

## The Access and Benefit-Sharing Clearing-House (ABSCH)

### Interim National Report on the Implementation of the Nagoya Protocol (NR)

PUBLISHED: 21 FEB 2018

#### General information

##### Country

[Denmark](#)

##### 1. Title of this national report

**Denmarks interim report on the national implementation of the Nagoya Protocol**

##### 2. Contact person

###### PERSON

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#### Institutional structures for the implementation of the Protocol

##### 3. Has your country made the information available to the ABS Clearing-House as provided in Article 14.2?

Yes

##### 4. Has your country taken legislative, administrative and policy measures on ABS?

Yes

Please provide a summary of the main difficulties and challenges encountered in setting up these measures

No major difficulties

Please provide further information

Regulation (EU) 511/2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union;  
Commission Implementing Regulation (EU) 2015/1866 laying down detailed rules for the implementation of Regulation (EU) 511/2014 as regards register of collections, monitoring user compliance and best practices;  
Commission Notice – Guidance document on the scope of application and core obligations of Regulation (EU) 511/2014 (2016/C 313/1)

Act no 1375 23/12/2012 on sharing benefits arising from the utilisation of genetic resources  
Executive order no 867 25/06/2017 on the entry into force of the Act on sharing benefits arising from the utilization of genetic resources and penalties for violation of the Regulation (EU) 511/2014.

##### 5. Has your country designated a national focal point as provided in Article 13?

Yes

Please provide a summary of the main difficulties and challenges encountered for designating a national focal point

Yes, no major difficulties

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- [ABSCH-MSR-DK-238544-1](#)
- [ABSCH-MSR-DK-238543-1](#)
- [ABSCH-MSR-EU-201808-6](#)

##### 6. Has your country designated one or more competent national authorities as provided in Article 13?

Yes

Please provide a summary of the main difficulties and challenges encountered for designating one or more competent national authority

Considerations concerning how to best set up cooperation between the Competent National Authority and other involved national institutions

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7. Has your country made available to the ABS Clearing-House permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent (PIC) and of the establishment of mutually agreed terms (MAT)?

Not applicable, since no access requirements are in place

8. Has your country made available to the ABS Clearing-House permits or their equivalent for the constitution of an internationally recognized certificate of compliance in accordance with Article 17.2?

Not applicable, since no access requirements are in place

9. Has your country designated one or more checkpoints as provided in Article 17?

Yes

Use the text entry to provide further information

Pursuant to Article 7(1) and (2) of Regulation 511/2014 designated competent authorities receive information as provided in Article 17(1) of the Protocol from users within their jurisdiction.

In Denmark, the competent authority designated is: Environmental Protection Agency, Ministry of Environment and Food  
More specifically, there are two checkpoints in Denmark, as established at EU level:

1st checkpoint: competent authorities designated under Regulation 511/2014, i.e. Environmental Protection Agency, Ministry of Environment and Food receive due diligence declarations from researchers; all recipients of research funding, where such research involves utilisation of genetic resources and traditional knowledge associated with genetic resources, are requested either by the European Commission or by the Member State as providers of funding, to declare that they exercised due diligence; the template for this declaration is contained in the Commission Implementing Regulation in Annex II;

2nd checkpoint: competent authorities designated under Regulation 511/2014, i.e. Environmental Protection Agency, Ministry of Environment and Food gather due diligence declarations at the final stage of a product development from all users; the template for this declaration is contained in the Commission Implementing Regulation in Annex III; specific events triggering submission of the declaration are defined in Article 6 of the Commission Implementing Regulation.

For both checkpoints, the authorities referred above transfer the information to ABS Clearing House, provided it is not confidential; alternatively, in case crucial information for publishing of checkpoint communiqué (CPC) is indicated as confidential and CPC cannot be published, the authorities contact the competent national authorities of the country providing genetic resources.

The main challenge in defining the checkpoints in the EU was striking a balance between having effective checkpoints covering the full range of relevant ABS activities, while avoiding creating an unnecessary administrative burden.

