



LEGISLATIVE, ADMINISTRATIVE OR POLICY MEASURES ON ACCESS AND BENEFIT-SHARING (MSR)

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General information

Country

Viet Nam

PARTY TO THE NAGOYA PROTOCOL ENTRY INTO FORCE: 12 OCT 2014

Title

Biodiversity Law (2008)

Brief description

CHAPTER V - CONSERVATION AND SUSTAINABLE DEVELOPMENT OF GENETIC RESOURCES

Section 1 - MANAGEMENT OF AND ACCESS TO GENETIC RESOURCES AND SHARING OF BENEFITS FROM GENETIC RESOURCES

Article 55. Management of genetic resources

1. The State uniformly manages all genetic resources in the Vietnamese territory.
2. The State assigns organizations and individuals to manage genetic resources according to the following provisions:
 - a) Conservation area management units and organizations assigned to manage conservation areas shall manage genetic resources in conservation areas;
 - b) Heads of biodiversity conservation facilities, scientific research and technological development institutions, and genetic resource storage and preservation establishments shall manage their own genetic resources;
 - c) Organizations, households and individuals assigned to manage or use land, forests or water surface shall manage genetic resources assigned to them for management or use;
 - d) Commune-level People's Committees shall manage genetic resources in their localities, except cases specified at Points a, b and c of this Clause.

Article 56. Rights and obligations of organizations, households and individuals assigned to manage genetic resources

1. Organizations and individuals assigned to manage genetic resources have the following rights:
 - a) To investigate and collect genetic resources assigned to them for management;
 - b) To exchange, transfer and supply genetic resources assigned to them for management to other organizations or individuals in accordance with law;
 - c) To enjoy benefits shared by organizations or individuals having access to genetic resources under Articles 58 and 61 of this Law.
2. Organizations and individuals assigned to manage genetic resources have the following obligations:
 - a) To notify competent state management agencies of the exchange, transfer or supply of genetic resources to other organizations or individuals for purposes of research and development and production of commercial products;
 - b) To enter into contracts on access to genetic resources and benefit sharing with organizations or individuals that are granted licenses for access to genetic resources under Article 59 of this Law;
 - c) To control the investigation and collection of genetic resources by organizations and individuals that are granted licenses for access to genetic resources;
 - d) To take responsibility before law and competent state management agencies for the management of genetic resources.

Article 57. Order of and procedures for access to genetic resources

The order of and procedures for access to genetic resources are specified as follows:

1. Registering access to genetic resources;
2. Entering into written contracts on access to genetic resources and benefit sharing with organizations, households or individuals assigned to manage genetic resources under Articles 58 and 61 of this Law;
3. Application for licenses for access to genetic resources under Article 59 of this Law;
4. The Government shall specify the order of and procedures for access to genetic resources.

Article 58. Contracts on access to genetic resources and benefit sharing

1. After making registration, organizations or individuals wishing to access genetic resources shall enter into written contracts on access to genetic resources and benefit sharing with organizations, households or individuals assigned to manage genetic resources.
2. Contracts on access to genetic resources and benefit sharing must be certified by commune-level People's Committees of localities where genetic resources are accessed.
3. A contract on access to genetic resource and benefit sharing must contain the following principal details:
 - a) Purpose of access to genetic resources;
 - b) Genetic resources to be accessed and volume of genetic resources to be collected;
 - c) Place of access to genetic resources;
 - d) Plan on access to genetic resources;
 - e) The transfer of the results of survey and collection of genetic resources to a third party;

f) Activities of research and development or production of commercial products using genetic resources;

g) Participants in research and development or production of commercial products using genetic resources;

h) Place for conducting research and development or production of commercial products using genetic resources;

i) Sharing of benefits with the State and related parties, including the distribution of intellectual property rights over invention results on the basis of access to genetic resources and traditional knowledge copyrights on genetic resources.

4. Contracts on access to genetic resources and benefit sharing must be sent to commune-level People's Committees of localities where genetic resources are accessed and to state agencies competent to grant licenses for access to genetic resources under Article 59 of this Law.

