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COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Item 3.1 of the Provisional Agenda

Twentieth Regular Session

Rome, 24–28 March 2025

REPORT OF THE SEVENTH SESSION OF THE TEAM OF TECHNICAL AND LEGAL EXPERTS ON ACCESS AND BENEFIT-SHARING

Note by the Secretariat

1. The Commission on Genetic Resources for Food and Agriculture (Commission), at its last session, requested the Secretariat to further simplify and finalize the draft questionnaire and to prepare, based on the responses received and other available sources of information, a report on the implications of the implementation of ABS country measures for the use and exchange of GRFA, associated traditional knowledge and the fair and equitable sharing of benefits, for review by the Team of Technical and Legal Experts on Access and Benefit-sharing (ABS Expert Team) by electronic means. The Seventh Session of the ABS Expert Team was held virtually from 14 to 16 January 2025.
2. The ABS Expert Team reviewed of the draft study on *The impact of access and benefit-sharing measures on genetic resources for food and agriculture and associated traditional knowledge*.
3. The report of the Seventh Session of the ABS Expert Team is contained in this document for consideration by the Commission.



**Food and Agriculture
Organization of the
United Nations**

COMMISSION ON
GENETIC RESOURCES
FOR FOOD AND
AGRICULTURE

CGRFA/TTLE-ABS-7/25/Report

Seventh Session of the Team of Technical and Legal Experts on Access and Benefit-sharing

14–16 January 2025

CGRFA/TITLE-ABS-7/25/Report

COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

**REPORT OF THE SEVENTH
SESSION OF THE TEAM OF
TECHNICAL AND LEGAL EXPERTS
ON ACCESS AND BENEFIT-SHARING**

Rome, Italy, 14–16 January 2025

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Rome, 2025

The documents prepared for the Seventh Session of the Team of Technical and Legal Experts on Access and Benefit-sharing of the Commission on Genetic Resources for Food and Agriculture are available on the Internet at the following address:

<https://www.fao.org/cgrfa/meetings/team-of-technical-and-legal-experts-on-access-and-benefit-sharing/en>

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- A. List of experts
- B. Agenda of the Seventh Session of the Team of Technical and Legal Experts on Access and Benefit-sharing
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I. OPENING OF THE SESSION

1. The Seventh Session of the Team of Technical and Legal Experts on Access and Benefit-sharing (ABS Expert Team) was held virtually from 14 to 16 January 2025. The list of experts is given in *Appendix A* to this report. Observers from the following instruments and organizations also attended: Convention on Biological Diversity (CBD), CGIAR and the International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty).
2. Ms Marliese von den Driesch (Germany) and Ms María Laura Villamayor (Argentina), Co-Chair of the Sixth Session of the ABS Expert Team, opened the meeting and welcomed all participants. She welcomed the newly appointed Secretary of the Commission on Genetic Resources for Food and Agriculture (Commission), Ms Manoela Pessoa de Miranda and, on behalf of the ABS Expert Team, congratulated her on her new position and wished her all the best in her new role.
3. Ms Pessoa de Miranda, Secretary of the Commission, welcomed all participants and thanked the outgoing Co-Chairs for their leadership. She noted the complexity of the field of access and benefit-sharing (ABS) and expressed her hope that the draft study to be reviewed at this session would inspire the ABS Expert Team to also provide recommendations for possible future work of the Commission on ABS for genetic resources for food and agriculture (GRFA) and associated traditional knowledge. She further noted developments in other fora of relevance to the work of the ABS Expert Team, including the adoption of the Kunming-Montreal Global Biodiversity Framework with its particularly relevant Targets 13, 22 and 23, the decision of the sixteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD) on digital sequence information (DSI)¹ as well as the World Intellectual Property Organization (WIPO) Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.² Ms Pessoa de Miranda concluded that these developments could inform considerations in the future development of the Commission's work on ABS.
4. Prior to beginning of its deliberations, the ABS Expert Team noted that the Commission had requested it to carry out its task by electronic means and confirmed that the virtual meeting constituted a formal regular session of the ABS Expert Team.

