

Access and Benefit Sharing (ABS) in Ethiopia: National and International Perspective



For More Information

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Background

The Convention on Biological Diversity (CBD), has three objectives: (1) the conservation of biological diversity, (2) the sustainable use of its components; and (3) the fair and equitable sharing of benefits arising out of the utilization of genetic resources (known as “access to genetic resources and benefit-sharing,” or “ABS”). Parties to the CBD have formalized ABS through certain articles of the Convention, and through the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits arising out of their utilization.

All living organisms; plants, animals and microbes, carry genetic material that could be potentially useful to humans. These resources can be taken from the wild, domesticated or cultivated. There are significant potential benefits to be gained by accessing genetic resources and making use of them. They provide a crucial source of information to better understand the natural world and can be used to develop a wide range of products and services for human benefit. These include products such as medicines and cosmetics, as well as agricultural and environmental practices and techniques.

However, like many key resources in the world, genetic resources are not evenly distributed. Moreover, the plants, animals and microbes in which they are found often make up complex and delicately-balanced ecosystems which can be threatened or endangered. The way in which genetic resources are accessed, and how the benefits of their use are shared, can create incentives for their conservation and sustainable use, and can contribute to the creation of a fair and more equitable economy to support sustainable development.

Our current understanding of genetic resources owes a great deal to the traditional knowledge of indigenous and local communities. This valuable knowledge has been built up and handed down over generations. It is essential that the value of traditional knowledge understood and valued appropriately by those who use it, and the rights of indigenous and local communities are considered during negotiations over access and

use of genetic resources. Failing to do so can put the knowledge, the resources and the communities at risk.

ABS in the Framework of the CBD

Access and Benefit Sharing (ABS), Article 15 of the Convention on Biological Diversity, refers to the way in which genetic resources may be accessed, how the benefits that result from their use are shared between the people or countries using the resources (users) and the people or countries that provide them (providers). ABS is based on prior informed consent (PIC) being granted by a provider to a user and negotiations between both parties to develop mutually agreed terms (MAT) to ensure the fair and equitable sharing of genetic resources and associated benefits.

Prior informed consent (PIC): ABS is based on prior informed consent (PIC) being granted by a provider to a user. It is the permission given by the competent national authority of a provider country to a user prior to accessing genetic resources, in line with an appropriate national legal and institutional framework.

Mutually agreed terms (MAT): ABS is based on negotiations between provider and user to develop mutually agreed terms (MAT) to ensure the fair and equitable sharing of benefits. It is an agreement reached between the providers of genetic resources and users on conditions of access and use of the resources, and the benefits to be shared between both parties.

After ratifying the Convention on Biological Diversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (IT-PGRFA) as well as adopting international model laws and guidelines, Ethiopia has issued Access to Genetic Resources and Community Knowledge, and Community Rights Proclamation (No. 482/2006) and Regulation (169/2009). The legislations focus on PIC, MAT, Multilateral System of Access and how to implement relevant activities. “Multilateral System of Access” means the system established in accordance with article 10 of the IT-PGRFA in order to facilitate the access to, and a fair and equitable sharing of the benefits arising from the utilization of, plant genetic resources for food and agriculture.

Parties Involved in ABS

Providers of genetic resources: states have sovereign rights over natural resources under their jurisdiction. They are obliged to put in place conditions that facilitate access to these resources for environmentally sound uses. Providers agree terms, which include PIC and MAT, for granting access and sharing benefits equitably. Laws within the provider country may entitle others, such as indigenous and local communities (ILCs), to also negotiate terms of access and benefit sharing. The participation of ILCs is necessary in instances where traditional knowledge associated with genetic resources is being accessed.

Users of genetic resources: users are responsible for sharing the benefits derived from genetic resources with the providers. They seek access to genetic resources for a wide range of purposes, from basic research to the development of new products. They are diverse group, including botanical gardens, industry researchers such as pharmaceutical, agriculture and cosmetic industries, collectors and research institutes.

National focal points: to facilitate access, users need a clear and transparent process that details whom to contact and what the requirements and processes are in provider countries in order to gain access. They are responsible for providing this information.

Competent national authorities (CNAs): CNAs are bodies established by governments and are responsible for granting access to users of their genetic resources, and representing providers on a local or national level.

The Nagoya Protocol on ABS

After six years of negotiation, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization was adopted at the tenth meeting of the Conference of the Parties on 29 October 2010, in Nagoya, Japan. The Protocol significantly advances the Convention’s third objective by providing a strong basis for greater legal certainty and transparency for both providers and users of genetic resources. The aim of this new international regime is to prevent biopiracy and to

ensure the fair and equitable sharing of benefits arising from the utilization of biological resources and associated traditional knowledge.

