German Nagoya Protocol HuB

MINISTÈRE DE LA TRANSITION ÉCOLOGIQUE ET SOLIDAIRE
Liberté Égalité Fraternité

FRANCE

EASY ABS GUIDE

This Easy ABS guide was developed by the GNP-HuB project in collaboration with the ABS authorities from France. It aims to help researchers understand French ABS measures and the steps to become Nagoya-Protocol-compliant. This guide focuses on non-commercial use of genetic resources and associated traditional knowledge.

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ABS general overview

Non-commercial research requires a declaration by the user rather than a bilateral negotiation and signature of a benefit sharing contract. Users can fill out the declaration form and send it by email or perform the procedure online. Once the declaration is submitted and checked, the user receives the corresponding IRCC (Internationally Recognized Certificate of Compliance).

Holders of scientific collections can benefit from the simplified annual declaration procedure. Just tick in the corresponding box in the declaration form.

Regarding genetic resources for food and agriculture, species included in annex 1 of the ITPGRFA are excluded of the ABS measures in France, when used for a purpose covered by the treaty.

Party to the Nagoya Protocol since:
November 29th, 2016

Access regulated since:
August 8th, 2016

ABS National Focal Point:

Mr. Thomas Legoupil, Ministry of Ecological Transition and Territorial Cohesion thomas.legoupil@developpement-durable.gouv.fr

(permits requests have to be sent to apa@developpement-durable.gouv.fr).

Project financed by:

ALLIANZ DER WISSENSCHAFTSORGANISATIONEN

Implemented by:

DSMZ Leibniz Institute DSMZ-German Collection of Microorganisms and Cell Cultures GmbH

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What is the scope of the ABS measures for non-commercial research?

The **legislation exempts from the national ABS system five specific schemes** for the following types of genetic resources:

- cultivated and domesticated species, including microorganisms when they are placed in a culture medium.
- wild species associated to cultivated plants and domesticated animals in the context of a selection process.
- forestry resources (not all trees in every forest but those exploited for production).
- resources collected by laboratories as part of prevention and risk control for human health.
- resources collected for the monitoring and fight against health danger for animals, plants and health security for food.

These 5 specific schemes will be developed by the corresponding authorities. In the meantime, users of these resources have no ABS obligations under French law.

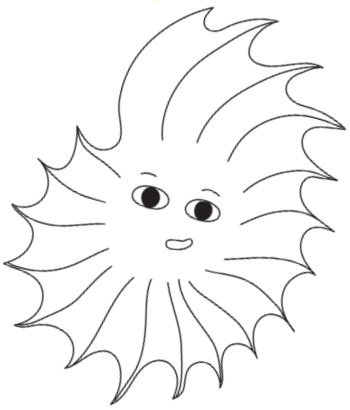
Microorganisms from mainland France were excluded from the ABS scheme for a period of three years (30-08.2019-30.08.2022). This period is now over and new measures have been adopted: when microorganisms are placed in a culture medium, they fall under the ABS specific scheme of cultivated species. Under this scheme, there is no ABS procedure to fulfill yet. If collected (mainland or overseas), microorganisms are usually placed in a culture medium so they fall under the ABS regime specific to cultivated species.

What genetic resources are covered?

- ■ native
- ■ endemic
- ■ wild
- ☐ introduced (non-native) *
- ☐ domesticated **
- ☐ cultivated **

** Fall under the ABS regime specific to cultivated and domesticated species. Under this regime, there is no procedure to fulfill yet.

*** Introduced species are within the scope just if they are well established as wild populations on the national territory (specimens just recently brought in and species that have not settled are out of the scope).**



What non-commercial academic research activities are covered?

- ■ evolution
- ■ gene function
- ■ gene expression
- ■ genome editing
- ■ gene characterization
- ■ biochemical characterization
- ☐ biogeography
- ☐ population genetics
- ☐ genome secquencing
- ☐ taxonomy
- ☐ species identification/ barcoding
- ☐ phylogeny
- ☐ bioprospection

What areas in the country are covered?

- ■ all country
- ■ Areas overseas*
- ■ resources ex situ collections:**
  - ■ within the country
  - ■ outside the country

* "Overseas territories of France" consists of 13 French territories outside Europe1.