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10. Additional information:

No additional information provided

Legislative, administrative or policy measures on access and benefit-sharing (ABS measures)

Access to genetic resources (Article 6)

11. Is access to genetic resources subject to PIC as provided in Article 6.1?

No

Please provide further information including indicating if there is any other system in place in relation to access to genetic resources

Users are obliged to comply with any other national regulation in Denmark

12. Does your country have fair and non-arbitrary rules and procedures on accessing genetic resources as provided in Article 6.3 (b)?

Not applicable

13. Does your country provide information on how to apply for PIC as provided in Article 6.3(c)?

Not applicable

14. Does your country provide for a clear and transparent written decision by a competent national authority as provided in Article 6.3 (d)?

Not applicable

15. Does your country provide for the issuance at the time of access of a permit or its equivalent as provided in Article 6.3 (e)?

Not applicable

16. Please provide the number of permits or their equivalents made available through the ABS-Clearing-House since the entry into force of the Protocol for your country.

Not applicable

17. Does your country have rules and procedures for requiring and establishing MAT as provided in Article 6.3 (g)?

Not applicable

18. Benefits received since entry into force of the Protocol for your country from the utilization of:

No selection made

Use the text entry to provide further information

Not applicable, since no access requirements in Denmark. Users are however obliged to comply with any other national regulation in Denmark.

19. Additional information:

No additional information provided

#### Fair and equitable benefit-sharing (Article 5)

20. Has your country taken legislative, administrative or policy measures to implement Article 5.1 that provides that benefits arising from the utilization of genetic resources as well as subsequent applications and commercialization are shared with the Party providing such resources that is the country of origin of such resources or a Party that has acquired the genetic resources in accordance with the Convention as provided in Article 5.3?

Yes

Use the text entry to provide further information

Article 4(1) of the EU ABS Regulation provides that "users shall exercise due diligence to ascertain that genetic resources and traditional knowledge associated with genetic resources which they utilise have been accessed in accordance with applicable access and benefit-sharing legislation or regulatory requirements and that benefits are fairly and equitably shared upon mutually agreed terms, in accordance with any applicable legislation or regulatory requirements."

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21. Has your country taken legislative, administrative or policy measures with the aim of ensuring that the benefits from the utilization of genetic resources held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared with the indigenous and local communities concerned as provided in Article 5.2?

Yes

Use the text entry to provide further information

Article 4(1) of the EU ABS Regulation provides that "users shall exercise due diligence to ascertain that genetic resources and traditional knowledge associated with genetic resources which they utilise have been accessed in accordance with applicable access and benefit-sharing legislation or regulatory requirements and that benefits are fairly and equitably shared upon mutually agreed terms, in accordance with any applicable legislation or regulatory requirements."

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22. Has your country taken legislative, administrative or policy measures in order that benefits arising from the utilization of traditional knowledge associated with genetic resources are shared with indigenous and local communities holding such knowledge as provided in Article 5.5?

Yes

Use the text entry to provide further information

Article 4(1) of the EU ABS Regulation provides that "users shall exercise due diligence to ascertain that genetic resources and traditional knowledge associated with genetic resources which they utilise have been accessed in accordance with applicable access and benefit-sharing legislation or regulatory requirements and that benefits are fairly and equitably shared upon mutually agreed terms, in accordance with any applicable legislation or regulatory requirements."

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#### Compliance with domestic legislation or regulatory requirements on ABS (Article 15 and Article 16) and monitoring the utilization of genetic resources (Article 17)

24. Has your country taken appropriate, effective and proportionate legislative, administrative or policy measures to provide that genetic resources utilized within your jurisdiction have been accessed in accordance with PIC and that MAT have been established as required by the domestic ABS legislation or regulatory requirements of the other Party as provided in Article 15.1?

Yes

Please indicate whether your country has taken measures to address situations of non-compliance with those measures as provided in Article 15.2?

