

Certificate of Compliance with the Nagoya Protocol

The Nagoya Protocol on Access to Genetic Resources and Benefit Sharing is an international agreement that applies to: (1) the access and use of genetic resources derived from plants, animals or microorganisms; (2) the access and use of traditional knowledge associated with these genetic resources; and (3) the equitable sharing of benefits that arise from the utilisation of genetic resources and traditional knowledge. The Nagoya Protocol requires Parties to ensure that genetic resources and traditional knowledge used in their jurisdiction have been accessed in accordance with domestic access and benefit sharing laws or other relevant regulatory requirements.

In order to comply with the Nagoya Protocol, a national focal point and competent national authorities need to be established by Parties to provide access permits and to make a copy of these permits available to what is known as 'the Access and Benefit-Sharing Clearing-House'. An access permit issued by a national authority and made available to the Access and Benefit-Sharing Clearing-House shall constitute an internationally recognised certificate of compliance.

This fact sheet provides an overview of why internationally recognised certificates of compliance are important, what information must be contained in these certificates of compliance, and how the Access and Benefit-sharing Clearing-House functions as a platform to exchange information about certificates of compliance.

Why are internationally recognised certificates of compliance important?

Internationally recognised certificates of compliance are important because at the national and international level, they serve as evidence for users to demonstrate that:

- access permits were obtained from the relevant authorities,
- prior informed consent from the authorities and providers of genetic resources and traditional knowledge was acquired, and
- an access and benefit sharing agreement was concluded with the relevant providers of genetic resources and traditional knowledge.

Internationally recognised certificates of compliance are also important for providers of genetic resources and traditional knowledge. These certificates enable relevant providers to control and track who accesses and uses their resources and knowledge, and at the same time, benefit from the use of these resources for research, development, and commercialisation.

What information must be contained in certificates of compliance?

Internationally recognised certificates of compliance must contain the following minimum information, unless that information is confidential:

- The issuing authority,
- The date of issuance,
- The provider,
- The unique identifier of the certificate,
- The person or entity to whom prior informed consent was granted,
- The subject-matter or genetic resources covered by the certificate,
- Confirmation that mutually agreed terms were established,
- Confirmation that prior informed consent was obtained, and
- Confirmation that the use is commercial and/or non-commercial.

How does the Access and Benefit-Sharing Clearing-House function?

The Access and Benefit-Sharing Clearing-House functions as a central and standardised online platform (<https://absch.cbd.int/>).

This platform has been designed to facilitate the exchange of information about domestic procedures for access permits, prior informed consent, and benefit sharing, including internationally recognised certificates of compliance.

In promoting the development, use, and sharing of internationally recognised certificates of

compliance, parties to the Nagoya Protocol are required to make the following mandatory information available to the Access and Benefit-sharing Clearing-House:

- legislative, administrative and policy measures on access and benefit sharing,
- information on the national focal point and competent national authority or authorities, and
- permits or their equivalent issued at the time of access as evidence of prior informed consent and mutually agreed terms of benefit sharing.

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This fact sheet is only for information purposes, and to assist you in understanding your legal rights and obligations in a general sense. It is not tailored to any particular fact, situation or specific requirements, and must not be relied on as legal advice.