

A Guide to Act on Access to and Utilization of Genetic Resources and Benefit-Sharing in Republic of Korea

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Ministry of Environment



Ministry of Foreign Affairs

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Introduction :

This guide provides people who have responsibilities under Act on Access to and Utilization of Genetic Resources and Benefit-Sharing with basic information and explanations. It provides an overview of reporting requirements under the Act. Some provisions of the Act will be effective after the publication of this guide; therefore, it is important to refer to the official Korean version of the Act will be uploaded on Genetic Resources Information Center's website (www.abs.go.kr).



Background

1-1. The Convention on Biological Diversity (CBD)

The Convention on Biological Diversity (CBD) was opened for signature on 5 June 1992 at the United Nations Conference on Environment and Development (the Rio "Earth Summit") and entered into force on 29 December 1993. The Convention is the only international instrument comprehensively addressing biological diversity. The Convention's three objectives are:

- 1) The conservation of biological diversity
- 2) The sustainable use of the components of biological diversity
- 3) The fair and equitable sharing of the benefits arising out of the utilization of genetic resources

To further advance the implementation of the third objective, the Nagoya Protocol on Access and Benefit-sharing was adopted in October 2010.

1-2. The Nagoya Protocol on Access and Benefit-sharing

The Nagoya Protocol on ABS was adopted on 29 October 2010 in Nagoya, Japan and entered into force on 12 October 2014, 90 days after the deposit of the fiftieth instrument of ratification. Its objective is the fair and equitable sharing of benefits arising from the utilization of genetic resources, thereby contributing to the conservation and sustainable use of biodiversity.

The Nagoya Protocol's success will require effective implementation at the domestic level. A range of tools and mechanisms provided by the Nagoya Protocol will assist contracting Parties including:

- 1) Establishing national focal points (NFPs) and competent national authorities (CNAs) to serve as contact points for information, grant access or cooperate on issues of compliance
- 2) An Access and Benefit-sharing Clearing-House to share information, such as domestic regulatory ABS requirements or information on NFPs and CNAs
- 3) Capacity-building to support key aspects of implementation. Based on a country's self-assessment of national needs and priorities, this can include capacity to
 - Develop domestic ABS legislation to implement the Nagoya Protocol
 - Negotiate MAT
 - Develop in-country research capability and institutions

In this regard, Republic of Korea has enacted "The Act on Access to, Utilization of, and Sharing Benefits of Genetic Resources" in January 2017 as a domestic ABS legislation.

1-3. Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

Act on Access to and Utilization of Genetic Resources and Benefit-Sharing was enacted in January 2017 to provide for necessary matters for implementing the Nagoya Protocol on ABS and the Convention on Biological Diversity, thereby

contributing to conserving and sustainable use of biodiversity, improving the lives of the people, and promoting international cooperation.

The Act is composed of 5 Chapters, 28 Articles and Addenda that describe designation of National Focal Points, Competent National Authorities, and National Checkpoints and reporting requirements.

1) National Focal Points (NFPs):

- Ministry of Environment
Disseminating information on access to and benefit-sharing of genetic resources
- Ministry of Foreign Affairs
Liaising with the CBD Secretariat

2) Competent National Authorities (CNAs):

- Ministry of Environment
Biological resources in the field of wildlife pursuant to the Wildlife Protection and Management Act, and biological resources pursuant to the Act on the Conservation and Use of Biological Diversity
- Ministry of Science, Information and Communications Technology
Biological research resources pursuant to the Act on the Acquisition, Management, and Utilization of Biological Research Resources
- Ministry of Agriculture, Food and Rural Affairs
Agricultural bio-resources pursuant to the Act on the Conservation, Management, and Use of Agricultural Bio-Resources
- Ministry of Health and Welfare
Pathogen resources pursuant to the Act on the Promotion of Collection, Management and Utilization of Pathogen Resources
- Ministry of Oceans and Fisheries
Marine and fisheries bio-resources pursuant to the Act on Securing, Management, Use, etc. of Marine Biological Resources

3) National Checkpoints (CP):

