

ABS in the Russian Federation

Overview of legal requirements, procedures and relevant authorities



Prepared by the Union for Ethical BioTrade

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1. Legal framework

International agreements

- Convention on Biological Diversity (CBD): Party, ratified on 4 July 2005.
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits resulting from their Utilization (Nagoya Protocol): non-Party
- International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA): non-Party

National laws and regulations

The Russian Federation has not adopted any laws or regulations on access to genetic resources and the fair and equitable sharing of benefits resulting from their utilisation (ABS). ABS is also not addressed in broader environmental or other regulation. In this context, ownership, access and utilisation of genetic resources would be subject to rules on natural resources generally or on specific types of natural resources, such as wildlife.

In accordance with the Constitution of the Russian Federation, natural resources, which would include genetic resources, may be in private, state, municipal and other forms of ownership. Ownership would imply the ability to hold, use and transfer natural resources, in line with any applicable legal provisions and as long as it does not damage the environment or infringe the rights and legal interests of other persons.

That is, individuals or organizations with rights over biological or genetic material in the Russian Federation would be able to grant access to genetic resources under their own terms and conditions, to the extent that these are consistent with other relevant legislation. According to some international reports, access to genetic resources has indeed been addressed through contractual arrangements, particularly in the field of industrial microbiology, pharmaceuticals and plant breeding. Box 1 describes the case of the Vavilov Institute, the Russian Federation's national center for crop genetic resources and one of the oldest collections of germplasm of cultivated plants in the world.

Box 1: Vavilov Institute

The N.I. Vavilov All-Russian Institute of Plant Genetic Resources (Vavilov Institute) hosts one of the world's largest and richest collection of crop genetic resources, in terms of the botanical, genetic, geographic and ecological diversity of its samples. Its collections include genetic resources of cultivated plants and their wild relatives, with actual or potential value for food production, agriculture and other uses. It also includes herbarium collections and collections of nucleic acid samples.

The Vavilov Institute collections are considered property and a national asset of Russia. The Vavilov Institute is their holder and custodian. In 2016, the Vavilov Institute adopted regulations to clarify the legal status of the collections and determine how such collections would be managed and documented, as well as regulations to define the conditions under which access to samples would be granted.¹ These access regulations also sought to take into account the CBD, the Bonn Guidelines on ABS, and the ITPGRFA.

The 1995 Federal Law on Wildlife² has specific provisions on ownership, access and use of wildlife (defined as undomesticated animals living in the wild), including wildlife genetic resources. In particular, these provisions establish certain types of wildlife as federal

¹ Available at <http://www.vir.nw.ru/unu-kollektsiya-vir/>.

² Available at faolex.fao.org.

property, including rare and endangered species, species in territorial waters and exclusive economic zone, migratory species and species in federal land. Moreover, the Federal Law on Wildlife refers to the study and research of wildlife for scientific, cultural and other purposes.

Draft rules or amendments

In 2014, the Russian Federation reported its intention to ratify and implement the Nagoya Protocol. However, no practical steps appear to have been taken in this respect. Moreover, the limited information available and lack of response to queries by the authorities suggest that ABS implementation is currently not a government priority.

2. ABS-related requirements

In the Russian Federation, ABS-related requirements may be defined by the private, state, municipal and other entities with ownership or jurisdiction over biological or genetic resources. That is, depending on the case, landowners, gene banks, government agencies or other stakeholders may define terms and conditions for access, utilisation or benefit sharing. As mentioned above, the Vavilov Institute access regulations and the Federal Law on Wildlife are two cases where ABS-related requirements have already been, to some extent, defined.

Vavilov Institute access regulations

The Vavilov Institute access regulations cover access to seeds, plant parts (e.g. tubers, bulbs, cuttings), and plant tissue cultures in its collections of crops and crop wild relatives and establish the procedures and conditions for such access. Access to samples is provided based on certain conditions for its transfer and use and may be subject to a fee. In addition, access requested by foreign individuals or institutions may only be granted with the written permission of the head of the Vavilov Institute.

Conditions to access plant material from the Vavilov Institute collection include:

- Using and storing the material accessed only for the purposes of research and plant breeding or staff training (use for chemical, pharmaceutical or other purposes not related to food and agriculture is forbidden)
- Not applying for any intellectual property or other related rights that would restrict access to the seed or vegetative propagation material accessed
- Not transferring the accessed material to third parties.

Additionally, there are conditions linked to any subsequent commercialisation of a product developed using the accessed material, including:

- when such a product is not available without restrictions to other parties for further research and plant breeding, the recipient must contribute a fixed percentage from the sales of the product to the supplier, as established on a case-by-case basis
- when such product is available without restrictions to other parties for further research and plant breeding, it is requested that the recipient of the accessed material deposit a sample of the product in the Vavilov Institute collections.

Federal Law on Wildlife

Although the Federal Law on Wildlife does not establish requirements for access to genetic resources, it sets out conditions for access to wildlife for research and scientific purposes, which may be relevant in relation to genetic resources. These rules allow access to wildlife

for scientific purposes, in compliance with applicable laws and regulations and subject to a license from the state bodies responsible for the protection and use of the relevant wildlife or their habitats, in the cases where research involves the removal of species from their habitats. The payment of a fee may be required.

3. Sanctions

Under the Federal Law on Wildlife, individuals or organisations that violate established procedures and requirements for the use of the wildlife may be subject to civil, administrative and penal liability in accordance with applicable rules.

4. Relevant authorities

The Russian Federation has not made institutional arrangements in relation to ABS nor has it designated a national focal point on ABS or the Nagoya Protocol.

The Ministry of Natural Resources and the Environment of the Russian Federation coordinates the fulfillment of Russia's obligations under the CBD. The CBD national focal point is:

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