

Beyond ABS: from legal compliance to good practices

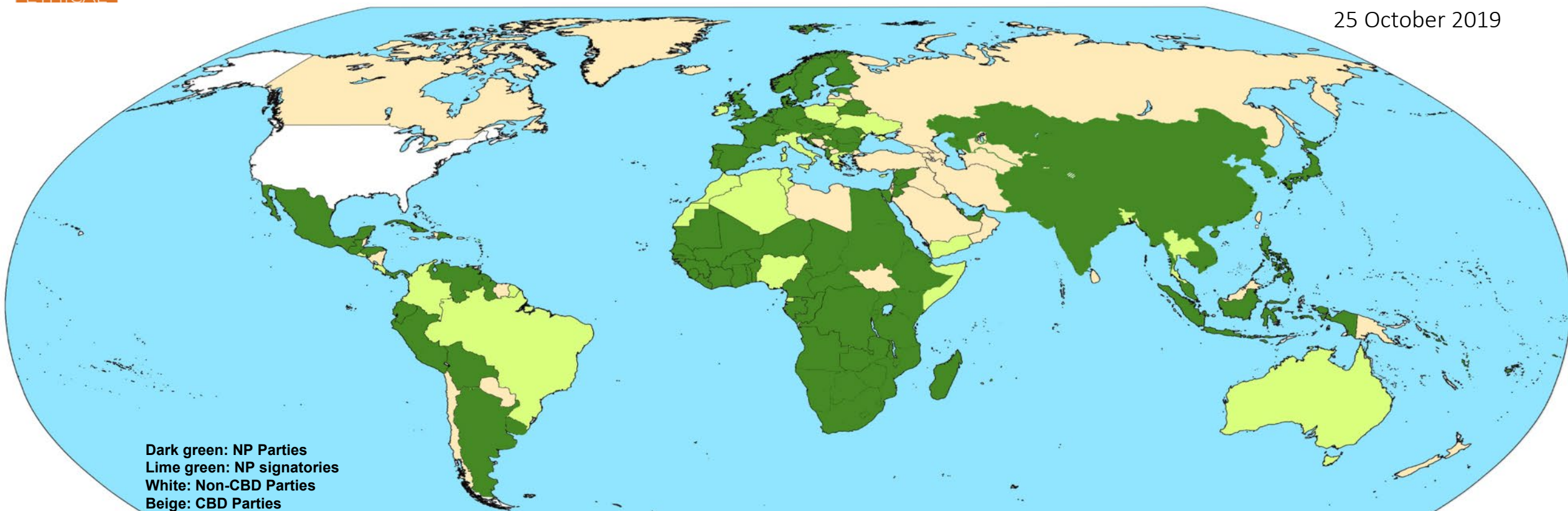


Outline

- Nagoya Protocol status
- National implementation
- Good practices
- UEBT Standard
 - Principle 3
- An example: Natura Cosmetics