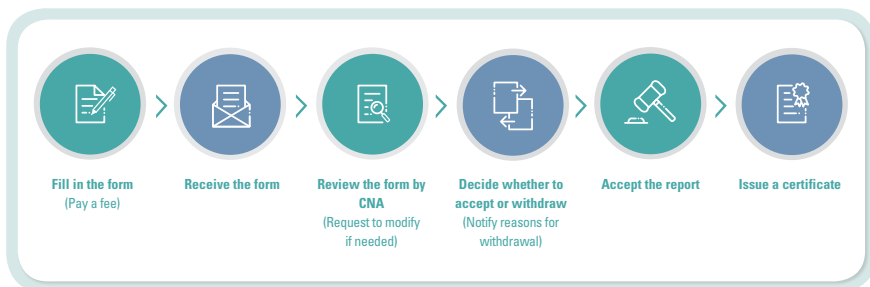
- 5 Competent National Authorities + Ministry of Trade, Industry and Energy
National Checkpoints perform tasks on procedural compliance such as investigation, recommendations and review of the compliance reports and relevant matters.

The Korean government has established “Integrated Reporting Service” (<http://abs.go.kr>) to provide both foreign users of Korean genetic resources and Korean users of foreign genetic resources with simple and easy online reporting services.

2-1. Reporting Access to Korean Genetic Resource(s)

Where foreigners, overseas Koreans, foreign institutions, international organizations, and those other persons designated by Ordinance of the Ministry of Environment seek to access to Korean genetic resource(s) for their utilization, they shall report such access to the head of the Competent National Authority, as prescribed by Presidential Decree (Article 9(1) of Act on Access to and Utilization of Genetic Resources and Benefit-Sharing).

Reporting process



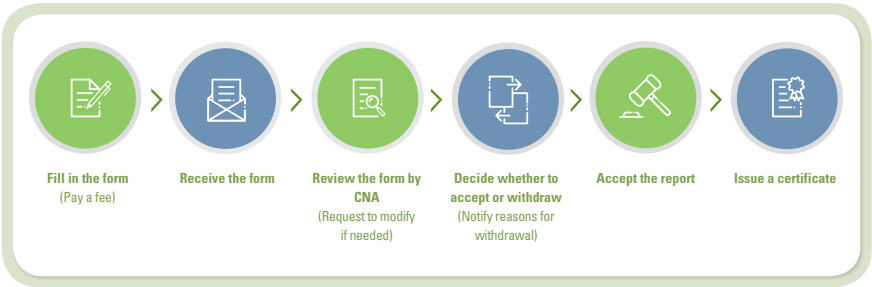
2-2. Reporting Changes in Accessing Korean Genetic Resource(s)

Where a person who has reported in accordance with Article 9(1), seeks to change any matters prescribed by Presidential Decree, such person shall report the change to the head of the Competent National Authority (Article 9(3) of Act on Access to and Utilization of Genetic Resources and Benefit-Sharing).

“To change any matters prescribed by Presidential Decree” in Article 9 (3) of the Act means any of the following:

- 1) To change purpose for accessing the declared genetic resource(s);
- 2) To increase at least 10/100 of the declared genetic resource(s) quantity or concentration (excluding microorganisms);
- 3) To change the details of mutually agreed terms concerning the relevant genetic resource(s) (only applicable where mutually agreed terms are established).

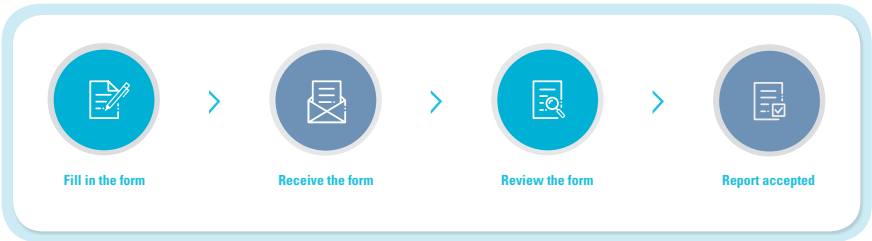
Reporting process



2-3. Procedural Compliance Reporting on Foreign Genetic Resource(s)

A person who intends to access foreign genetic resource(s) for their utilization in the Republic of Korea shall report to the head of the National Checkpoint, as prescribed by Presidential Decree, that the person has complied with the procedures prescribed in Article 14(1) (Article 15 the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing).

