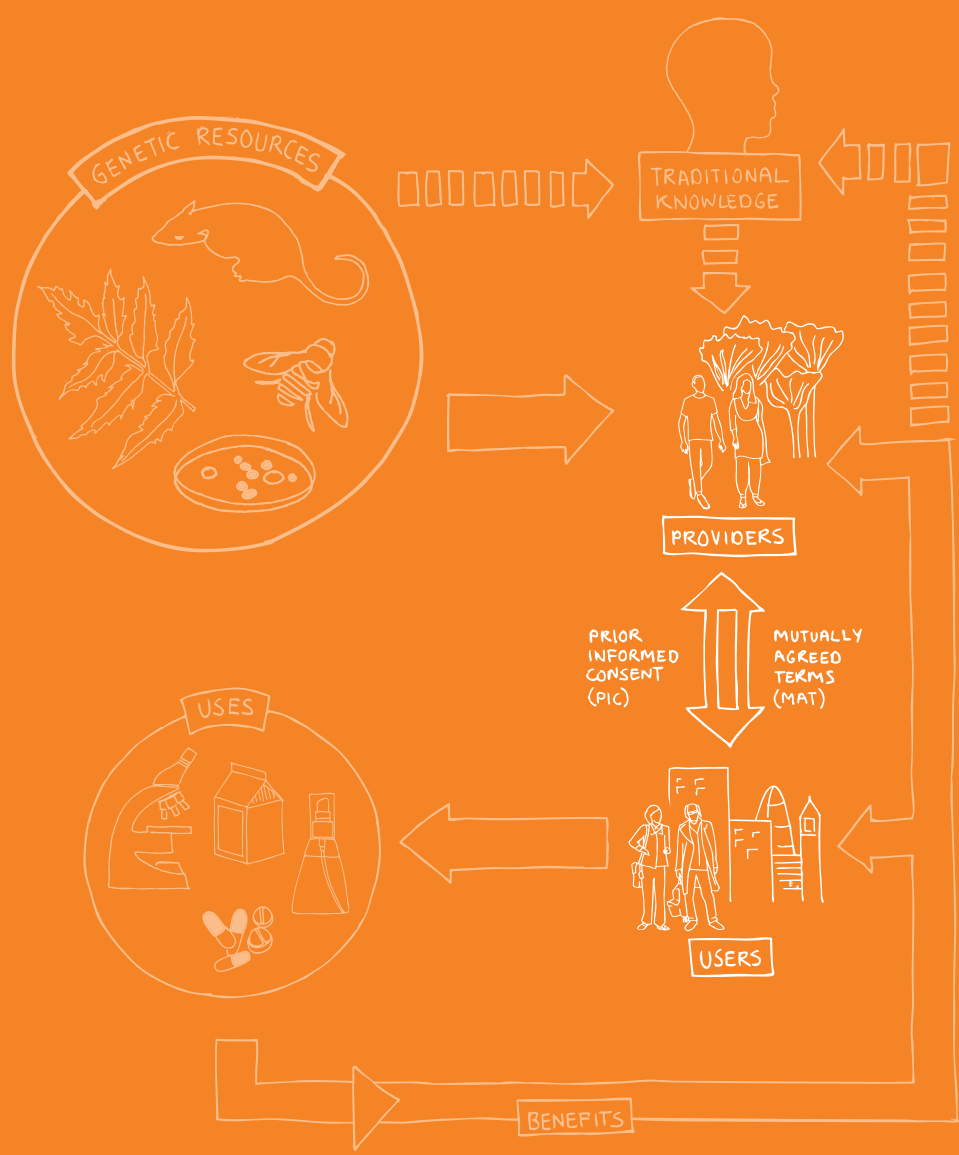


Convention on Biological Diversity: ABS

THEME

National implementation



What is national implementation about?

National implementation refers to the measures governments take to facilitate access to genetic resources, and to ensure the fair and equitable sharing of benefits resulting from their use.

Although the main principles relating to access and benefit-sharing are set out in the Convention on Biological Diversity (CBD), governments can decide how best to implement them based on their individual circumstances. Governments should adopt clear legislative, administrative or policy measures to govern access to resources under their jurisdiction.