5. Disputes over or complaints about access to genetic resources and benefit sharing shall be settled under Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 59. Licenses for access to genetic resources

1. To obtain a license for access to genetic resources, an organization or individual must meet the following conditions: a) Registering with a competent state management agency;

b) Having signed a contract on access to genetic resources and benefit sharing with the organization, household or individual assigned to manage genetic resources;

c) Access to genetic resources does not fall into either of the cases specified in Clause 4 of this Article.

2. A dossier of application for a license for access to genetic resources comprises: a) An application for a license for access to genetic resources;

b) A copy of the contract on access to genetic resources and benefit sharing with the organization, household or individual assigned to manage genetic resources.

3. A license for access to genetic resources must contain the following principal details:

a) Purpose of using genetic resources;

b) Genetic resources to be accessed and the volume of genetic resources to be collected;

c) Place of access to genetic resources; d) To-be-carried out activities related to genetic resources;

e) Periodical reporting on the results of research and development or production of commercial products related to genetic resources to be accessed.

4. Cases in which a license for access to genetic resources is not granted include:

a) Genetic resources of species are on the list of endangered rare and precious species prioritized for protection, except cases licensed by competent state agencies;

b) The use of genetic resources threatens to harm humans, the environment, security, defense or national interests.

5. In the interest of the country and community, state management agencies competent to grant licenses for access to genetic resources may grant such licenses without having to seek the consent of organizations, households or individuals assigned to manage genetic resources.

6. The Government shall specify the competence, order of and procedures for granting licenses for access to genetic resources.

Article 60. Rights and obligations of organizations and individuals that are granted licenses for access to genetic resources

1. Organizations and individuals licensed for access to genetic resources have the following rights:

a) To investigate and collect genetic resources and carry out other activities as indicated in their licenses for access to genetic resources;

b) To take out of the Vietnamese territory genetic resources not on the list of those banned from export under law;

c) To trade in products made from genetic resources they are licensed to access;

d) To have other rights as specified in their licenses for access to genetic resources and contracts on access to genetic resources and benefit sharing.

2. Organizations and individuals licensed for access to genetic resources have the following obligations:

a) To adhere to the provisions of their licenses for access to genetic resources;

b) To submit reports to agencies competent to grant licenses for access to genetic resources on the results of research and development or production of commercial products according to the time prescribed in the licenses;

c) To share benefits with related parties, including the distribution of intellectual property rights over invention results based on their access to genetic resources and traditional knowledge copyrights on genetic resources;

d) To have other obligations as specified in their licenses for access to genetic resources and contracts on access to genetic resources and benefit sharing.

Article 61. Sharing of benefits from access to genetic resources

1. Benefits obtained from access to genetic resources must be shared to the following parties:

a) The State; b) Organizations, households and individuals assigned to manage genetic resources;

c) Organizations and individuals licensed for access to genetic resources and related parties as prescribed in the licenses.

2. Benefits obtained from access to genetic resources must be shared on the basis of contracts on access to genetic resources and benefit sharing and in accordance with relevant laws.

3. The Government shall specify the management and sharing of benefits obtained from access to genetic resources.

Jurisdiction(s)

National / Federal

Current status of the measure

Legally binding

Date of entry into force

01 Jul 2009

Type of document / measure

Law

Document details

Document text

 [Vietnam Environment Administration](http://vea.gov.vn/vn) (Vietnamese) (<http://vea.gov.vn/vn>)

Regulatory contact information


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Amendments

This measure has been amended by:

 [ABSCH-MSR-VN-237595-1](#) | Legislative, Administrative or Policy Measure | DECREE On The Management Of Access To Genetic Resources And The Sharing of Benefits Arising From Their Utilization

 [ABSCH-MSR-VN-202094-1](#)

Further Information

Questions about the Nagoya Protocol on Access and Benefit-sharing or the operation of the Access and Benefit-sharing Clearing-House may be directed to the Secretariat of the Convention on Biological Diversity.

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