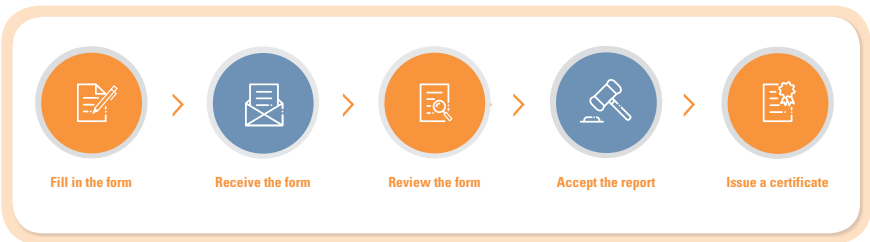
Reporting process



2-4. Application for Verifying the Establishment of Mutually Agreed Terms

Where a person in receipt of a declaration certificate pursuant to Article 4(3) establishes mutually agreed terms after the certificate is issued, he/she may request the head of the Competent National Authority to verify the establishment of mutually agreed terms, as prescribed by Ordinance of the Ministry of Environment. In such cases, the head of the Competent National Authority in receipt of such request shall issue a verification certificate thereof, as prescribed by Ordinance of the Ministry of Environment (Article 4(4) of Enforcement Decree of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing).

Reporting process



Genetic Resources Information Center

3-1. About the Center :

- 1) Genetic Resources Information Center was established in March 2018 to expertly perform duties related to access to and utilization of genetic resources and benefit-sharing in accordance with Article 17(1) of Act on Access to and Utilization of Genetic Resources and Benefit-Sharing.

- 2) The Minister of Environment has established the Genetic Resources Information Center in the National Institute of Biological Resources in accordance with Article 9(1) of Enforcement Decree of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing.

3-2. The Duties of the Center :

- 1) Collecting, managing, investigating, and providing information related to access to and utilization of domestic and foreign genetic resources and benefit-sharing.
- 2) Providing information on domestic genetic resources in regard to the Access and Benefit-sharing Clearing-House in accordance with Article 14 of the Nagoya Protocol.
- 3) Other necessary matters relating to the duties of National Focal Point, Competent National Authorities, and National Checkpoints as prescribed by Presidential Decree, as follows:
 - Matters concerning administrative and technical support for the duties of National Focal Point, Competent National Authorities and National Checkpoints
 - Matters concerning international cooperation, including information exchanges with foreign genetic resources information management organizations for investigation of the utilization status of the domestic genetic resource(s) in abroad
 - Matters concerning public relations in order for providers and users of genetic resource(s) to raise awareness of access to and utilization of genetic resource(s) and benefit-sharing

ACT ON ACCESS TO AND UTILIZATION OF GENETIC RESOURCES AND BENEFIT-SHARING

Act No. 14533, Jan. 17, 2017 / Amended by Act No. 14839, Jul. 26, 2017

• This translation is provided for information purposes only and has no legal force.

CHAPTER I

GENERAL PROVISIONS

Article 1

(Purpose)

The purpose of this Act is to provide for necessary matters for implementing the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity; and for those for promoting the fair and equitable sharing of the benefits arising from accessing and using genetic resources and traditional knowledge associated with genetic resources, thereby contributing to the conservation and sustainable use of biological diversity, improving the lives of the people, and promoting international cooperation.

Article 2

(Definitions)

The definitions of terms used in this Act shall be as follows:

1. “Genetic resources” shall have the meaning ascribed thereto in subparagraph 4 of Article 2 of the Act on the Conservation and Use of Biological Diversity;
2. “Traditional knowledge” means knowledge, innovation, practices of individuals or local communities embodying traditional lifestyles for the conservation and sustainable use of genetic resources;
3. “Access” means acquiring specimen or substance of a genetic resources, or collecting a genetic resources and information regarding traditional knowledge associated with genetic resources. The genetic resources and traditional knowledge associated with genetic resources shall hereinafter be referred to as “genetic resource(s)”;

- 4. "Utilization" means conducting research and development on the genetic and biochemical composition of genetic resource(s), including through the application of biotechnology;
- 5. "Benefits" means monetary benefits, including, but not limited to, royalties and income, from utilizing genetic resource(s), and non-monetary benefits, including, but not limited to, sharing of research results and transfer of technology.

