



Cristiana Paşca Palmer, PhD  
Executive Secretary  
Secretariat of the Convention on Biological Diversity

15 November 2017

**Subject:** Contribution to the first Assessment and Review of the Effectiveness of the Nagoya Protocol - Information on model contractual clauses, codes of conduct, guidelines, best practices and/or standards in relation to access and benefit-sharing

Dear Dr. Paşca Palmer,

Regarding CBD notification No. 2017-104, the Union for Ethical BioTrade (UEBT) appreciates the opportunity to contribute to the review of the effectiveness of the Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Resulting from their Utilization. We are pleased provide information on the use of the Ethical BioTrade standard and related tools to promote and advance access and benefit-sharing (ABS), as well as on lessons learnt and possible considerations for the Nagoya Protocol.

#### **About UEBT**

The Union for Ethical BioTrade (UEBT) is a non-profit organisation that promotes ethical sourcing of natural ingredients with respect for people and biodiversity. UEBT offers its members – including companies working in the food, cosmetics and natural pharmaceutical sectors – independent verification, supply chain certification and technical support. UEBT also works to raise awareness of biodiversity among companies working with natural ingredients and provides advisory services on issues linked to the ethical sourcing of biodiversity.

#### **About the Ethical BioTrade standard**

UEBT members use the Ethical BioTrade standard to shape their ethical sourcing of biodiversity. This is an internationally-recognized standard for the sourcing of natural ingredients, managed by UEBT according to best practices established by the ISEAL Alliance, which represents sustainability standards. The Ethical BioTrade standard is based on the BioTrade Principles and Criteria established by the UN Conference on Trade and Development (UNCTAD). It includes requirements linked to the conservation and sustainable use of biodiversity, fair and equitable sharing of benefits resulting from its utilization and other sustainable development goals and principles.

#### **ABS in the Ethical BioTrade standard**

ABS is an integral part of the Ethical BioTrade standard. This is still rather unique. There are codes of conduct or guidelines for various sectors focusing on ABS. However, sustainability standards still primarily look at equity issues more broadly and do not fully reflect ABS. In the Ethical BioTrade standard, there are specific references to the CBD and the Nagoya Protocol, as well as a set of requirements to advance the objectives of these international agreements and to facilitate compliance with their implementing laws and regulations.

For example, the Ethical BioTrade standard requires companies to have operational systems on ABS – that is, companies must have policies and measures in place to identify and comply with applicable requirements in laws and regulations on ABS around the world. Moreover, if companies engage in biodiversity-based innovation, the Ethical BioTrade standard requires them to respect principles such as prior informed consent and fair and equitable benefit sharing, even if no legal requirements on ABS apply. Finally, principles such prior informed consent and fair and equitable benefit sharing are reflected in the Ethical BioTrade – as in the CBD – beyond the utilisation of genetic resources. For example, negotiations that are

transparent and based in trust, respect for the rights of indigenous peoples and local communities, and contribution to local development, as defined by producers and their communities are requirements for the sourcing of natural ingredients under the Ethical BioTrade standard.

### **Other tools and best practices on ABS**

UEBT has developed tools and best practices to facilitate putting in practice requirements on ABS. For instance, UEBT has a manual to help companies along the value chain to implement Principle 3 of the Ethical BioTrade standard, which refers to ABS. The UEBT Principles on Patents and Biodiversity require companies using intellectual property to protect innovation, ensures that any patents are secured and managed in a way that supports, rather than undermines, ABS principles. Guidelines on ABS in material transfer agreements can be used to ensure ABS principles are respected in the exchange of plant material for production, research or product development purposes. UEBT also provides tools that support companies in setting up due diligence systems, to comply with EU regulation 511/2014 but also with ABS requirements more broadly.

### **Practical implications**

In the context of UEBT, it is possible to say that standards, guidelines and best practices are useful tools in putting in practice ABS. In particular, the Ethical BioTrade standard requires and guides companies in:

- Identifying and fulfilling requirements on access and benefit sharing established in laws and regulations in countries where sourcing of natural ingredients is taking place;
- Setting up systems of due diligence to ensure that samples used in research and development activities fulfil applicable ABS requirements;
- Respecting ABS principles on prior informed consent and fair and equitable benefit sharing in research and development activities, even if these activities fall beyond the geographical, temporal or material scope of laws and regulations on ABS;
- Reporting annually on progress towards ABS requirements in the Ethical BioTrade standard;
- Undergoing periodic audits on their ethical sourcing systems, including ABS assessments prior to any certification of supply chains or systems;
- Working together to identify more practical and meaningful ways to respect ABS rules and principles in their activities;
- Developing tools and best practices on ABS and ethical sourcing of biodiversity; and
- Engaging with other companies and stakeholders to raise awareness and advance the objectives of the CBD and the Nagoya Protocol.

Further information on UEBT, its approaches, activities and members is available on [www.ethicalbiotrade.org](http://www.ethicalbiotrade.org).

We hope the above information will be useful to Parties in their assessment and review of the effectiveness of the Nagoya Protocol, inspire them to further encourage the use of codes of conduct, guidelines and best practices and/or standards in relation to ABS, and promote the recognition of these tools in national laws and regulations on ABS.

Best regards,



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