Yes

Please provide further information on the measures taken, including when they entered into force

Regulation (EU) 511/2014 on compliance measures for the users from the Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union; entered into force on 12 October 2014; Commission Implementing Regulation (EU) 2015/1866 laying down detailed rules for the implementation of Regulation (EU) 511/2014 as regards register of collections, monitoring user compliance and best practices; entered into force on 9 November 2015; Executive order no 867 25/06/2017 on the national authority for the administration of the Act on sharing benefits arising from the utilization of genetic resources and penalties for violation of the Regulation (EU) 511/2014

Have there been specific cases in which your country cooperated with other Parties in cases of alleged violation of ABS measures as provided in Article 15.3?

No

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- [ABSCH-MSR-EU-204508-6](#)
- [ABSCH-MSR-EU-201808-6](#)
- [ABSCH-MSR-EU-208044-1](#)
- [ABSCH-MSR-DK-238543-1](#)

25. Has your country taken appropriate, effective and proportionate legislative, administrative or policy measures to provide that traditional knowledge associated with genetic resources utilized within your jurisdiction has been accessed in accordance with PIC or approval and involvement of indigenous and local communities and that MAT have been established as required by the domestic ABS legislation or regulatory requirements of the other Party where such indigenous and local communities are located as provided in Article 16.1?

Yes

Please indicate whether your country has taken measures to address situations of non-compliance with those measures as provided in Article 16.2?

Yes

Has your country cooperated in specific cases of alleged violation of ABS measures as provided in Article 16.3?

No

Use the text entry to provide further information

Both the EU ABS Regulation (511/2014) and Commission Implementing Regulation (2015/1866) are applicable to genetic resources and to traditional knowledge associated with the genetic resources; these Regulations provide for the legal framework to deal with issues of non-compliance.  
The Danish Act on sharing benefits arising from the utilisation of genetic resources and the executive order no 867 of 25/06 2017 are applicable to genetic resources and the traditional knowledge associated with the genetic resources in provider countries.

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26. Does your country require users of genetic resources to provide information related to PIC, to the source of the genetic resource, to the establishment of MAT and/or utilization of genetic resources at a designated checkpoint, as appropriate, as provided in Article 17.1 (a)(i) and (ii)?

Yes

Please provide further information

In line with Article 7(1) and (2) of Regulation 511/2014, users need to provide information as required by Article 17(1) of the Protocol Annexes II and III to the Commission Implementing Regulation. Information is requested from researchers and end-users respectively; this includes information related to PIC, the source of genetic resource, the establishment of MAT and the utilisation of genetic resources.

Has your country taken measures to address situations of non-compliance?

Yes

Please provide further information

In addition to the above, competent authorities in Denmark are obliged, based on Article 9 of Regulation 511/2014, to perform checks on user compliance in accordance with a periodically revised risk-based plan.

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- [ABSCH-MSR-DK-238543-1](#)

27. Has your country provided the information referred to in Article 17.1 (a)(i) to relevant national authorities, to the Party providing PIC and to the ABS Clearing-House as provided in Article 17.1 (a)(iii)?

No

28. Has your country taken measures to encourage users and providers to include provisions in MAT to share information on the implementation of such terms as provided in Article 17.1(b)?

No

29. Is your country encouraging the use of cost-effective communication tools and systems as provided in Article 17.1 (c)?

Yes

Please provide further information on how your country is encouraging the use of cost-effective communication tools and systems

Article 13 of Regulation 511/2014 obliges the Commission and Member States, as appropriate, to promote the development and use of cost-effective communication tools and systems in support of monitoring and tracking the utilisation of genetic resources and traditional knowledge associated to genetic resources by collections and users.  
Denmark has established an ABS Website with information for users: <http://mst/abs-protokollen/>

30. Additional information:

No additional information provided

#### Compliance with mutually agreed terms (MAT) (Article 18)

31. Is your country encouraging the inclusion of provisions in MAT to cover dispute resolution as provided in Article 18.1 (a) (b) and (c)?