II. ELECTION OF CO-CHAIRS AND *RAPPORTEUR*

5. The ABS Expert Team elected Ms Priya Bhanu (United States of America) and Ms Lamis Chalak (Lebanon) as Co-Chairs. Ms von den Driesch (Germany) was elected as *Rapporteur*.

III. ADOPTION OF THE AGENDA

6. The ABS Expert Team adopted the Agenda, as given in *Appendix B*.

IV. REVIEW OF THE DRAFT REPORT ON *THE IMPACT OF ACCESS AND BENEFIT-SHARING MEASURES ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE AND ASSOCIATED TRADITIONAL KNOWLEDGE*

7. The ABS Expert Team considered the document *Access and benefit-sharing measures for genetic resources for food and agriculture and associated traditional knowledge*³ and took note of the Commission's previous work on ABS for GRFA and associated traditional knowledge.
8. The ABS Expert Team took note of the draft study on *The impact of access and benefit-sharing measures on genetic resources for food and agriculture and associated traditional knowledge*⁴ and decided to review it chapter by chapter following a general introduction and discussion.

¹ CBD/COP/DEC/16/2.

² https://www.wipo.int/edocs/mdocs/tk/en/gratk_dc/gratk_dc_7.pdf

³ CGRFA/TTLE-ABS-7/25/2.

⁴ CGRFA/TTLE-ABS-7/25/Inf.2.

Introduction and sources of information

9. The ABS Expert Team noted with appreciation the comprehensive analysis of the different sources of information used for the preparation of the study. It noted with regret the relatively low response rate to the two online questionnaires⁵ made available in July of this year for completion by: (1) users and providers of GRFA and associated traditional knowledge and (2) the Commission's National Focal Points⁶ and National Focal Points for the International Treaty and 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 (Nagoya Protocol). It also noted that in some cases National Focal Points from the same country provided contradictory replies, indicating different levels of information, knowledge and/or capacity. The ABS Expert Team further noted that some National Focal Points did not seem to have any, or any detailed information on either their national ABS measures or their application in practice, nor practical experience with the exchange (provision or receipt) of GRFA or associated traditional knowledge. It further noted the low number of responses to the online questionnaire addressed to users and providers of GRFA and associated traditional knowledge. The vast majority of this group of respondents was most familiar with plant genetic resources for food and agriculture (PGRFA) leaving other sectors of GRFA not represented or underrepresented in the survey.

10. The ABS Expert Team further noted that the results of the survey had to be interpreted with great caution given that some replies could be based on different interpretations of questions or terms used in the questions. The ABS Expert Team noted, in this context, the continued need for capacity building on ABS. It also recommended that the draft study state at the outset that generally speaking free-form information provided by respondents to open-ended questions was not independently verified.

11. The ABS Expert Team noted that the rationale of certain questions, for example those asking for estimate numbers of samples or permits, was not to draw conclusions from such numbers in isolation, but to identify, for example, peculiarities or commonalities of providers/recipients with higher and those with lower case numbers.

12. The ABS Expert Team noted a potential imbalance in the study's consideration of negative vis positive effects of ABS measures. In response, the lead author suggested that this may be due to a certain bias in the literature, which tends to identify problems with the implementation of ABS measures, rather than success stories. Existing literature also tends to ignore the important role of ABS measures in raising awareness of the sovereign rights of states over their genetic resources, of Farmers' Rights, as recognized by the International Treaty, and of the roles and rights of Indigenous Peoples as custodians of much of the world's genetic resources. The ABS Expert Team noted, on the other hand, claims in the draft study asserting positive impacts of ABS schemes without sufficient evidence being provided. It noted that the surveys did not ask if ABS measures have had a positive impact on access to GRFA.

13. The ABS Expert Team welcomed the use of information from the ABS Clearing-House⁷ and stressed the need to present this information with the necessary nuance so that it does not create misconceptions.