Article 3
(Applicability)

This Act shall not apply to any of the following:

- 1. Human genetic resource(s);
- 2. Genetic resource(s) existing in an area beyond national jurisdiction, such as Antarctica;
- 3. Genetic resource(s) accessed for any purpose other than utilization.
- 4. Genetic resource(s) subject to other international treaties related to access to genetic resource(s) and benefit-sharing;
- 5. Genetic resource(s) granted patent rights pursuant to Article 87 (1) of the Patent Act.

Article 4
(Responsibilities of State)

- (1) The State shall formulate and implement policies necessary for systematically protecting and managing genetic resource(s).
- (2) Providers and users of genetic resource(s) shall recognize the importance of genetic resource(s) and actively support the State's policy of protecting and managing genetic resource(s).

Article 5
(Relationship with Other Acts)

Except as otherwise provided for in any other Act, the access to genetic resource(s) and benefit-sharing shall be governed by the provisions of this Act.

Article 6
(Formulation of Support Measures)

To support access to and utilization of genetic resource(s), the State shall formulate the following measures:

- 1. Providing current status on the research of access to and utilization of genetic resource(s);

2. Providing domestic and foreign information on procedures for access to genetic resource(s) and benefit-sharing;
3. Protecting the rights of those who access and utilize genetic resource(s);
4. Providing other support to those who access or utilize genetic resource(s).

CHAPTER II

ACCESS TO AND UTILIZATION OF DOMESTIC GENETIC RESOURCE(S) AND BENEFIT-SHARING

Article 7

(National Focal Points)

- (1) In accordance with Article 13, paragraph 1 of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (hereinafter referred to as the “Protocol”), the national focal points (hereinafter referred to as “National Focal Point”) and their duties are as follows:
 1. Ministry of Foreign Affairs: Liaising with the secretariat of the Convention on Biological Diversity;
 2. Ministry of Environment: Disseminating information on access to genetic resource(s) and benefit-sharing.
- (2) The scope of the information provided pursuant to paragraph (1) and matters concerning the duties of the National Focal Point shall be prescribed by Presidential Decree.

Article 8

(Competent National Authorities)

- (1) In accordance with Article 13, paragraph 2 of the Protocol, the competent national authorities (hereinafter after referred to as the “Competent National Authority”) and their fields of jurisdiction are as follows: <Amended by Act No. 14839, Jul. 26, 2017>
 1. The Minister of Science, Information and Communications Technology: Biological research resources in accordance with the Act on the Acquisition, Management, and Utilization of Biological Research Resources;

2. Ministry of Agriculture, Food and Rural Affairs: Agricultural bio-resources in accordance with the Act on the Conservation, Management, and Use of Agricultural Bio-Resources;
 3. Ministry of Health and Welfare: Pathogen resources in accordance with the Act on the Promotion of Collection, Management, and Utilization of Pathogen Resources;
 4. Ministry of Environment: Biological resources in the field of wildlife in accordance with the Wildlife Protection and Management Act and biological resources in accordance with the Act on the Conservation and Use of Biological Diversity;
 5. Ministry of Oceans and Fisheries: Marine and fisheries bio-resources in accordance with the Act on Securing, Management, Use, etc. of Marine and Fisheries Bio-Resources.
- (2) In regard to the fields of jurisdiction as prescribed in paragraph (1), the head of the Competent National Authority shall perform the following duties:
1. Processing a report and a report on changes in accordance with Article 9;
 2. Prohibiting or restricting access to and utilization of domestic genetic resource(s) in accordance with Article 12 (1);
 3. Supporting the fair and equitable sharing of benefits arising from domestic genetic resource(s);
 4. Other matters prescribed by Presidential Decree, which are related to access to and utilization of domestic genetic resource(s).