Specific obligations to support compliance with domestic legislation or regulatory requirements of the Party providing genetic resources and contractual obligations reflected in mutually agreed terms are significant innovations of the Protocol. These compliance provisions as well as provisions establishing more predictable conditions for access to genetic resources will contribute to ensuring the sharing of benefits when genetic resources leave a Party providing genetic resources. In addition, the Protocol’s provisions on access to traditional knowledge held by indigenous and local communities when it is associated with genetic resources will strengthen the ability of these communities to benefit from the use of their knowledge, innovations and practices.

By promoting the use of genetic resources and associated traditional knowledge, and by strengthening the opportunities for fair and equitable sharing of benefits from their use, the Protocol will create incentives to conserve biological diversity, sustainably use its components, and further enhance the contribution of biological diversity to sustainable development and human well-being.

The ABS Protocol is a major turning point for proper implementation of the ABS negotiations and follow up in Ethiopia. Most of the articles are more or less included in the existing ABS laws of Ethiopia and it is strongly believed that the Protocol will boost their implementation especially when negotiations and agreements are made between Ethiopia and foreign companies. Relevant and new articles need to be considered while revising the ABS laws of Ethiopia. This will complement the existing ABS laws with the international regime and facilitate negotiations and agreements as well as the fair and equitable benefit sharing significantly.

Ethiopia: ABS in Practice

Ethiopia can be cited as an example for implementing Article 15 of the CBD. The country has issued legislations on ABS (proclamation and

regulation), has identified a competent national authority and clearly put the processes and steps in negotiations and published information sources online (www.abc-et.org/gm-access/gm). Ethiopia is among few exemplary countries that have established clear ABS implementation mechanisms in Africa. Moreover, there are clear procedures in the country to facilitate access to genetic resources and to ensure the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

Accordingly, two ABS agreements on Tef (*Eragrostis tef*) & Vernonia (*Vernonia galamensis*) have been signed so far between Ethiopia and Dutch and UK companies, respectively. Although the legal processes for accessing tef and vernonia genetic materials were concluded more or less successfully, the benefit-sharing component has never been properly implemented. None of the benefits identified in the signed agreement were shared with Ethiopia.

Limited capacity and lack of effective enforcement and follow up mechanisms for the ABS agreement are critical gaps identified which obstruct the proper implementation. As outlined in section 4, the Nagoya Protocol will enhance implementation of such agreements in our country assumed that proper follow up mechanisms and harmonization of existing ABS legislations are put in place.



Seeds of Tef

Indigenous Knowledge

Indigenous or local knowledge (IK) refers to the complete bodies of knowledge, know-how, practices and representations that are maintained and developed by peoples with long histories of close interaction with the natural environment. These sets of understandings, interpretations and meanings are part of a cultural complex which



encompasses language, naming and classification systems, ways of using resources, spirituality, rituals and a worldview. The expression “indigenous knowledge” is also used inter-changeably with “traditional knowledge”; “folk knowledge”, “cultural knowledge”, “community knowledge” and “local knowledge”. It is transferred from generation to generation orally and is seldom documented.

Importance of IK

IK has made, and can still make, a significant contribution to resolving local problems. IK is playing a key role in a range of sectors: agriculture (intercropping techniques, animal production, pest control, crop diversity, animal healthcare, seed varieties, fishing), human healthcare (through traditional medicine), the use and management of natural resources (soil conservation, irrigation and other forms of water management). As a result of these, academics, policymakers and development practitioners have shown increasing interest in IK. Furthermore, IK is contributing to science in many fields relevant to natural resource management. In particular, IK is helping scientists to understand issues of biodiversity and natural forest management. IK is also providing science with insights into crop domestication, breeding and management, and giving scientists a new appreciation of the principles and practices in agro-ecology, agro-forestry, crop rotation, pest and soil management, and other areas of agricultural science. Furthermore, scientists are often adapting IK and re-applying it in projects of development cooperation and other contemporary contexts. Therefore, it can be considered that IK and modern science can be seen as two systems of knowledge that complement each other.

However, due to rapid change in the way of life (eg. rural to urban life style); low level of awareness on the importance of IK, lack of written documentation, disruption or poor communication channel (only through oral tradition), cultural homogenization, disappearance of indigenous

practices, loss of biological species, customs, beliefs, taboos and rituals, secrecy in transmission of the knowledge (as the case of traditional medicine) indigenous knowledge has been threatened. In some areas and communities, it may have been lost before documentation. Declining interest of the young generation in learning and applying IK is another point of concern. Hence, if this knowledge is to continue contributing to sustainable development and poverty alleviation, documentation and transmission of the indigenous knowledge is a matter of urgency. Thus, every stakeholder should be concerned and act accordingly.

ABS Related to IK

Access refers to granting permission to enter an area for the purposes of sampling, collecting, and taking genetic or community knowledge. Benefit sharing refers to all forms of compensation for the use of genetic resources or community knowledge, whether monetary or non monetary.