14. With regard to the scope of the study, the ABS Expert Team recalled the Commission's request to focus on "the implications of the implementation of ABS country measures for the use and exchange of GRFA, associated traditional knowledge and the fair and equitable sharing of benefits."⁸ It recommended to align the scope of the study with the Commission's request and therefore decided to limit its review of the draft study to chapters 1–3, 5 and 7.

⁵ CGRFA/TITLE-ABS-7/25/Inf.3.

⁶ <https://www.fao.org/cgrfa/overview/national-focal-point/en>

⁷ <https://www.cbd.int/abs/theabsch.shtml>

⁸ CGRFA-19/23/Report, paragraph 24.

15. While noting the important role ABS non-state initiatives, including community protocols,⁹ best practices and codes of conduct, may play, the ABS Expert Team recommended that the study focus, in line with the survey, on ABS country measures, i.e. state measures requiring prior informed consent (PIC) and mutually agreed terms (MAT) for access to genetic resources for research and development. It further stressed the need to distinguish between ABS measures pertaining to access to genetic resources and ABS measures pertaining to compliance (“user country compliance measures”).¹⁰

16. The ABS Expert Team acknowledged the need to minimize repetition in the report while ensuring clarity for readers that may focus only on selected sections of the study.

Impact of ABS measures on the utilization of genetic resources for food and agriculture and associated Traditional Knowledge

17. Regarding chapter 3 of the draft study, the ABS Expert Team recommended to either merge subchapters 3.2 and 3.3 or to make the differences between the two subchapters more salient by adjusting their subheadings and clarifying the distinct challenges ABS measures may cause and the impact such challenges may have on access to and the utilization of GRFA. The ABS Expert Team further stressed the importance of verifying figure numbering, figure titles as well as values provided in the figures (pp. 24–25 and 27–29), and recommended a review of the structure and subheadings of the chapter (e.g. 3.2 and 3.5).

18. The ABS Expert Team recommended that subchapter 3.5.2 should reflect that many of the features of the International Treaty identified as problematic are being addressed in the ongoing negotiations aiming at enhancing the functioning of the Multilateral System of Access and Benefit-sharing of the International Treaty.¹¹ It further recommended to clarify that the International Maize and Wheat Improvement Center (CIMMYT) grants access to genetic resources pursuant to the Standard Material Transfer Agreement, rather than “without Prior Informed Consent (PIC) and without Mutually Agreed Terms (MAT).”

19. The ABS Expert Team also pointed out that some of the negative features identified for bilateral ABS measures, including the lack of global harmonization, are not unique to ABS measures (e.g. phytosanitary measures are often different among countries). The ABS Expert Team also noted that while the information provided by the ABS Clearing-House may not always be complete or up to date, no such information mechanism exists for many other non-harmonized areas of law.

Impact of ABS measures on sharing of benefits arising from the utilization of genetic resources for food and agriculture and associated Traditional Knowledge

20. With regard to chapter 5 of the draft study, the ABS Expert Team recommended reviewing the examples taken from the literature and potentially excluding those dating from before 2014. It further recommended that chapter 5 focus on the question to what extent ABS measures have led to benefit-sharing and the kinds of benefits that have been shared due to ABS measures.

21. The ABS Expert Team further stressed the importance of verifying figure numbering, figure titles as well as values provided in the figures of chapter 5 (pp. 60–63) and recommended to review and, as appropriate, update the user-based contributions provided to the Benefit-sharing Fund of the International Treaty (5.3.2).

22. The ABS Expert Team noted that some benefit-sharing, in particular the sharing of non-monetary benefits, predates the establishment of ABS measures even though the term “benefit-sharing” may not have been used. With regard to the International Treaty, it recommended to stress

⁹ <https://www.cbd.int/doc/meetings/tk/wg8j-09/other/wg8j-09-community-protocol-underlying-principles-en.pdf>

¹⁰ For example, Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union Text with EEA relevance *OJ L 150, 20.5.2014, p. 59–71*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0511>

¹¹ See <https://www.fao.org/plant-treaty/overview/governing-body/committees/owg/en/>

that benefit-sharing, including non-monetary benefit-sharing, under the Treaty's Multilateral System is decoupled from access.