Article 9

(Reporting Access to Domestic Genetic Resource(s))

- (1) Where foreigners, overseas Koreans, foreign institutions, international organizations, and those other persons designated by Ordinance of the Ministry of Environment seek access to domestic genetic resource(s) for their utilization, they shall report such access to the head of the Competent National Authority, as prescribed by Presidential Decree.
- (2) Notwithstanding paragraph (1), where any of the following procedures including reporting is completed, it shall be deemed that the reporting in accordance with paragraph (1) is completed:
 1. Where approval is obtained in accordance with Article 11 (2) of the Act on the Conservation and Use of Biological Diversity or where reporting is completed in accordance with Article 13 (1) of the same Act;
 2. Where approval is obtained in accordance with Article 18 (1) of the Act on the Conservation, Management, and Use of Agricultural Bio-Resources;
 3. Where permission is granted under Article 11 (1) of the Act on Securing, Management,

and Use, etc. of Marine and Fisheries Bio-Resources or where approval is obtained in accordance with Article 22 (1) of the same Act;

4. Where approval or permission is obtained under Article 16 (1) or 18 (1) of the Act on the Promotion of Collection, Management, and Utilization of Pathogen Resources or where reporting is completed in accordance with Article 16 (2) of the same Act.
- (3) Where a person who has reported in accordance with paragraph (1) seeks to change any matters prescribed by Presidential Decree, such person shall report the change to the head of the Competent National Authority.
- (4) In cases prescribed by Presidential Decree, such as where it is necessary to verify that a country providing the genetic resource (referring to either a country that provides the genetic resources as the country of origin, or a country that has legally acquired and provides the genetic resource in accordance with the Convention on Biological Diversity), a local Korean resident may report an access to such domestic genetic resource(s) for their utilization to the head of the Competent National Authority pursuant to paragraphs (1) and (3).

Article 10

(Exemptions from Reporting Access to Domestic Genetic Resource(s))

Notwithstanding Article 9 (1), the head of the Competent National Authority may, as prescribed by Presidential Decree, seek to simplify procedures for reporting access to genetic resource(s) or waive such reporting following consultation with the head of the relevant central administrative agency, in any of the following cases:

1. Where it is deemed that expedited access to or utilization of the genetic resource(s) is required for the development of therapeutic drugs and food security in the event there are threats to the life and health of humans, animals, and plants;
2. Where genetic resource(s) are accessed for non-commercial purposes such as pure research: Provided, that if the intended purpose has changed, the access shall be reported without delay in accordance with Article 9 (1).

Article 11

(Benefit-Sharing of Domestic Genetic Resource(s))

Providers and users of genetic resource(s) shall agree to share the benefits of domestic genetic resource(s)

Article 12

(Prohibition of Access to and Utilization of Domestic Genetic Resource(s))

- (1) The head of the Competent National Authority may seek to prohibit or restrict access to and utilization of domestic genetic resource(s), following consultation with the head of the relevant central administrative agency, in any of the following cases:
 1. Where it actually harms or is deemed to risk harming the conservation and sustainable use of biodiversity referred to in subparagraph 1 of Article 2 of the Act on the Conservation and Use of Biological Diversity (hereafter referred to as “biodiversity” in this paragraph);
 2. Where it has a negative impact or is deemed to risk having a negative impact socio-economically on the value of biodiversity.
- (2) If the head of the Competent National Authority seeks to prohibit or restrict access to and utilization of genetic resource(s) pursuant to paragraph (1), he/she shall publicly notify the target genetic resource(s) and the details of prohibition or restriction.

CHAPTER III

ACCESS TO AND UTILIZATION OF FOREIGN GENETIC RESOURCE(S) AND BENEFIT-SHARING

Article 13

(National Checkpoints)

- (1) Subject to Article 17 of the Protocol, the national checkpoints (hereinafter referred to as the “National Checkpoint”) and their fields of jurisdiction are as follows: <Amended by Act No. 14839, Jul. 26, 2017>
 1. The Minister of Science, Information and Communications Technology: Biological research resources in accordance with the Act on the Acquisition, Management, and Utilization of Biological Research Resources;
 2. Ministry of Agriculture, Food and Rural Affairs: Agricultural bio-resources in accordance with the Act on the Conservation, Management, and Use of Agricultural Bio-Resources;
 3. Ministry of Trade, Industry and Energy: Biological research resources in accordance with the Act on the Acquisition, Management, and Utilization of Biological Research Resources;

4. Ministry of Health and Welfare: Pathogen resources in accordance with the Act on the Promotion of Collection, Management, and Utilization of Pathogen Resources;
 5. Ministry of Environment: Biological resources in the field of wildlife in accordance with the Wildlife Protection and Management Act and biological resources in accordance with the Act on the Conservation and Use of Biological Diversity;
 6. Ministry of Oceans and Fisheries: Marine and fisheries bio-resources in accordance with the Act on Securing, Management, Use, etc. of Marine and Fisheries Bio-Resources.
- (2) In regard to the fields of jurisdiction as prescribed in paragraph (1), the head of the National Checkpoint shall perform the following duties:
1. Processing procedural compliance reporting in accordance with Article 15;
 2. Monitoring and recommending procedural compliance Article 16;
 3. Supporting persons who utilize foreign genetic resource(s) domestically;
 4. Other matters prescribed by Presidential Decree, which are related to access to and utilization of foreign genetic resource(s).

