Article 14. The Access and Benefit-sharing Clearing-House and Information Sharing

1. An Access and Benefit-sharing Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention. It shall serve as a means for sharing of information related to access and benefit-sharing. In particular, it shall provide access to information made available by each Party relevant to the implementation of this Protocol.

2. Without prejudice to the protection of confidential information, each Party shall make available to the Access and Benefit-sharing Clearing-House any information required by this Protocol, as well as information required pursuant to the decisions taken by the Conference of the Parties serving as the meeting of the Parties to this Protocol. The information shall include:
   (a) Legislative, administrative and policy measures on access and benefit-sharing;
   (b) Information on the national focal point and competent national authority or authorities; and
   (c) Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms.

3. Additional information, if available and as appropriate, may include:
   (a) Relevant competent authorities of indigenous and local communities, and information as so decided;
   (b) Model contractual clauses;
   (c) Methods and tools developed to monitor genetic resources; and
   (d) Codes of conduct and best practices.

4. The modalities of the operation of the Access and Benefit-sharing Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.
1 Overview

Article 14 is a key provision for the effective and transparent implementation of the Protocol. It establishes an international clearinghouse (the ABS Clearinghouse) to share information on ABS, that is linked to the pre-existing CBD Clearinghouse Mechanism. It further places an obligation on Parties to provide information to the ABS Clearinghouse, distinguishing between information to be provided on a mandatory and a voluntary basis. Notably, Article 14 also raises the issue of confidentiality concerns in ABS transactions.

The implementation of Article 14, however, poses a number of legal questions. In the following sections, the link between the ABS Clearinghouse and the CBD Clearinghouse Mechanism will be discussed. Attention will then be turned to the functions of the ABS Clearinghouse, the type of information to be included in it, and outstanding legal issues.

2 Link with the CBD Clearinghouse Mechanism

The ABS Clearinghouse will be ‘part’ of the CBD Clearinghouse Mechanism.1 The latter aims to promote ‘international technical and scientific cooperation in the field of the conservation and sustainable use of biodiversity’ and consists of the CBD website, including its Information Centre, the network of national clearinghouse mechanisms and various partner institutions.2

It can be expected that the ABS Clearinghouse will be created along the lines of the CBD Clearinghouse Mechanism. This implies taking into account the CBD COP decisions that have gradually spelt out the latter’s characteristics and procedures, such as: compatibility with national capacities; need-driven and decentralized functioning; access to metadata; support to decision-making; and involvement of the private sector to the extent possible.3 Similarly to the Biosafety Protocol, Article 14 puts the Protocol’s governing body in charge of

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1 Established under CBD Article 18(3). For an introduction, see box 35 in Mackenzie et al., *Explanatory Guide to the Cartagena Protocol*, op. cit., 132–133.


3 Ibid., paragraph 10.