is to assist governments and other stakeholders in implementing ABS. They expand the CBD principles and rules on ABS, defining the main roles of the stakeholders and the stages in the ABS process.
- > **National legislation.** CBD provisions on ABS are put in practice through national legislation. National laws determine, for instance, stakeholders, procedural and substantive requirements, types of activities and resources covered, and relevant compliance mechanisms. Approximately 40 countries currently have ABS legislation in place, including Australia, Brazil, India, and South Africa.

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Mutually agreed terms

Mutually agreed terms can be described as the “ABS agreement” - the arrangement reached on the terms and conditions of access and use of genetic resources between the company seeking plant material for research and development, and the collectors, growers, or associations that would be able to supply such material.

These contractual agreements are subject to particular procedural and substantive principles. In addition to the parties to the contract, for example, the involvement of other stakeholders - local communities, civil society organizations and authorities - may be relevant. The Bonn Guidelines also list some basic requirements for such agreements: they must address how the resources are to be used, by whom, and for what purpose, as well as what benefits are to be shared and how such sharing will take place. In addition, national laws on ABS may require government approval of the terms of the contract.

Benefit sharing

The types, timing and mechanisms of benefits to be shared will vary depending on what is fair and equitable in the particular circumstances. The Bonn Guidelines, however, list possible benefits, including the results of research and development carried out on the plant material, the transfer of technologies for conducting relevant research or production, and the monetary benefits arising from the commercialization of the biodiversity-based products. The Bonn Guidelines also state that any such benefits should be shared with all those who have contributed to the resource management, scientific and/or commercial process.

Traditional knowledge

Traditional knowledge is an integral part of ABS. The use of traditional knowledge for commercial research and development is equally subject to ABS principles - it must take place with the approval and involvement of indigenous and local communities, as well as equitable sharing of benefits. The specific approach and arrangements may vary depending on whether the knowledge at issue is held by a limited number of communities, or is widely disseminated in the region. The use of traditional knowledge that is known to the public, for example, might be rewarded through trust funds established at a local or national level.

Traditional knowledge in R&D

Traditional practices often reflect useful information on the properties of plants and other biological resources.

Traditional knowledge is thus widely used as the initial basis for selecting, sampling and screening biodiversity, and much phytochemical research focuses on corroborating the safety and effectiveness of the traditional uses.

Intellectual property rights

Patents are useful tools to protect innovation in natural products, creating benefits that can be shared along the supply chain. At the same time, there is concern that patenting practices do not always support ABS principles. In particular, patents are criticized as a way to commit ‘biopiracy’ - that is, to use or claim rights over biodiversity and related traditional knowledge without recognition of PIC or equitable benefit sharing. Indeed, there is growing pressure for companies to develop and adopt patenting practices that are consistent with ABS principles.

UEBT and ABS

The fair and equitable sharing of benefits derived from the use of biodiversity is at the core of Ethical BioTrade, and constitutes one of the key elements of the work of UEBT. ABS principles are included in the Ethical BioTrade standard, both expressly and in the context of broader benefit sharing requirements. The UEBT third-party verification system assesses company policies and their implementation, and determines any necessary changes that need to be gradually implemented to comply with Ethical BioTrade practices, including on ABS. In addition, UEBT provides technical advice and support on ABS issues, including through practical tools and workshops. By addressing ABS in its outreach activities, UEBT is also helping to raise awareness of ABS within industry.

For more information please see the UEBT ABS portal at www.ethicalbiotrade.org/abs