COSTA RICA

EASY ABS GUIDE

This Easy ABS guide was developed by the GNP-HuB project in collaboration with the National Commission for Biodiversity Management (CONAGEBIO), the ABS authority from Costa Rica. It aims to help researchers and companies understand Costa Rica's ABS measures and the first steps to become Nagoya-Protocol-compliant. This guide covers commercial and non-commercial use of genetic resources and associated traditional knowledge.

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ABS general overview

Costa Rica enacted its comprehensive Biodiversity Law (No. 7788) in 1998, which **aligns with the Convention on Biological Diversity (CBD) and includes detailed ABS provisions.** Key elements include mandatory Prior Informed Consent (PIC) for accessing genetic and biochemical resources, which includes the terms for benefit-sharing. PIC should be obtained from the corresponding recognized providers within the country, such as the National System of Conservation Areas, landowners, Indigenous Peoples, among others.

The law also protects the traditional knowledge of indigenous peoples and local communities under "sui generis" community intellectual rights, recognizing and safeguarding this knowledge. The technical office of CONAGEBIO serves as the competent authority and ABS focal point, operating a **virtual platform** for permit applications and tracking PICs, access permits, and benefit-sharing arrangements.

Plant genetic resources listed in Annex 1 of the ITPGRFA, as well as materials included within its Multilateral System, do not require an ABS permit under the Biodiversity law when used for food and agriculture purposes.

Has the country established simplified procedures for non-commercial research?
No. It's not a simplified measure, per se, but compared to Commercial Utilization permits, Basic Research and Bioprospecting permits do not require a commercial feasibility study or a description of commercial use.

Party to the Nagoya Protocol since: December 24th, 2024. **Access regulated since:** December, 2003.

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Scope of the ABS measures

Are there exemptions to the ABS measures? If yes, which ones?

- [x] crops listed in Annex 1 of the ITPGRFA[1]

Notes: limited to those included in the Multilateral System (MLS), which comprises the Annex I resources and those held in ex situ collections by International Agricultural Research Centers that were collected before the Treaty's entry into force and are registered in the MLS.

- [ ] domesticated species
- [ ] national researchers
- [ ] taxonomic studies
- [ ] basic research
- [x] others: Human genetic resources and its derivatives.

What types of species are covered?

- [x] native
- [x] endemic
- [x] cultivated
- [x] wild
- [x] domesticated
- [x] human microbiota
- [x] introduced (non-native)

What areas in the country are covered?

- [x] all country
- [x] ex situ collections
  - [x] within the country
  - [x] outside the country
- [ ] just within protected areas

What activities need a non-commercial permit?

- [x] molecular taxonomy
- [x] all country
- [x] comparative genomics
- [x] phylogenetics
- [x] biogeography
- [x] gene function
- [x] gene expression
- [x] DNA/RNA/protein sequencing
- [x] whole genome sequencing
- [x] population genetics
- [x] gene characterization
- [x] biochemical characterization
- [x] molecular evolution
- [x] genome editing
- [x] bioprospection (biodiscovery)*

Notes: Bioprospection activities are managed as non-commercial, and a bioprospection permit is required. Bioprospection is defined as: Systematic search, classification, and research for commercial purposes of new sources of chemical compounds, genes, proteins, microorganisms, and other products with actual or potential economic value found in biodiversity.

At what stage of research and development is a commercial ABS permit required

- [x] research on functional characteristics or active ingredients for a commercial product
- [x] develop a product formula
- [x] bringing a product to market
- [x] generate royalty income from a patent license
- [ ] submit a patent application (or other IPR)
- [ ] bioprospection (biodiscovery)

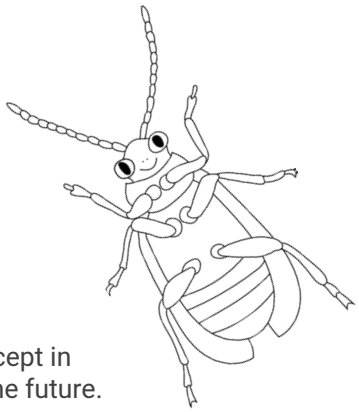
[1] International Treaty of Plant Genetic Resources for Food and Agriculture

How is the transition from non-commercial to commercial utilization handled?

Users can request a **bioprospection ABS permit** for the **exploratory research phase.** Once the product to be commercialized is clearly defined, the user has to request a new ABS permit for commercial utilization. On the other hand, it is not mandatory to hold a prior basic research or bioprospecting permit to obtain a commercial permit; the user may apply for it directly.

In the context of research and development, who is required to obtain an ABS permit along the supply chain?

All users in the value chain involved in collection, research, development and production processes, except for sales intermediaries and final points of sale.



How do the national ABS measures address ex-situ access?