123 Ratifications/Accessions to the Nagoya Protocol

25 October 2019



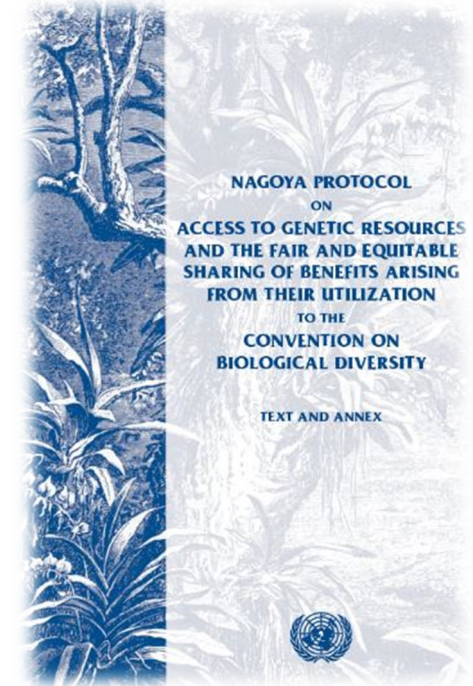
Afghanistan, Albania, Angola, Antigua and Barbuda, Argentina, Austria, Belarus, Belgium, Benin, Bhutan, Bolivia, Botswana, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, China, Comoros, Congo, Côte D'Ivoire, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Estonia, Eswatini (Kingdom of), Ethiopia, European Union, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Guatemala, Guinea, Guinea Bissau, Guyana, Honduras, Hungary, India, Indonesia, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao PDR, Lebanon, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, the Federated States of Micronesia, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Netherlands, Niger, Norway, Pakistan, Palau, Panama, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Rwanda, Saint Kitts and Nevis, Samoa, Sao Tome and Principe, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Solomon Islands, South Africa, Spain, Sudan, Sweden, Switzerland, the Syrian Arab Republic, Tajikistan, Togo, Tonga, Tuvalu, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Zambia and Zimbabwe

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Source: CBD Secretariat

Key elements of Nagoya Protocol

- Access
 - Clear, transparent, non-arbitrary ABS procedures
 - Permit
 - National focal point, competent national authorities
- Benefit-sharing
 - Addressed in MAT, monetary and/or non-monetary
- Compliance
 - Respect ABS requirements of provider countries
 - At least one check point
 - Internationally recognised certificate of compliance
- Traditional knowledge associated with genetic resources
- Utilization of genetic resources



PROVIDER COUNTRY

PIC

Competent National Authority



MAT

-Terms of Use (e.g. Commercial or non-commercial)

-Benefit-sharing (monetary or non-monetary)



Permit

**Notified to ABS
Clearing-House**



International Certificate of Compliance

**GRs
+
Certificate**

Benefit-sharing

USER COUNTRY

Utilization of GRs

Checkpoints:

- *Research publishing houses*
- *Research institutions subject to public funding*
- *Patent examination offices*
- *Authorities providing regulatory or marketing approval of products*

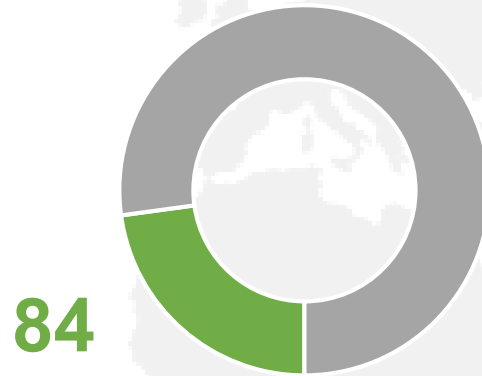
**Provide information on PIC, MAT,
source of GRs, use of GRs**

**Monitoring the utilization of genetic
resources**

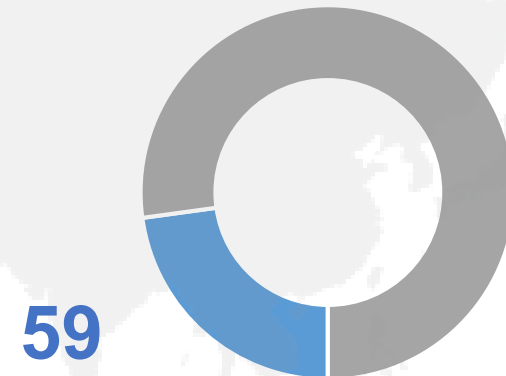
National ABS implementation



Parties to
the Nagoya Protocol



Parties with ABS
framework



Parties with ABS
requirements

A close-up photograph of anemone tentacles, showing their characteristic cylindrical shape and color gradient from light yellow to dark brown. The tentacles are densely packed and appear to be in motion, creating a textured, almost abstract pattern.

