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ABS IN CHILE

Overview of legal requirements, procedures and relevant authorities



International agreements

- *Convention on Biological Diversity (CBD): Party since 8 December 1994*
- *International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA): Party since 13 April 2016*
- *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Resulting Benefits (Nagoya Protocol): non-Party*

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Introduction

Along its long and narrow territory, Chile has a range of varied landscapes and distinct ecosystems. Due to its relative geographical isolation, the variety of species in Chile is limited. However, these species are unique: Almost 25% is endemic – meaning these plants, animals and other organisms can only be found in Chile.

Access and benefit sharing (ABS) is not a high-profile issue in Chile, which has not yet ratified the Nagoya Protocol. Although no ABS laws or regulations are in place, some government agencies have developed procedures and guidelines for access to genetic resources, particularly in the context of germplasm banks and protected areas. This note provides an overview of the conditions and best practices outlined in these documents.

What are ABS measures in Chile?

Several government agencies have adopted measures to manage how access to genetic resources takes place within their areas of jurisdictions, particularly agencies managing ex-situ collections of seeds and germplasm and the national entity in charge of protected forests. These measures include:

- “[Manual on procedures, requirements and obligations for scientific research projects in the National System of Protected Wild Areas](#),” adopted in 2013 by the National Forest Corporation or CONAF, the entity through which Chile manages the country’s forest resources and protected areas. This manual applies to the collection of biological material and its use in research and development activities.

- “[Policy on access to genetic resources](#),” adopted in 2014 by the National Agricultural Research Institute or INIA, which is the entity under the Chilean Ministry of Agriculture that manages the conservation and use of the country’s plant and microbial genetic resources, plant breeding programs and projects for disease, insect and weed control in agriculture. In addition, the National Network of Germplasm Banks managed by INIA adopted “[Rules for access to information and genetic material contained in the National Network of Germplasm Banks](#)” in 2014. These rules establish ABS requirements and procedures for genetic material held in the network’s five banks for plant genetic resources and one bank for microbial genetic resources in Chile. There are ongoing discussions to update these ABS rules.
- “Guidelines for access to genetic resources for consideration of services and institutions under the Ministry of Agriculture*,” developed for entities under the Ministry of Agriculture, which include INIA, CONAF, the Institute for Agricultural and Livestock Development and the Foundation for Agricultural Innovation, among others.



What is the scope of ABS measures?

ABS measures in Chile currently cover only two situations: the collection of biological material within the national system of protected areas and access to biological material held by the national network of germplasm banks and other collections managed by the Ministry of Agriculture. The specific scope of existing measures is outlined in the box below.

Nevertheless, the negotiation of ABS agreements is seen as advisable in research and development activities involving plants or other biological material collected in public lands. CONAF and INIA would be the institutions dealing with such requests for forestry and agricultural genetic resources, respectively.

Scope of existing ABS measures in Chile

INIA policy	Rules for the National Network of Germplasm Banks	CONAF guidelines
<ul style="list-style-type: none"> • Access to wild and cultivated genetic resources, their progeny or derivatives held by INIA in its germplasm banks and other collections, for research or development or transfer to third parties • It applies to resources of vegetal, microbial or animal origin preserved in INIA’s germplasm banks 	<ul style="list-style-type: none"> • Access to germplasm and related information held by germplasm banks for scientific or commercial research, defined as processes aimed at obtaining innovation subject to intellectual property protection • Rules cover both native and non-native plants 	<ul style="list-style-type: none"> • Permits required for activities carried out within protected areas by any individual or entity with the objective of studying ecosystems, habitats, species, populations or individuals of any taxa • Definition of research includes social and cultural studies, which is interpreted to include traditional knowledge

*These guidelines are not online, but they may be requested from the Ministry of Agriculture.

What are access and benefit sharing requirements?

As described above, ABS-related measures establish requirements in two contexts: germplasm banks and protected areas. These requirements are outlined below – both for access and for benefit sharing.

Requirements for access to genetic resources in Chile

	Germplasm banks and other agricultural collections	Protected areas
Requirements	Requests for access must be made by legal entities	Research request must be supported by Chilean or foreign research body
Procedure	<ul style="list-style-type: none"> In principle, the request for access must be made to the germplasm bank where genetic material is conserved by completing a form online In practice, access requests have now been centralized and are managed by INIA If the request is approved, a standard material transfer agreement must be signed with INIA 	Procedures are available online and include: <ul style="list-style-type: none"> Completing online form Provide supporting documents, including prior informed consent of indigenous peoples and local communities for any use of their local knowledge
Timeline	Any request for access is to be treated within a 30-day period and not be subject to restrictions not resulting from international agreements	Permit request must be submitted three months prior to initiating research and granted within two months
Considerations/ restrictions	<ul style="list-style-type: none"> Germplasm can only be accessed for research and development purposes (not direct commercialization) Commercialization is considered to include any obtaining intellectual property rights or other tangible or intangible rights; product development; and selling of by-products 	<ul style="list-style-type: none"> Biological resources collected must remain in the country unless the competent authority provides authorization for export Any change of use requires prior authorization

Benefit sharing requirements in Chile

	Germplasm banks and other agricultural collections	Protected areas
Approach	Benefit sharing is defined in material transfer agreement. Aim is to encourage and strengthen scientific research, preferably in Chile, as well as provide for fair and equitable sharing of benefits	Terms and conditions established in research permit include non-monetary benefit sharing, as well as the potential for monetary benefit sharing
Non-monetary benefits	<ul style="list-style-type: none"> Benefit-sharing under INIA's policy is understood to cover participation in the economic, environmental, scientific and technological, social and cultural benefits resulting from research, bioprospecting or economic exploitation of biodiversity and its genetic resources, with special consideration of indigenous peoples and local communities 	Non-monetary benefits include: <ul style="list-style-type: none"> Involvement of local partners in research Sharing of research tools and information Progress and final reports In cases of access to traditional knowledge, indigenous peoples or local communities must be listed as co-authors in any publications
Monetary benefits	<ul style="list-style-type: none"> A list of potential monetary and non-monetary benefits for consideration in material transfer agreements is contained in ABS rules for access to information and genetic material contained in germplasm banks 	Benefit sharing may be requested if research results lead to identification of molecules or other components or to genetic improvements with potential commercial applications and such outcomes or their derivatives are commercialized

Relevant contacts

The national focal point for ABS is located in the Ministry of Environment. No competent national authorities have been named, but – in practice – the Ministry of Agriculture oversees terrestrial biodiversity and natural resources for the agricultural, livestock and forestry sectors. Within the Ministry of Agriculture, the Office of Agricultural Studies and Policies (ODEPA) advises authorities on ABS policies and strategies. Other agencies within the Ministry of Agriculture, such as INIA, its associated germplasm banks and CONAF, have established ABS-related requirements.

For further information on ABS requirements and procedures in Chile, please contact:

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