An ABS permit is required for **all new utilizations, independently of the collection date,** except in cases where the PIC/MAT provision or resolution already covers such new utilizations in the future.

In cases where the material was originally collected before April 18th 2007, the date when the Decree for ex-situ access entered into force, the PIC with the provider is not an obligatory requirement.

Do the national ABS measures address associated traditional knowledge? If yes, how?

Not yet. The regulation is pending approval. In the meantime, access and utilization **are temporarily not authorized.**

Enabling environment for ABS

Is a local partner a requirement?

- [x] No
- [ ] Yes

How is the negotiation of benefits handled?

- [x] The user must identify and directly approach local providers of GR/aTK for the PIC/MAT
- [ ] PIC/MAT should be obtained from the national authorities
- [ ] The user submits the ABS permit request to the competent authority, which then coordinates the PIC/MAT process with the corresponding local providers of GR/aTK

Is transfer of genetic resources to third parties allowed?

- [x] In other instances, it is defined case by case
- [x] Yes, for paid analysis services only, when the samples are destroyed afterwards
- [ ] Yes
- [ ] Yes, for non-commercial uses only
- [ ] Yes, for taxonomic purposes only [2]
- [ ] No

[2] This is relevant for researchers aiming to describe new species. To officially publish new species names, the nomenclature codes (e.g. the International Code of Nomenclature of Prokaryotes (ICNP) Rule 30) may require biological vouchers to be deposited in ex-situ collections. These collections must be able to distribute the materials freely to third parties without restrictions. If transferring the genetic resources to third parties is not permitted, at least for taxonomic research, this may be considered a restriction. As a result, collections might reject such deposits, and researchers could face significant challenges in describing new species.

Benefit-sharing from Digital Sequence Information (DSI)

Is your country aligned (or planning to align) with open access to DSI that is publicly available and a multilateral approach to benefit-sharing? (according to CBD COP decisions on DSI[3])

- ■ Yes, it is planning to align
- ☐ Yes, it is aligned
- ☐ No

Do your national ABS measures allow users to publish DSI in open access databases?

- ■ Yes
- ☐ No

Will your country implement any national measures to enforce or encourage contributions to the Cali Fund? (according to sectors and thresholds on Decision 16/2)

- ■ No
- ☐ Yes

Is a contribution to the Cali Fund considered as a proof of compliance at a national level?

- ■ Yes
- ☐ No

What types of ABS permits are required?

Table 1 Types of ABS permits required to access genetic resources in Costa Rica

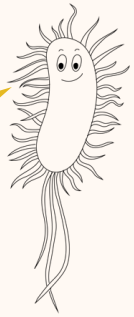
Type of activities	Type of permit	Competent National Authority	Requirements
Basic research without an immediate interest in the commercialization of the results	Basic Research	National Commission for Biodiversity Management (CONAGEBIO) San José, Costa Rica (+506) 4001-1694, 4001-1695 info@conagebio.go.cr	– See list of requirements in table 2. – Permit requests can be done through the virtual platform, including the fill up of all forms. – Forms are available in Spanish only – All documentation should be submitted in Spanish. – Once all documents are approved in the online platform, the original documents with authentic signatures have to be submitted. For that, the user has three options: 1. Deliver the physical files with the signatures authenticated by a lawyer. If documents are signed abroad, signatures must be apostilled. 2. Bring the physical files in person to CONAGEBIO and sign them in the presence of one of the officials, who will certify that signatures are authentic. 3. Sign the documents with the official digital signature (available only for Costa Rican citizens) and submit them through the virtual platform.
Search, for commercial purposes, of new sources of chemical compounds, genes, proteins, microorganisms, and other products with actual or potential economic value	Bioprospection		
Production and commercialization of a product	Commercial utilization		

[3] Decision 15/9 and Decision 16/2

Table 2. Requirements according to the type of permit.

It is important to note that basic research and bioprospection permits have the same requirements and procedure. The commercial permit has two additional requirements related to the commercial activity.

If samples are obtained from ex-situ sources two additional requirements are needed : Code of conduct* and the permits to prove that the samples were legally collected (if available).

	Basic research & bioprospection	Commercial permit
1. Registration form *	YES	YES
2. Application and technical guide form *	YES	YES
3. Project proposal	YES	YES
4. PIC from recognized providers within the country*  **To know more about recognized providers within Costa Rica, check out the "Keep in mind!" section below!**	YES	YES
5. User´s and main researcher(s)´s identity card (Costa Rican) or Passport (foreigner)[1]	YES	YES
6. In case the user and/or the provider is a legal entity, a valid and original legal status certification and a copy of ID or passport of the corresponding legal representative(s).	If applicable	If applicable
7. In case the user resides abroad, a designated legal representative resident in Costa Rica* [2]	If applicable	If applicable
8. Power of attorney, if needed [3]	If applicable	If applicable
9. A copy of any Material Transfer Agreement (MTA) or contract involving the genetic resources subscribed with third parties	If applicable	If applicable
10. Change of intent affidavit *	YES	NO
11. Description of the commercial use	NO	YES
12. Product's financial feasibility study [4]	NO	YES

* Templates available in the "templates section" in the ABS virtual platform.