No

32. Does your country ensure that opportunity to seek recourse is available under your legal systems in cases of disputes arising from MAT as provided in Article 18.2?

Yes

Use the text entry to provide further information

Under Danish law foreign States as well as persons or legal persons have legal standing and full access to justice on the same basis as Danish legal subjects. Danish legal assistance programs do not discriminate between Danes and foreigners.

33. Has your country taken measures regarding the following points as provided in Article 18.3?  
Access to justice?

Yes

Please provide further information

Under Danish law foreign States as well as persons or legal persons have legal standing and full access to justice on the same basis as Danish legal subjects. Danish legal assistance programs do not discriminate between Danes and foreigners.

Utilization of mechanisms regarding mutual recognition and enforcement of foreign judgements and arbitral awards?

Yes

Please provide further information

Under Danish law foreign States as well as persons or legal persons have legal standing and full access to justice on the same basis as Danish legal subjects. Danish legal assistance programs do not discriminate between Danes and foreigners.

34. Additional information:

No additional information provided

#### Special considerations (Article 8)

35. In the development and implementation of ABS legislation or regulatory requirements has your country:

Created conditions to promote and encourage research which contributes to the conservation and sustainable use of biodiversity including through simplified measures on access for non-commercial research purposes, taking into account the need to address a change of intent for such research as provided in Article 8(a)?

No

Paid due regard to cases of present or imminent emergencies that threaten or damage human, animal or plant health as provided in Article 8(b)?

Yes

Please provide further information

Article 4(8) of Regulation 511/2014 provides for a short temporal derogation from the duties of its Article 4(3) and 4(5) for users acquiring a genetic resource that is determined to be, or is determined as likely to be, the causing pathogen of a present or imminent public health emergency of international concern.

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Taken into consideration the need for expeditious access to genetic resources and expeditious fair and equitable sharing of benefits arising out of the use of such genetic resources, including access to affordable treatments by those in need, especially, in developing countries as provided in Article 8(b)?

Yes

Please provide further information

Article 4(8) of Regulation 511/2014 provides for a short temporal derogation from the duties of its Article 4(3) and 4(5) for users acquiring a genetic resource that is determined to be, or is determined as likely to be, the causing pathogen of a present or imminent public health emergency of international concern.

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Considered the importance of genetic resources for food and agriculture and their special role for food security as provided in Article 8 (c)?

Yes

Please provide further information

Recital 12 of Regulation 511/2014 recalls Article 8(c) of the Protocol and explains that the ITPGRFA is a specialised instrument within the meaning of Article 4(4) of the Protocol. The Regulation also recognises that where Parties to the Protocol have decided to use the standard material transfer agreement for plant genetic resources for food and agriculture which are not covered by ITPGRFA, but which are under their control and management and in public domain, submission of due diligence declarations is not required.

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36. Additional information:

No additional information provided

#### Provisions related to indigenous and local communities (Articles 6, 7 and 12)

37. Does your country have indigenous and local communities?

No

38. Do indigenous and local communities have the established right to grant access to genetic resources according to your domestic law? (Article 6.2)

Not applicable

39. In accordance with domestic law has your country taken measures with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local communities within your country is accessed with the PIC or approval and involvement of these indigenous and local communities and that MAT have been established as provided in Article 7?

Not applicable

40. In implementing the Protocol and in accordance with your domestic law, is your country taking into consideration indigenous and local communities' customary laws, community protocols and procedures with respect to traditional knowledge associated with genetic resources as provided in Article 12.1?

Not applicable

41. Has your country established mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations as provided in Article 12.2?

Not applicable

42. Is your country supporting the development by indigenous and local communities of the following tools as provided in Article 12.3?

Not applicable

43. Has your country endeavoured not to restrict the customary use and exchange of genetic resources and associated traditional knowledge within and among indigenous and local communities as provided in Article 12.4?