Conclusions: Further work of the Commission on access and benefit-sharing

23. The ABS Expert Team recommended that the Secretariat continue monitoring relevant developments in other forums and report them to the Commission for further action, as appropriate. It recommended that the Commission consider further work on the development and monitoring of indicators for ABS for GRFA, in particular for non-monetary benefit-sharing.

Written comments on the draft study

24. The ABS Expert Team noted that comments on the draft study could be still sent to the Secretariat (cgrfa@fao.org) by 24 January 2025, so as to allow for the authors to include them in the revised draft of the study to be presented at the Commission at its Twentieth Regular Session (24–28 March 2025).

V. CLOSING REMARKS

25. Mr Dan Leskien, Senior Liaison Officer of the Commission, thanked the Co-Chairs for their leadership during the session. He also thanked the *Rapporteur*. He thanked all participants for their valuable contributions to the study and encouraged them to attend the Twentieth Regular Session of the Commission that would take place in Rome from 24 to 28 March 2025. Furthermore, he thanked all the donors for supporting the work of the Commission.

26. The Co-Chairs thanked members of the ABS Expert Team for their hard work, good spirit, clarity and willingness to compromise. They also thanked the Secretariat.

APPENDIX A
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APPENDIX B**AGENDA OF THE SEVENTH SESSION OF THE TEAM OF TECHNICAL AND
LEGAL EXPERTS ON ACCESS AND BENEFIT-SHARING**

1. Election of Chair, Vice-Chair(s) and *Rapporteur*
2. Adoption of the agenda and timetable
3. Review of the draft report on *The implications of access and benefit-sharing country measures for the use and exchange of genetic resources for food and agriculture, associated with traditional knowledge and fair and equitable sharing of benefits*
4. Any other matters
5. Adoption of the Report

APPENDIX C

LIST OF DOCUMENTS

Working documents

CGRFA/TTLE-ABS-7/25/1	Provisional agenda and timetable
CGRFA/TTLE-ABS-7/25/2	Access and benefit-sharing measures for genetic resources for food and agriculture and associated traditional knowledge

Information documents

CGRFA/TTLE-ABS-7/25/Inf.1	Members of the Team of Technical and Legal Experts on Access and Benefit-Sharing
CGRFA/TTLE-ABS-7/25/Inf.2	The impact of access and benefit-sharing measures on genetic resources for food and agriculture and associated traditional knowledge – Draft study
CGRFA/TTLE-ABS-7/25/Inf.3	On-line survey on the implications of access and benefit-sharing measures for the use and exchange of genetic resources for food and agriculture, associated traditional knowledge and for benefit-sharing
CGRFA/TTLE-ABS-7/25/Inf.4	List of documents

Background study papers

- Background Study Paper No. 70: Survey of access and benefit-sharing country measures accommodating the distinctive features of genetic resources for food and agriculture and associated traditional knowledge
- Background Study Paper No. 59: Access and Benefit-Sharing for Genetic Resources for Food and Agriculture – Current Use and Exchange Practices, Commonalities, Differences and User Community Needs - Report from a Multi-Stakeholder Expert Dialogue
- Background Study Paper No. 42: Framework study on food security and Access and Benefit-Sharing for genetic resources for food and agriculture
- Background Study Paper No. 43: The use and exchange of animal genetic resources for food and agriculture
- Background Study Paper No. 44: The use and exchange of forest genetic resources for food and agriculture
- Background Study Paper No. 45: The use and exchange of aquatic genetic resources for food and agriculture
- Background Study Paper No. 46: The use and exchange of microbial genetic resources for food agriculture
- Background Study Paper No. 47: The Use and Exchange of Biological Control Agents for Food and Agriculture

Other documents

- ABS Elements Elements to Facilitate Domestic Implementation of Access and Benefit-Sharing for Different Subsectors of Genetic Resources for Food and Agriculture with Explanatory Notes
- Access and benefit-sharing and genetic resources for food and agriculture: typology of country measures. Supplement I