[1] **User:** Physical person or legal entity who formally apply for ABS permit. This person will be the holder and responsible for the permit. Main researcher: principal investigator (PI).

[2] **The designated legal representative resident in Costa Rica is not equal to a local partner.** This is a person that resides in Costa Rica and its only responsibility is to receive notifications from CONAGEBIO on behalf of the user and communicate them accordingly. It doesn't need to be a scientist or a project partner. It is stablished to solve the problem of legal notifications outside Costa Rica.

[3] In the case that the user has a person with powers of attorney in Costa Rica.

[4] **Product's financial feasibility study under the form of an affidavit and certified by an authorized public accountant.** In case the user is a foreigner who is not resident in the country, the public accountant must be certified internationally. This study should provide the projection for the following five years, valued at market prices, which must include the following data:

a. Data of the estimated demand over the five-year period, to determine income.

b. Data of the estimated offer over the five-year period, to determine investments and costs.

c. Determine the estimated equilibrium point.

d. Projected income.

e. Projected general financial balance.

f. Internal rate of return of investment, net present value, and market discount rate according to capital cost estimated by the Central Bank and/or stock exchange.

g. Cost of the process to access the genetic resources and percentage of use in the final product.

German Nagoya Protocol HuB

CONAGEBIO
Comisión Nacional para la Gestión de la Biodiversidad

COSTA RICA

ABS procedure for **non-commercial and commercial** utilization of genetic resources

START

You have to go through the process before you collect and start utilization

Determine what type of permit you need

Basic Research, Bioprospection or Commercial permit. For all permits, the procedure is the same. For commercial utilization the permit has two additional requirements.

Contact the corresponding CNA(s)

One CNA granting permits: CONAGEBIO

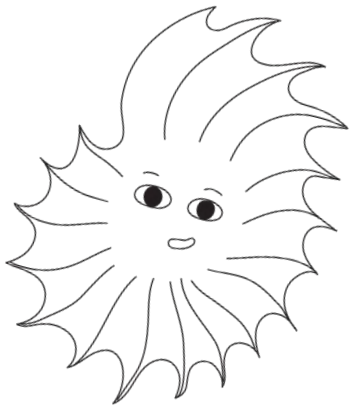
Gather information and apply for access

Fill out the forms and complete requirements in the virtual platform.

For commercial permits only:
- Description of the commercial utilization
- Product's financial feasibility study

Documentation check by authorities

Respond to questions/corrections



You don't have to pay for ABS permits

Documentation approval by authorities

Agree on benefit-sharing

PIC includes the agreements on benefit-sharing and it should be obtained from the corresponding providers within the country. CONAGEBIO will guide you to identify them. PIC template is available in the ABS virtual platform

Sign and submit

Options:
1. Physical files with authenticated or apostilled (when signed abroad) signatures.
2. Physical files singed in person at OT-CONAGEBIO, personnel will certify that signatures are authentic.
3. Digital documents with official digital signature (available only for Costa Rican citizens and Foreigners with a DIMEX or DIDI ID registered in Costa Rica).

Permit granted

IRCC

Commercial permit holders may request the ABS BioBenefits badge and use it under license.

ABS COSTA RICA BIOBENEFICIOS

Share benefits back

Share benefits according to the ABS permit and report on it using the virtual ABS platform

Relevant links:

Biodiversity law | Decree in situ access | Decree ex situ access | Virtual platform | Information on the ABS BioBenefits Badge

How long does it take, on average, to obtain an ABS permit?

Non-commercial permits

For genetic resources

- ☐ Less than 3 months.
- ■ 3-6 months
- ☐ 6-12 months.

For aTK:

- ☐ Less than 3 months.
- ☐ 3-6 months
- ☐ 6-12 months.
- ■ Other: NA. Please check aTK section.

Commercial permits

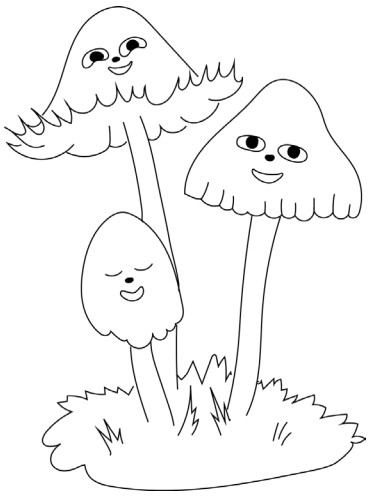
For genetic resources

- ■ Less than 3 months.
- ☐ 3-6 months
- ☐ 6-12 months.

