

Contribution of the Biotech Industry to the implementation of Article 15 of the Convention on Biological Diversity: Access and Benefit Sharing

European Commission: Work on model contractual clauses, best practices etc. in view of the entry into force and implementation of the Nagoya Protocol (ENV.E2 VK/rf ARES (2013))

Speaking for their member companies and member associations the German Biotechnology Industry Association ([DIB](#)¹) and the German Chemical Industry Association ([VCI](#)²) support the objectives of the Convention on Biological Diversity (CBD): the conservation and sustainable use of biological diversity as well as the fair and equitable sharing of benefits arising from utilization of genetic resources. Among the industrial sectors represented by the DIB, its member companies and member associations are inter alia: medicine and health care, primary production and agro-food, animal health, textile finishing, pulp and paper, detergents, cosmetics and personal hygiene, renewable raw materials for producing materials and energy, industrial production such as bulk and specialty chemicals, drug compounds, amino acids, enzymes, polymers. Also included are industries which are at present already working on value creation of their own with genetic resources of aquatic origin, and which will do so even more in the future (blue biotechnology).

All industries creating value by means of biotechnological processes or products are affected either actually or potentially by the implementing provisions of the CBD. There can be no single answer to the question as to how far individual sectors of the industry are affected. In detail, this will depend particularly on the definition of their operative range and their position within the industrial value creation chain.

Preliminary basic principles

Subject to the decision on the EU proposal regarding the implementation of the Nagoya Protocol, DIB's members agreed on the following preliminary basic principles for the acquisition of genetic resources:

1. Identify the Focal Point of the country of origin and take up contact.
2. In consultation with the Focal Point, identify all necessary access requirements imposed by the country of origin.
3. Where relevant, check whether the providing organization is authorized to this effect by the country of origin.

¹ DIB: DIB represents leading biotech and chemical companies and 10 associations. Thus DIB membership stands for over 95 percent of the German market for biotechnological products. DIB operates on national, European and international level and is the one of the world's largest biotechnology industry associations.

² VCI: The VCI represents the politico-economic interests of some 1,650 German chemical companies and German subsidiaries of foreign businesses. The VCI stands for over 90 percent of the chemical industry in Germany.

4. For the purpose of obtaining a PIC, submit a statement from the recipient on the proposed utilization to the Focal Point authorized by the country of origin.
5. Reach an agreement with the Focal Point on the provisions of the license agreement, including benefit sharing in accordance with the possibilities set out in the "Bonn Guidelines".
6. Ratify the license agreement.
7. Take physical possession of the genetic material.
8. Transfer the genetic material to the utilization resources defined in the contract.
9. Comply strictly with the contractual obligations.
10. Sell or relinquish the genetic resource to subsequent users only under the provisions of the SMTA.

Depending on the final implementing provisions of the proposed EU regulation regarding ABS, we will adapt and specify the basic principles.

The industry places special emphasis on practicable options for implementing the principle, laid down in Section 15 of the CBD, of regulated access to genetic resources and of sharing the benefits arising from their utilization in a fair and equitable way with the party providing such resources. Wherever possible, workable and existing regulations should apply which also small and medium-sized enterprises can fulfill without extra administrative workload in their usual day-to-day activities.

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