Measures for implementing access and benefit-sharing may include national or regional strategies, policies, legislations, regulations and codes of conduct. These measures specify relevant information and procedures, such as which competent national authority can grant access to which genetic resources, and how to obtain prior informed consent (PIC) and agree on mutually agreed terms (MAT) between users and providers.

Voluntary guidelines and codes of conduct have also been developed for users of genetic resources in order to raise awareness of, and encourage compliance with, the CBD access and benefit-sharing obligations.

Why is national implementation important?

The national implementation of measures on access and benefit-sharing is essential for the equitable sharing of the benefits resulting from their use. In order to achieve this, it is important that states consider measures for both providers and users to ensure:

- That a transparent framework exists to facilitate access to their genetic resources, and to make sure that benefits are shared equitably
- That users under their jurisdiction negotiate mutually agreed terms with the provider country prior to accessing genetic resources

These measures create legal certainty and a fair relationship between providers and users. Providers are confident that users will respect their procedures for access and that they will receive a fair share of any potential benefits. Users feel informed about which authorities they must contact and the measures they must follow to ensure access.

Who is national implementation important for?

Providers: Governments must implement national measures to ensure that clear and transparent procedures are in place to facilitate access to their genetic resources, and to ensure that users will share benefits resulting from the use of these resources with providers. This may include indigenous and local communities (ILCs) if they have provided access to traditional knowledge associated with genetic resources.

Users: National measures should contain clear procedures to inform users about the relevant national bodies they must contact, and the correct procedures they must follow, to be granted access to genetic resources in other countries.

National Focal Points (NFPs): NFPs contribute to national implementation by providing information as to who users must contact, and the requirements and processes in place to obtain access to genetic resources in a particular country.

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. National implementation measures establish how CNAs work in a given country.



The issues

A variety of measures

Successful access and benefit-sharing depends on a clear understanding of the measures in place to govern the process. However, the measures to implement the principles in the CBD can take on a variety of forms, including national or regional strategies, policies, legislations, regulations or codes of conduct.

To date, countries have largely focused on developing measures as providers of genetic resources, in order to regulate access to their genetic resources, and to ensure they receive benefits that may arise from their use. It is crucial that all measures result in a clear framework by which users and providers can negotiate fair agreements around access and benefit-sharing.

Different levels of implementation

Many governments around the world have made efforts to implement the ABS provisions of the CBD at the national level. However, the way in which they do so varies significantly based on individual national circumstances, administrative structures and priorities. As a result, not all countries implement access and benefit-sharing measures to the same extent, or in the same way.

For providers of genetic resources, it is important to implement measures that govern access to genetic resources. A number of countries such as Australia, Brazil, India and South Africa have adopted such measures. Australia, for example, is home to around 10% of the world's species and nearly 80% of its native species don't occur naturally anywhere else. So as a provider it must protect a wealth of unique genetic resources. It does this by following the CBD's framework, including implementing procedures for agreeing PIC and MAT.

← **Measures for implementing access and benefit-sharing may include national or regional strategies, policies, legislation, regulation, and codes of conduct**

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Australia has also developed its own national strategy and legislation to govern ABS, but many other countries do not have such detailed measures.

Most industrialized countries are predominantly users of genetic resources, and some have adopted measures to ensure compliance with the ABS requirements of provider countries. Belgium, Denmark, Germany, Norway, and Sweden, for example, have amended their patent laws to ensure that patent applications for products based on genetic resources disclose the origin of the genetic resources. Other groups of users, such as botanists and researchers have developed voluntary instruments, guidelines and codes of conduct to increase awareness and improve knowledge on ABS.

Understanding and communicating the different measures

The CBD Secretariat helps providers and users to understand the various ABS measures being implemented around the world by providing detailed information on national and regional access and benefit-sharing strategies on the Convention's ABS measures database (www.cbd.int/abs/measures).

National implementation measures were established to ensure that a transparent framework exists to facilitate access to genetic resources, and to make sure that benefits are shared equitably

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Factsheets in the ABS series

Access and benefit-sharing

Uses of genetic resources

Traditional knowledge

The Bonn Guidelines

National implementation

The Nagoya Protocol

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