For aTK:

- ☐ Less than 3 months.
- ☐ 3-6 months
- ☐ 6-12 months.
- ■ Other: NA. Please check aTK section.

At the moment it is not allowed to utilize GR and aTK from indigenous communities.



Validity of the permit

How long is the permit valid for?

For commercial and non-commercial utilization: Maximum three years.

Is an extension or modification possible? Or is a new permit needed after the expiration date?

Yes, both are **possible when the permit is still valid.** After the expiration date, the user needs to request a new permit.

In case of non-commercial use, in which cases is an extension necessary?

- ■ To finish sampling
- ■ To finish laboratory work
- ■ To finish data analysis
- ■ To finish and publish scientific papers

In case of commercial use, in which cases is an extension possible?

- ■ To develop a new product with the same active principle
- ■ To extend the product's time on the market

Are there other non-ABS permits needed? Which ones?[4]

- CITES's export permit, required when the species is listed in any of the appendices.
- Wildlife export permit issued by the National System of Conservation Areas, required when wildlife samples are transported via an international courier or logistics service.

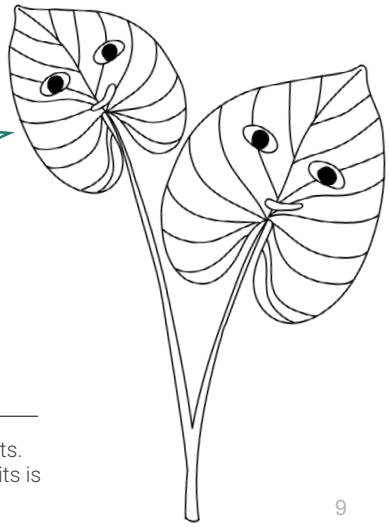
Keep in mind! Country-special features and practical considerations

A PIC with recognized providers is needed. In Costa Rica, the PIC also includes the mutually agreed terms (MAT) on benefit-sharing and it should be obtained from the corresponding recognized providers within the country. During the ABS process, you should complete first all forms in the platform, except PIC. Once the information is checked and approved by CONAGEBIO, you will be informed who the recognized providers for your collections site(s) are and will receive instructions on how to obtain PIC from these provider(s). For providers without prior experience in processing PIC requests. CONAGEBIO may conduct an orientation process to explain the ABS framework, the legal implications of PIC, and the negotiation of MAT. Standard guidance documents and templates may also be provided to facilitate the development of agreements between the applicant and the provider.

Costa Rica offers an incentive for commercial users. ABS BioBenefits is a voluntary ABS compliance badge created by CONAGEBIO to recognize products developed with Costa Rican genetic or biochemical resources in full compliance with national ABS regulations. Granted to companies and organizations holding a commercial ABS permit, it signals legal access and responsible benefit-sharing. The badge demonstrates compliance and good ABS practices, adds product value, strengthens supply-chain trust, and boosts competitiveness in markets that value ethical biodiversity sourcing. You can find more detailed information here.

ABS COSTA RICA BIOBENEFICIOS

Certified ABS compliance badge: Proof of ethical sourcing from Costa Rican biodiversity, in full compliance with national ABS regulations.



[4] ABS authorities are responsible only for ABS permits. While information on other relevant (non-ABS) permits is provided, it may not be exhaustive.

What kind of benefits does the country usually request?

From non-commercial research projects:

- Sharing of research results:
  - Scientific publications
  - Research report(s)
  - Talks or workshops
- Training for local researchers
- Involvement of local researchers in the project publications
- Donation of equipment, reagents and/or materials
- Admittance to *ex situ* collections
- Access to databases

Notes: These are common expected non-monetary benefits, but it is not an obligation to include all. Users should define which benefits they are able to share.

From commercial research and development:

- Research report(s)
- Financial report(s)
- Training and workshops for local researchers, institutions or communities
- Involvement of locals in the project
- Donation of equipment or infrastructure
- Access to databases
- Up front payments (e.g. sample access fees)
- Milestone payments
- Payment of royalties
- Life science professional mentorship
- Conference attendance sponsorship
- Bioinformatics internships
- Initiatives that support conservation and sustainable development

Notes: These are common non-monetary and monetary benefits, but the only one obligatory is the payment of royalties, which is negotiated case by case. The other types of benefits are common but optional. Users should define which benefits they are able to share.

If the payment of royalties is required upon commercialization, what is the basis for calculating the royalty?

Royalties will be calculated as a percentage of net profit, with the percentage to be negotiated on a case-by-case basis.