** Resources in culture collections fall under the ABS specific scheme of cultivated species. Under this scheme, there is no ABS procedure to fulfill yet. Other kinds of ex-situ collections, with specimens that are not cultivated (e.g. museums or herbariums) are within the scope of the National ABS system. On the other hand, the National ABS system applies just to French genetic resources, then, non-native (introduced) species only found in ex situ collections within the country are out of the scope.

[1] The eleven inhabited French overseas territories are: French Guiana, French Polynesia, Guadeloupe, Martinique, Mayotte, New Caledonia, Réunion, Saint Barthélemy, Saint Martin, Saint Pierre and Miquelon and Wallis and Futuna.

Uninhabited overseas territories: Clipperton Island and French Southern and Antarctic Lands. Several of these territories are generally only transiently inhabited by researchers in scientific stations.

Summary of the legislation that applies according to sampling places:

Areas in the Country:	Legislation that applies:
Mainland France	National ABS System
Overseas territories*	National ABS System
*New Caledonia	Local ABS System
*French Polynesia	Local ABS System
French Guyana	National ABS and aTK procedures
Wallis and Futuna Islands	National ABS and aTK procedures

Are there exceptions to any of the three previous questions?

Resources **excluded** from the scope of ABS measures:

- human genetic resources, human microbiota.
- genetic resources ruled by other specialized international instruments such as the ITPGRFA.
- genetic resources from species used as models in laboratories (there is a closed list to be found in the annex of this document on model species).
- genetic resources that contribute to safeguarding defense and national security interests.
- some associated traditional knowledge (for instance those that cannot be attributed to one or more traditional communities or which have well-known properties that have been used for a long time and repeatedly outside of the traditional communities that share them).
- exchange and utilization of genetic resources and associated traditional knowledge within and between traditional communities of inhabitants, for personal or non-commercial purposes.

What types of ABS permits are required?

Research activities	Type of permit	National Competent Authority	Requirements
Non-commercial	Declaration certificate	Mr Thomas Legoupil thomas.legoupil@developpement-durable.gouv.fr Permits requests have to be sent to apa@developpement-durable.gouv.fr	Declaration form or by electronic procedure
Commercial*	Authorization	Mr Thomas Legoupil thomas.legoupil@developpement-durable.gouv.fr Permits requests have to be sent to apa@developpement-durable.gouv.fr	Authorization form or by electronic procedure

***The commercial phase starts when a product to be marketed is identified and defined (at least in its key characteristics). As long as there is no product developed, there is no direct objective of commercialization and the declaration procedure applies.**

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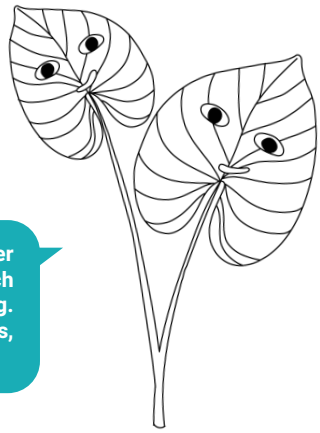
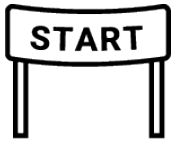
ABS procedure for non-commercial utilization of genetic resources



Some genetic resources fall under ABS specific schemes for which there is no procedure to fulfill, e.g. cultivated and domesticated species, including microorganism.



Determine what type of permit you need

For non-commercial utilization of GR, a **declaration** is needed

You have to go through the process **before you start utilization of GF**

Contact the corresponding CNA(s)

There is one CNA for all GR from mainland France and its overseas territories. However New Caledonia and French Polynesia have different CNAs and ABS measures.

Gather information

Fill out the forms in pdf or online and complete requirements

Declare utilization

Send the forms and requirements by email or through the virtual platform

Documentation check by authorities

Respond to questions/corrections

Agree on benefit-sharing

No benefit-sharing agreement is neccesary. You just include the benefits you will share in the *declaration* form.