Prior to 1992, IK has been collected freely from all over the world. There were no international or national laws regulating access to IK. Much of this knowledge has made an important contribution to research and development, particularly in areas such as pharmaceuticals, and agricultural and cosmetic industries. International trade in genetic resources, often referred to as bio-trade, involves high economic stakes today. For example, the sale of drugs based on traditional medicines alone amounts to over US\$ 32 billion a year. It has been estimated that by consulting indigenous peoples, bio-prospectors can increase the success ratio in trials from one in 10,000 samples to one in two. IK that belong to local communities, primarily in developing countries has been inappropriately claimed or used by individuals or western corporations. The term “bio-piracy” is often used to describe the misappropriation of knowledge and/or biological materials from traditional communities. There is still a major concern on the fact that these corporations will continue to adapt, incorporate, build upon, or directly claim IK without acknowledgement or compensation for the communities that developed the knowledge.

Under such circumstances, rapid depletion of biological resources and the need to reward both

users and providers, gave rise to the CBD, which for the first time acknowledged the value of IK and resources. CBD under its article (8j) states the need for governments to respect, preserve, maintain, and promote the wider application of traditional knowledge (TK) and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices. Following CBD, various international treaties and laws have offered support and recognition to indigenous peoples' rights in biodiversity related knowledge and practices. In view of these, indigenous people started claiming their rights as traditional holders and custodians of this knowledge. They demand not only recognition and protection of this knowledge, but also the right to share equitably the benefits derived from the uses of this knowledge.

The access to genetic resource and community knowledge and community rights (Proclamation No.482/2006 and regulation No. 169/2009) stipulate that the Institute of Biodiversity Conservation (IBC) decide on access to genetic resources, while the community, which is the custodian of the community knowledge, shall give consent to access to community knowledge. The rights of local communities over their genetic resources and community knowledge shall be protected as they are enshrined in the access proclamation and regulation.

Requirement of permit to access:

- In order to gain access to genetic resource and community knowledge, users must first get permission known as Prior PIC from the concerned local communities as per the access regulation. Accordingly:-
- No person shall access community knowledge unless in possession of written access permit granted by IBC;
- Unless otherwise explicitly expressed, the granting of permit to access genetic resources shall not be construed to constitute permit to access the community knowledge associated there with and vice versa;
- No person shall export genetic resources out of Ethiopia unless in possession of permit

granted by IBC to this effect.

Basic conditions of access:

- Access to genetic resources shall be subject to the PIC;
- Access to community knowledge shall be subject to the PIC of the concerned local community;
- The state (Institute) and the concerned local community shall obtain fair and equitable share from the benefits arising out of the utilization of genetic resources and associated community knowledge;
- An access applicant who is a foreigner shall present a letter from the competent authority of his national state or that of his domicile assuring that it shall uphold and enforce the access obligations of the applicant;
- In cases of access by foreigners, the collection of genetic resources and community knowledge shall be accompanied by the personnel of the IBC or the personnel of the relevant institution to be designated by the Institute;
- The research based on the genetic resources accessed shall be carried out in Ethiopia and with the participation of Ethiopian nationals designated by the IBC, unless where it is impossible;
- Where the research based on the genetic resources accessed is permitted to be carried out abroad, the institution sponsoring and/or hosting the research shall give a letter of assurance that they shall observe the access obligations.

Basic conditions for denial of access:

IBC may deny access to genetic resources; where:

- the access requested is in relation to the genetic resource of an endangered species;
- the access may have adverse effects upon human health or the cultural values of the local community;
- the access may cause undesirable impact on the environment;

- the access may cause danger of loss of ecosystem;
- the access is intended to use genetic resources for purposes contrary to the national laws of Ethiopia or the international treaties to which Ethiopia is a party.

Responsibilities of local communities:

- Local communities shall have the responsibility to prohibit any person, who does not belong to their communities, from collecting or taking genetic resources or community knowledge from their localities without having the necessary permit; and if he is without permit immediately notify or present him to the nearest kebele or woreda administration.

Information Sources on ABS

Various online and printed sources exist for providers and users of genetic resources. The following are the most important sources:

- Convention on Biological Diversity (CBD) (www.cbd.int)
- International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) (www.planttreaty.org, or www.itpgrfa.net)
- The Nagoya Protocol on Access and Benefit-Sharing (www.cbd.int/abs)
- The Bonn Guideline on Access and Benefit-Sharing (www.cbd.int/doc/publications/cbd-bonn-gdls-en.pdf)
- The African Model Law for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resource in Relation to International Law and Institutions (www.cbd.int/doc/measures/abs/msr-abs-oau-en.pdf)
- Access to Genetic Resources and Community Knowledge, and Community Rights Proclamation (No. 482/2006) and Regulation (169/2009) (www.ibc-et.org/gm-access/gm)

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Events/Celebrations



**International Day for Biological Diversity
(Forest Biodiversity, Earth's Living Treasure)
<http://www.cbd.int/idb/2011>**



**International Year of Forests
(Forests for People)
<http://www.un.org/en/events/iyof2011>**



**United Nations Decade on Biodiversity
(Living in Harmony with Nature)
<http://www.cbd.int/2011-2020>**

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