National implementation

To be **operational**, the Protocol requires Parties to:

- ✓ Establish **institutional structures** (NFP, CNA and checkpoint)
- ✓ Establish/revise legislative, policy or administrative measures on **ABS**
 - ✓ PIC
 - ✓ MAT
 - ✓ Permit
 - ✓ Benefit-sharing
 - ✓ Compliance
- ✓ Make national information available to the **ABS Clearing-House**

Nagoya Protocol and Best Practices

Parties to encourage development, update and use of voluntary codes of conduct, guidelines and best practices and/or standards in relation to access and benefit-sharing (art. 20)

- Recognition that different sectors use genetic resources in different ways and have different ABS practices
- A number of codes of conduct, guidelines, best practices developed by user groups

Background on UEBT

- UEBT was created in 2007 with support of the United Nations to promote business engagement in BioTrade.
- Members commit to gradually implement practices defined in the UEBT standard.



UEBT Vision

Companies' innovation and sourcing of natural ingredients contribute to a world in which people and biodiversity thrive.

Mission

To support and validate best practices of companies committed to ethical sourcing and innovation of natural ingredients for the benefit of people and biodiversity.

Areas of work

- Business awareness on sourcing with respect for people and biodiversity
- Verification of ethical sourcing systems of UEBT member companies
- Certification of natural ingredients supply chains of UEBT members
- Advisory services to businesses and governments

Ethical sourcing systems, Access and benefit sharing, Supply chain verification

51
members
globally

65
countries
our members
source from

318
botanical ingredients
in which members
improve sourcing practices

170
of these ingredients
are UEBT certified



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UEBT Ethical BioTrade standard

RESPECT FOR PEOPLE



Systems for
ethical sourcing



Clarity about
land tenure



Legal
compliance



Respect for
worker rights



Sustainable use
of biodiversity



Fair and equitable
benefit sharing



Biodiversity
conservation

RESPECT FOR BIODIVERSITY



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WITH RESPECT

Principle 3 – Fair and equitable benefit sharing

Fair prices, dialogue and
local development

- Prices paid to producers based on calculating costs of production in line with standard
- Respectful, balanced and inclusive discussions along supply chain
- Discussions based on complete and accessible information
- Supply chain activities support local development, as defined by producers and their local communities

Principle 3 – Fair and equitable benefit sharing

- Applicable legal requirements are identified, and measures taken towards compliance
- Even if no legal requirements on ABS apply, ABS principles such as prior informed consent respected in relation to indigenous peoples and local communities
- Patents and other intellectual property rights respect rights of countries and communities

Compliance with rules
and principles of access
and benefit sharing (ABS)

Good practices on ABS

- Improving traceability
- Identifying raw materials, products and activities involved
- Collecting information from suppliers
- Monitoring legal developments
- Raising awareness among employees, suppliers and clients
- Establishing strategies, procedures and policies for compliance
- Coordinate compliance with broader approaches and commitments
- Negotiating permits and agreements



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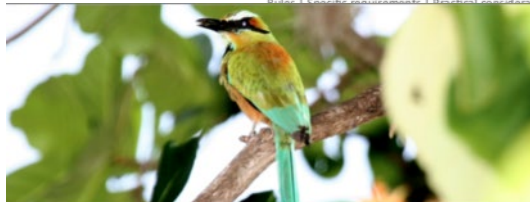
SOURCING WITH RESPECT

Tools on ABS



ABS IN MEXICO

Rules | Specific requirements | Practical considerations | Contacts



ABS IN CENTRAL AMERICA & I REPUBLIC

Considerations | Contacts

ABS IN BRAZIL

Rules | Specific requirements | Practical considerations

New rules on ABS

On 17 November 2015, a new legal framework on ABS entered into force in Brazil. Law 13.123, which had been under discussion for over 10 years, fully revisited prior rules, which had been established in CP June 2002 and published as Medida Provisória 2.186, on 23 August 2001. It aimed to reassess the legal concepts raised over the years over 'rules that while enabling access to genetic resources and associated traditional knowledge established burdensome requirements and did not include explicit considerations for scientific research.'