Acknowledgment of receipt

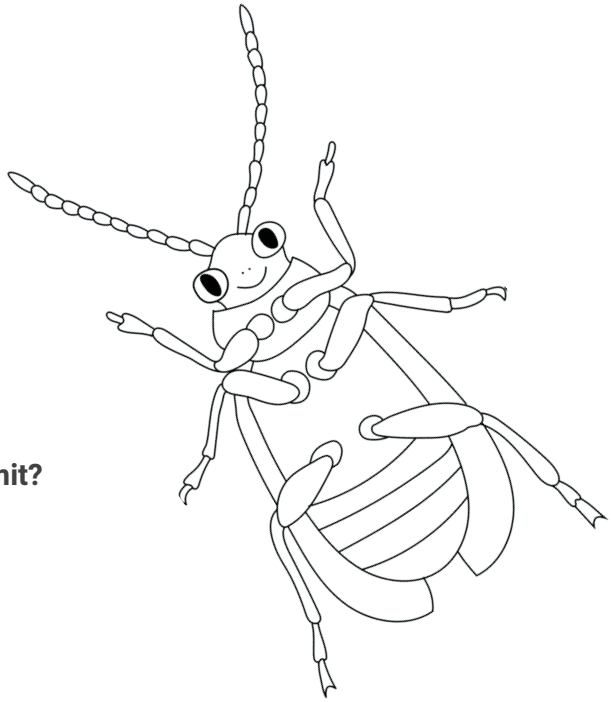
Once the documentation is completed, you will receive an *acknowlegdment of receipt* and IRCC.

IRCC

Relevant links:

ABS National System in France

Factsheet ABS in France.



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

- less than 3 months for declarations
- 6-12 months for authorizations

Validity of the permit

How long is the permit valid for?

Declarations (for non-commercial use) don't include an expiration date. They are valid for the duration of the research project (described by the applicant in the form). Unless some of the core research characteristics change, e.g. objective, species, origin, or other.

Authorizations (for commercial use) include an expiration date, decided on a case-by-case basis.

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

For Declarations (non-commercial use) it is not necessary because the permit is valid for the duration of the project.

For Authorizations (commercial use) an extension is possible if the product resulting from research on the genetic resources remains on the market.

Are there other non-ABS - permits needed? Which ones? (e.g. to collect, to export)

The ABS declaration/authorization does not include sampling. Besides the ABS permit, sampling permits might be necessary depending on the species and place of collection. Researchers should contact the local competent service.

ABS and collection permits are independent, meaning that researchers can start both processes in parallel and save time.

Do the national ABS measures address traditional knowledge? How?

Yes. The procedure only applies to French Guyana and Wallis-and-Futuna Islands.

Utilization of associated traditional knowledge means studying and making use of it (e.g. making use of knowledge related to the medicinal properties of a plant held by a traditional community).

A dedicated authorization procedure is in place, for both non-commercial and commercial research on traditional knowledge. The authorization form is available here and the permits requests have to be sent to apa@developpement-durable.gouv.fr

Contact person: Mr Thomas Legoupil
thomas.legoupil@developpement-durable.gouv.fr

What is considered aTK in France?

The knowledge, innovations and practices relating to the genetic or biochemical properties of this resource, its use or characteristics, which have been retained in the ancient way and continuously by one or more communities of inhabitants, who traditionally draw their means of subsistence from the natural environment and whose lifestyle is of interest for the conservation and sustainable use of biodiversity.

Keep in mind! Country-special features and practical considerations

A **user** is a French or foreign natural person or a legal entity working for the public or private sector, who or which utilizes genetic resources or traditional knowledge associated with these genetic resources.

Utilization of genetic resources is defined as research and development activities on the genetic or biochemical composition of genetic resources, in particular through the application of biotechnologies, and the valorization of these genetic resources as well as the applications and marketing arising from them;

ABS obligations in France do not apply to access as such (just collect/obtain the material) but to access for utilization. Consequently, sampling or other forms of acquisition of natural resources are not in the scope. Researchers have **ABS obligations at the moment of access when utilization is intended to occur** (genetic or biochemical analysis is planned), independently of when the material was collected and left the country or whether the genetic resource is located in a foreign collection outside of France.

Two categories of **providers** are established: 1. The French State, for genetic resources under national sovereignty; 2. The traditional communities of French Guiana and Wallis and Futuna, for the associated traditional knowledge that they hold.

Benefit-sharing

All the following examples of benefits from non-commercial research projects are relevant, but none of them is mandatory. Benefit-sharing can take many forms and is decided on the basis of the applicant's proposition (described by the applicant in the form). Measures directed towards the territory of origin of the resources are encouraged, especially when they come from overseas territories.

- 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

Project financed by:

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