



## INFORMATION SHEET

### ACCESS AND BENEFIT SHARING (ABS) RULES MEANING FOR EUROPEAN LIVESTOCK BREEDERS

*(developed in the frame of the project IMAGE (EU-H2020 n° 677353))*

## INTRODUCTION

The Nagoya Protocol on Access to Genetic Resources and the fair and equitable sharing of benefits arising from their utilization to the Convention on Biological Diversity (CBD) came into force in 2010. It is the implementation of Art. 15 of CBD (Access to Genetic Resources). The Nagoya Protocol aims to prevent bio-piracy. Bio-piracy is the commercial or academic development of genetic resources by a country or organization without obtaining prior consent from, or providing fair compensation to, the people or country where the genetic resource was first discovered.

## ABS IN EUROPE

The European Union (EU) entered the Nagoya Protocol into force in 2014 and implemented it with regulation 511/2014. Guidance documents give a better understanding about the obligations ([https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0827\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0827(01)&from=EN)).

- A genetic resource is material (vegetable, animal, microbial and other organisms) which contains functional units (carriers of the hereditary units). In principle Genetic Resources are a matter of national sovereignty. The parties have to establish legislative, administrative and/or political measures with regard to access to genetic resources. Some countries have established ABS rules. But which procedures have to run and what is in or out of the scope of the ABS rules is rarely known within the relevant stakeholders or a wider audience. This is particularly true for animal genetic resources (AnGR).
- Animal Genetic Resources (AnGR) material may be stored and used for different purposes: e.g. Breeders and Breeding organisations (commercial- and conservation breeding) and Science (commercial in companies and public at universities).
- The implementation of the Nagoya Protocol is co-ordinated by an international body, the Access and Benefits Sharing (ABS) Clearing House (<https://absch.cbd.int/>).

## GENERAL CHALLENGES FOR THE EXCHANGE OF GENETIC MATERIAL

**Access:** Any access rules are left to the individual member states. Therefore it is important to find out if there are access rules in place in your country (<https://absch.cbd.int/countries>).

**Benefit Sharing:** is a subject of contractual agreements.

**Compliance:** is given through the EU ABS regulation 511/2014 and the EU Implementing regulation (2015/1866). It is directly applicable in all Member States, regardless of ratification status of the single country.

**ABS IS LESS RELEVANT TO ANIMAL BREEDING THAN TO OTHER SECTORS DUE TO:**

- the international binding trade and sanitary measures
- limitation of import of animal material to the EU
- EU Member States (access) without legislation (or expressly excluded) on animal breeding

**Differences Plant genetic resources — Animal genetic Resources**

|                               | PGR                       | AnGR                   |
|-------------------------------|---------------------------|------------------------|
| <b>Ownership</b>              | public genebanks          | private                |
| <b>Value of individual</b>    | low                       | high to very high      |
| <b>Exchange</b>               | S→N                       | N→N and N→S            |
| <b>Trading</b>                | farmers'/breeders' rights | bilateral agreements   |
| <b>Inbreeding</b>             | used extensively          | not desirable          |
| <b>Breeding/testing costs</b> | inexpensive               | expensive              |
| <b>GM</b>                     | possible/efficient        | difficult/not accepted |
| <b>Patentability (TRIPS)</b>  | varieties                 | breeds not patentable  |
| <b>Centres of origin</b>      | well defined              | multiple domestication |

*Source: A.Kozłowska, IMAGE Dialogue Forum 25. August 2019, Wachtebeke, Belgium*

**ANIMAL (CONSERVATION) BREEDING AND ABS**

Animal breeding is a continuous process of improvement. New distinct breeds or lines are rarely created.

**ABS NOT relevant for breeding:**

- Registration in a herd book according to the EU rules (Reg. 2016/1020) (bovine, porcine, ovine, caprine...)
- „in house” breeding programmes by companies (poultry/ fish)
- Individuals (dealing with livestock or pet animals) – not a member of a recognised breeding organisation

**ABS is relevant, if:**

**Material is from a country with regulating access. This is relevant for:**

- New breeds/lines
- Individual breeding animals
- Any type of genetic material

**USERS HAVE TO COMPLY WITH NATIONAL LEGISLATION OF THE PROVIDER COUNTRY!**

**New commercial products are in the scope of the ABS:**

- Requires due diligence/ due diligent declaration
- Further use of the material – considered to be out of scope
- Contractual obligations to be fulfilled

## References

DG ENV, ABS website

[http://ec.europa.eu/environment/nature/biodiversity/international/abs/legislation\\_en.htm](http://ec.europa.eu/environment/nature/biodiversity/international/abs/legislation_en.htm)

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CBD Nagoya Protocol and ABSCH websites <https://www.cbd.int/abs/default.shtml>

<https://absch.cbd.int/>

Hiemstra, S.J. et al (2006): Exchange, use and conservation of animal genetic resources: policy and regulatory options (, Wageningen CGN report 2006/06 – 82)

Kozlowska, A. (2019):EU Commission: ABS rules in the EU – EU ABS legal framework, [www.save-foundation.net/images/konferenzen/2019/2019\\_08\\_25\\_IMAGE\\_ABS\\_animal\\_breeding\\_AK.pdf](http://www.save-foundation.net/images/konferenzen/2019/2019_08_25_IMAGE_ABS_animal_breeding_AK.pdf)

IMAGE (Innovative Management of Animal Genetic Resources) H2020 project: [www.imageh2020.eu/](http://www.imageh2020.eu/)

WilsonGunn (Patent & Trade Mark Attorneys), Appleton, B. (2016): An Explanatory Guide to The Nagoya Protocol, [www.salford.ac.uk/\\_data/assets/pdf\\_file/0009/956826/Paper\\_AEC1607\\_Nagoya-Protocol.pdf](http://www.salford.ac.uk/_data/assets/pdf_file/0009/956826/Paper_AEC1607_Nagoya-Protocol.pdf)

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