



Guidance Document on Access and Benefit Sharing (ABS)

At the Convention on Biological Diversity in 1992, 172 countries met and agreed that every country holds rights on animals, plants and genetic resources within its borders, and anyone that wants to use these resources should respect these rights, this includes knowledge from traditional medicine. The Convention on Biological Diversity (CBD) established the principals for this fair and equitable sharing of the benefits from the utilization of biodiversity. Though this largely went unimplemented for many subsequent years, in 2010, the Nagoya Protocol reaffirmed main concepts of the CBD, such as Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT), but went a step further to develop a set of rules in order to facilitate the implementation of these principals.

The main provisions of the Nagoya Protocol and the CBD are:

Access and Benefit Sharing (ABS)

An interested researcher or foreign company may only be able to access a genetic resource if allowed by the providing country. This includes traditional knowledge associated with the genetic resource, as this knowledge often plays an important role in the discovery of active ingredients from the genetic resource.

Prior Informed Consent (PIC)

In accordance with national legislation, a PIC request must be obtained by the providing country. In the PIC the nature and planned intent of the research and utilization should be outlined.

Mutually Agreed Upon Terms (MAT)

The MAT defines the benefits to the provider of the genetic resource, as well as contractual issues. The benefits can be monetary or non-monetary. The MAT applies to both commercial and noncommercial users.

It is now clear that these rules apply not just to pharmaceutical research, but also to food and personal care industries. Even though the CBD identified “genetic resources”, the Nagoya Protocol provided a more expansive definition of what is meant by this. Basically, research and development linked to the biochemical composition of plants and other compounds from biodiversity are included. Therefore, any research & development into the chemical components of plants are covered by the CBD.

In Summary:

The **Convention on Biological Diversity** (CBD) entered into force in 1993 with the three main objectives: 1) to conserve biological diversity, 2) the sustainable use of biodiversity components, and 3) the fair and equitable sharing of the benefits of the use of genetic resources.

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization (Nagoya Protocol)- The Nagoya Protocol was adopted in 2010 with the objective of fair and equitable sharing of benefits that arise from the use of biological diversity, which would in turn contribute to the conservation and sustainable use of biodiversity. The Nagoya Protocol also developed a set of implementation steps for ABS.

For further guidance and information on implementation of the CBD and the Nagoya Protocol, you may access the free E-learning platform: <https://scbd.unssc.org/>; or visit the website <https://www.cbd.int/secretariat/>

Implementation

Although it is now clear that any companies performing research and/or development on biodiversity-based products for food and personal care products falls within the scope of the Nagoya Protocol, it may be some time before policy-makers and other stakeholders implement what it means in practice within a particular country. One suggestion during the development of the Nagoya Protocol was “internationally recognized certificates of compliance” that would act as passports along the chain of custody to show it is being met. In either case, sourcing practices that pre-emptively ensure access and benefit sharing should be seen as a competitive advantage as it is only a matter of time until these policies will be implemented more formally by countries throughout the world.

Resources Consulted:

Above CBD Website- free E-learning platform: <https://scbd.unssc.org/>; or visit the website <https://www.cbd.int/secretariat/>

FAQ on the Nagoya Protocol and ABS-
<https://unctad.org/meetings/en/Contribution/ditc-ted-03122016-IVcongress-UEBT-FAQ-Nagoya%20protocol.pdf>