Not applicable

44. Additional information:

Not applicable

#### Contribution to conservation and sustainable use (Article 9)

45. Is your country encouraging users and providers to direct benefits arising from the utilization of genetic resources towards the conservation of biological diversity and sustainable use of its components as provided in Article 9?

Yes

Use the text entry to provide further information

In line with Article 13 of Regulation 511/2014, the Commission and the Member States shall encourage users and providers to direct benefits from the utilisation of genetic resources towards the conservation of biological diversity and the sustainable use of its components in accordance with the provisions of the Convention.  
Denmark has continuously encouraged users and providers to use the benefits from ABS agreements for conservation of biological diversity and the sustainable use purposes. It has inter alia been articulated by Danish Ministers of the Environment and Food expressed in speeches at MOP1 and MOP2 as well as at the four International ABS Business Dialogues in Copenhagen.

46. Please indicate how the implementation of the Nagoya Protocol has contributed to conservation and sustainable use of biodiversity in your country:

Inter alia by supporting financially the ABS Capacity Development Initiative including 4 International ABS Business Dialogue meetings  
<https://www.cbd.int/doc/meetings/abs/absbiac-2016-01/other/absbiac-2016-01-presentation-abs-initiative-en.pdf>  
<http://www.abs-initiative.info/countries-and-regions/global/denmark/4th-abs-business-dialogue-public-private-partnerships-for-sustainable-development/>  
<http://www.abs-initiative.info/countries-and-regions/global/denmark>

47. Additional information:

No additional information provided.

#### Transboundary cooperation (Article 11)

48. Is your country endeavouring to cooperate, with the involvement of indigenous and local communities concerned, with a view to implementing the Protocol in instances where the same genetic resources are found in situ within the territory of more than one Party as provided in Article 11.1?

No

49. Is your country endeavouring to cooperate with a view to implementing the Protocol in instances where the same traditional knowledge associated with genetic resources is shared by one or more indigenous and local communities in several Parties as provided in Article 11.2?

Not applicable, since there are no indigenous and local communities in my country

50. Additional information:

No additional information provided

#### Model contractual clauses, codes of conduct, guidelines and best practices and/or standards (Article 19 and 20)

51. Is your country encouraging the development, update and use of model contractual clauses for MAT as provided in Article 19?

Yes

Use the text entry to provide further information

In line with Article 13 of Regulation 511/2014, the Commission and the Member States shall encourage development of codes of conduct, model contractual clauses, guidelines and best practices, particularly when they would benefit academics, university and non-commercial researchers and small and medium-sized enterprises.  
National stakeholders receive information about the abovementioned development at the national stakeholder meetings (1-4 meetings annually).

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52. Is your country encouraging the development, update and use of codes of conduct, guidelines and best practices or standards as provided in Article 20?

Yes

Use the text entry to provide further information

In line with Article 13 of Regulation 511/2014 the Commission and the Member States shall encourage development of sectoral codes of conduct, model contractual clauses, guidelines and best practices, particularly when they would benefit academics, university and non-commercial researchers and small and medium-sized enterprises.  
National stakeholders receive information about the abovementioned development at the national stakeholder meetings (1-4 meetings annually).

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53. Additional information:

No additional information provided

#### Awareness-raising and capacity (Article 21 and 22)

54. Has your country taken measures to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources and related access and benefit-sharing issues as provided in Article 21?

Yes

Has your country taken measures to implement the awareness-raising strategy for the Nagoya Protocol on ABS?

Yes

Please provide a summary of the measures taken

National stakeholder meetings (1-4 meetings annually), 4 International ABS Business Dialogues 2010-2016.  
Communication by e-mail and bilateral meeting with stakeholders in the following sectors: biotech, food and feed, cosmetics, pharmaceuticals, plant breeding and universities.  
Awareness raising by communicating on official website: <http://mst.dk/abs-protokollen/>

55. Has your country taken measures to build and develop capacity and strengthening of human resources and institutional capacities to effectively implement the Protocol as provided in Article 22?

