

CABI response for input to Conference of the Parties (COP-MOP) evaluation of the effectiveness of the Nagoya Protocol October 2017

Background

CABI provides this response to the request for input to the notification: *Contribution to the first Assessment and Review of the Effectiveness of the Nagoya Protocol* Ref.: SCBD/SPS/DC/VN/BG/JR/86908. The purpose of this notification is to collect information on: (a) the use of model contractual clauses, codes of conduct, guidelines, best practices and/or standards as well as indigenous peoples and local communities' customary laws, community protocols and procedures; and (b) the implementation and operation of the ABS Clearing-House. CABI provided feedback on the implementation and operation of the ABS Clearing-House by filling out the survey: <https://goo.gl/forms/n8aOhECy91lrL4IJ2>.

CABI is an international not-for-profit organization that uses genetic resources in its mission to improve people's lives by providing information and applying scientific expertise to solve problems in agriculture and the environment. This is achieved through knowledge sharing and the application of scientific research to improve global food security and safeguard the environment. In doing so CABI accesses biological and genetic resources and undertakes sampling/collection of biological materials and delivers benefits to farmers around the world through its mission-driven activities by helping them grow more and lose less of what they produce. CABI's aims in the use of biological and genetic resources of plant, animal or microbial origin are to engender trust, to facilitate science, and to ensure that benefits are shared.

Comments regarding: *(a) Relevant stakeholders, such as the private sector/business community, research/scientific community and ex situ collections, to provide information on the development, update and use of model contractual clauses, codes of conduct, guidelines, best practices and/or standards in relation to access and benefit-sharing;*

CABI has prepared and is implementing its policy on Access and Benefit Sharing (ABS) and works with its partners and various relevant communities to introduce best practice in compliance with country requirements. CABI has introduced a generic Material Transfer Agreement to ensure recipients of genetic resources from CABI are aware of their responsibilities in their use and any benefit-sharing commitments made. CABI is in the process of negotiating access with all provider countries of genetic resources that are used in the course of CABI's work. These documents are shared with partners but as yet have not been made public.

CABI is aware of several community model contractual clauses, codes of conduct, guidelines, best practices and/or standards in relation to access and benefit-sharing which it takes into consideration; for example:

- European Culture Collections' Organisation (ECCO) core MTA
<https://www.eccosite.org/ecco-core-mta/>
- Microbial Resources Research Infrastructure (MIRRI) ABS Manual
<https://zenodo.org/record/284881>
- Global Genome Biodiversity Network (GGBCN) ABS Guidance, Best Practice for ABS:
http://www.ggbn.org/docs/ABS_Guidance/GGBN%20Guidance%20Best_Practice_June_2015-Final.pdf

- International Organisation for Biological Control of Noxious Animals and Plants (IOBC) Commission on Biological Control and ABS http://www.iobc-global.org/global_comm_bc_access_benefit_sharing.html
- Consortium of European Taxonomic Facilities (CETAF) Code of Conduct and Best practices https://cetaf.org/sites/default/files/final_cetaf_abs_coc.pdf

Although such best practices are useful, CABI often has special circumstances of access and use and needs to provide guidance for its staff. There is currently no accepted format or content for such best practices and, as far as CABI is aware, there are few test cases for such best practice (CETAF is one). Those available on the ABS Clearing House are community interpretations of what is needed and not necessarily what is required by the provider country. Indeed by the very nature of the implementation of the Nagoya Protocol each country has different requirements. Recent Guidance drafted by the European Commission for compliance with the EU Regulation on ABS (Regulation (EU) No 511/2014) places activities in scope of this regulation which do not necessarily align with what the provider country requires. The early drafts of such guidance were contradictory and unclear and need refinement but even after improvement will only help in compliance with the EU regulation. Practitioners are in desperate need of guidance that works on a global basis.

Information is difficult to access and making contact with an appropriate National Focal Point (NFP) or a Competent National Authority (CNA) a hit and miss process. In CABI's response to the ABS Clearing House questionnaire we proposed more centralised help be put in place; researchers are asking the same questions of the national authorities and the processes for compliant access are not transparent and easily accessible. Answers to frequently asked questions and details of processes and when they are triggered would be most helpful. Such processes would reduce administrative burden on all concerned.

In the process of negotiating access and use of microorganisms and invertebrates for CABI's specific uses CABI has contacted the National Authorities in 28 countries; 11 have responded positively; one country just commented that "we have law, follow it". However, dialogue continues with 12 countries and we have failed to establish communication with 4 countries. The reasons for protracted negotiations are manifold but the primary problem appears to be that countries are still trying to decide what they want to do or are still drafting regulation. There are several common expectations in the responses CABI receives, each of which present difficulties:

- Work through in-country partners; for CABI this is relatively easy as we work through country partnerships but for many it is not so easy to find appropriate partners
- Deposit samples in-country; many countries do not have the facilities nor the capacity
- Deliver CABI benefits; always possible but what is an appropriate and equitable level, each country has different expectations
- Implement best practices in a transparent way;
- Obey the law – obviously but it is not always easily accessible (physically and in a language we can understand) and what are the mechanisms and practical steps that must be followed?

CABI wishes to comply but the solutions are global and not only CABI's responsibility. CABI believes that establishing global accepted practices and coordination of information provision on the mechanisms for compliance in each country would reduce administrative burden on all sides whilst enabling compliant practices.