Law 13.123 is regulated by Decree 8.721/17 (May 2016). Additionally, Decree 8.973, adopted in January 2017, approved the restructuring of activities for the management of genetic heritage within the Ministry of Environment.

In November 2017, the administrative system for registration (see box on 'Facilities for some operational') of Brazil's ABS framework is now fully implemented and standards for registration are running.

Further information on ABS in Brazil can be found in the report 'ABS in Brazil: A new framework for genetic resources and associated traditional knowledge' published by the Union for Ethical Biotrade (UEBT).

Union for Ethical Biotrade (UEBT)



Overview

Brazil is one of the most biodiverse countries in the world, the number of known plant, animal and fungi species in the country already represents two and a half times the number of species known to have been recorded. In addition, Brazilian cherish their ecosystem and biological resources and speak of 'sociobiodiversity' to reflect its intrinsic links with social, cultural and economic values.

It is thus not surprising that Brazil is an important actor in international discussions on access to genetic resources and fair and equitable sharing of benefits derived from their utilization (also known as ABS). Brazil has also pioneered national implementations of ABS principles, through a non-proprietary system that was the basis of numerous ABS genetic and agreements and a long law that modified the ABS system and established an innovative, registration based approach.

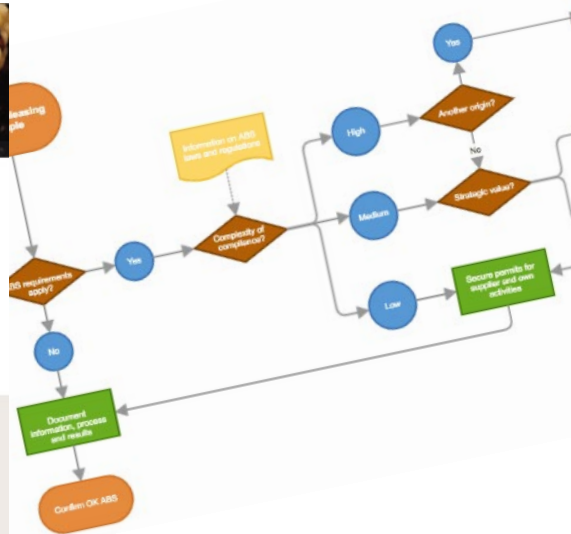
The new system, which also features a national fund for benefit sharing and an agency for monetary benefit sharing based on the revenue derived from research or development, is in force and fully operational.

For half a per cent of the world's land mass, Brazil has seven per cent of its biodiversity. Forests in species of vascular plants, nearly 3,000 of which timber species such as big-leaf mahogany, are sourced

It is a critical role in safeguarding such biodiversity lies in Central America. Their lands occupy 10 per cent of the planet's land area, but are home to 10 per cent of the world's biodiversity.

Central America, composed of seven different countries: El Salvador, Guatemala, Honduras, Nicaragua and American Integration System or SICA, for its part includes the Dominican Republic. The Dominican Caribbean, is similarly rich in biodiversity, with 10 per cent of which 1,800 are endemic.

Central America is a region with abundant genetic resources and knowledge and fair and equitable sharing of information (ABS). This note provides an overview of the region, their specific requirements, and to date.



Natura Cosmetics

- Leading company in cosmetics and personal care sector
- Biodiversity central to Natura's commitment to sustainable development
- Founding member of UEBT
- Dedicated to contributing to the conservation of biodiversity by developing new ingredients and products based on sustainable use and benefit-sharing.
- Example: Natura Ekos Line, launched in 2000, roots in Brazilian biodiversity and partnership built with local communities.



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Defining benefits



ABS policy of Natura Cosmetics

- Access to genetic resources
 - % of profit on final products for three years
 - Prepayment upon confirming potential
- Access to traditional knowledge
 - Prepayment
 - Fixed payments in case of use
- Additional, project-based non-monetary benefits
- Importance of dialogue with communities