Yes

Has your country taken measures to implement the strategic framework for capacity-building and development to support effective implementation of the Nagoya Protocol on ABS?

Yes

Please provide a summary of the measures taken

Financial support to the ABS Capacity Development Initiative. Denmark has contributed to the ABS Capacity Development Initiative from 2010-2016 and thereby strengthening human resources and institutional capacities in Africa.

Use the text entry to provide further information

<https://www.cbd.int/doc/meetings/abs/abschiac-2016-01/other/abschiac-2016-01-presentation-abs-initiative-en.pdf>  
<http://www.abs-initiative.info/countries-and-regions/global/denmark/4th-abs-business-dialogue-public-private-partnerships-for->

sustainable-development/  
<http://www.abs-initiative.info/countries-and-regions/global/denmark>

56. Has your country received external support for building and developing capacity for the implementation of the Nagoya Protocol?

No

57. Has your country provided external support for building and developing capacity for the implementation of the Nagoya Protocol?

Yes

Use the text entry to provide further information

Denmark has contributed to the ABS Capacity Development Initiative from 2010-2016 and thereby to building and developing capacity in Africa incl. hosting 4 International ABS Business Dialogue 2010-2016

<http://www.abs-initiative.info/countries-and-regions/global/denmark/4th-abs-business-dialogue-public-private-partnerships-for-sustainable-development/>  
<http://www.abs-initiative.info/countries-and-regions/global/denmark>  
<https://www.cbd.int/doc/meetings/abs/abscbiac-2016-01/other/abscbiac-2016-01-presentation-abs-initiative-en.pdf>

58. Additional information:

No additional information provided

#### Technology transfer, collaboration and cooperation (Article 23)

59. Is your country collaborating and cooperating in technical and scientific research and development programmes as a means to achieve the objective of the Protocol as provided in Article 23?

Yes

Please provide a summary of the measures taken

Denmark has contributed to the ABS Capacity Development Initiative from 2010-2016 and thereby to capacity building in Africa

<http://www.abs-initiative.info/countries-and-regions/global/denmark/4th-abs-business-dialogue-public-private-partnerships-for-sustainable-development/>  
<http://www.abs-initiative.info/countries-and-regions/global/denmark>  
<https://www.cbd.int/doc/meetings/abs/abscbiac-2016-01/other/abscbiac-2016-01-presentation-abs-initiative-en.pdf>

#### Optional additional information

60. Please provide a summary of the main difficulties and challenges encountered for becoming a Party to the Nagoya Protocol.

No additional information provided

61. Has your country established a mechanism for budgetary allocations of funds for the implementation of the Nagoya Protocol?

No selection made

62. a) Has your country made financial resources available to other Parties or received financial resources from other Parties or financial institutions for the purposes of implementation of the Protocol as provided in Article 25?

Financial resources have been made available

Yes

Please provide further information

<http://www.abs-initiative.info/countries-and-regions/global/denmark/4th-abs-business-dialogue-public-private-partnerships-for-sustainable-development/>  
<http://www.abs-initiative.info/countries-and-regions/global/denmark>  
<https://www.cbd.int/doc/meetings/abs/abscbiac-2016-01/other/abscbiac-2016-01-presentation-abs-initiative-en.pdf>

62. b) Please provide information on experiences related to the mobilization of resources in support of the implementation of the Protocol.

No information provided

62. c) Please provide information on the status of funds mobilized in support of the implementation of the Protocol.

No information provided

63. Does your country have specific staff to administer functions directly related to the implementation of the Nagoya Protocol?

Yes

Please indicate how many

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64. Any other relevant information:

Administrative staff in charge within the Danish Environmental Protection Agency



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Comments in the reporting format

66. Please provide any comment that you may have regarding the format of this report:

No information provided

[ABSCH-NR-DK-238600-2](#)

## 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.

**Secretariat of the Convention on Biological Diversity**

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