Article 14

(Procedural Compliance regarding Access to and Utilization of Foreign Genetic Resource(s))

- (1) Any person who intends to access foreign genetic resource(s) for their utilization in the Republic of Korea shall follow the procedures established by the country providing such resource(s).
- (2) Any person who intends to access foreign genetic resource(s) for their utilization in the Republic of Korea shall endeavor to fairly and equitably share the benefits of foreign genetic resource(s) with the providers of the relevant genetic resource(s).

Article 15

(Procedural Compliance Reporting)

- (1) A person who intends to access foreign genetic resource(s) for their utilization in the Republic of Korea shall report to the head of the National Checkpoint, as prescribed by Presidential Decree, that the person has complied with the procedures prescribed in Article 14 (1).
- (2) Reporting referred to in paragraph (1) shall be limited to where access is made to the genetic resource(s) of the country providing such resource(s) which has established procedures for accessing and utilizing genetic resource(s) as a country that is a party to the Protocol, for the utilization of such genetic resource(s) in the Republic of Korea.

- (3) Reporting referred to in paragraph (1) shall be limited to the cases where the foreign genetic resource(s) is provided from a country that is party to the Nagoya Protocol and has established access and benefit-sharing procedures, and such resource(s) is used in the Republic of Korea.

Article 16

(Monitoring of Procedural Compliance)

- (1) The head of the National Checkpoint may monitor whether a person utilizing foreign genetic resource(s) domestically has complied with the procedures prescribed in Article 14 (1), in any of the following cases:
1. Where a country providing the genetic resource(s) objects to violation of the procedures referred to in Article 14 (1);
 2. Where a third party has provided information regarding violation of the procedures referred to in Article 14 (1);
 3. Where substantial grounds exist to believe that the procedures referred to in Article 14 (1) were not complied with.
- (2) Where necessary as a result of the monitoring conducted under paragraph (1), the head of the National Checkpoint may recommend a person utilizing foreign genetic resource(s) domestically to comply with the procedures prescribed in Article 14 (1).
- (3) A person utilizing foreign genetic resource(s) domestically shall cooperate in monitoring conducted under paragraph (1).
- (4) The details of and methods for monitoring prescribed in paragraph (1) shall be determined by Presidential Decree.

CHAPTER IV

SUPPLEMENTARY PROVISIONS

Article 17

(Genetic Resources Information Center)

- (1) To expertly perform duties related to access to and utilization of genetic resource(s) and benefit-sharing, the Minister of Environment shall establish and operate an information management center (hereinafter referred to as the “Genetic Resources Information Center”).

- (2) The Genetic Resources Information Center shall perform the following duties:
 1. Collecting, managing, investigating, and providing information related to access to and utilization of domestic and foreign genetic resource(s) and benefit-sharing;
 2. Providing information on domestic genetic resource(s) in regard to the Access and Benefit-sharing Clearing-House in accordance with Article 14 of the Protocol;
 3. Other matters prescribed by Presidential Decree, which are related to the duties of National Focal Points, Competent National Authorities, and National Checkpoints.
- (3) The heads of Competent National Authorities and National Checkpoints shall provide the following information regarding access to genetic resource(s) and benefit-sharing to the Genetic Resources Information Center:
 1. Matters concerning reporting or reporting on changes under Article 9;
 2. Matters concerning reporting prescribed in Article 15 and monitoring and recommending under Article 16;
 3. Other matters prescribed by Presidential Decree.
- (4) Matters necessary for establishing and operating the Genetic Resources Information Center shall be determined by Presidential Decree.

Article 18

(Composition and Operation of the Council)

- (1) The Minister of Environment may establish and operate the Council to consult with the head of the relevant central administrative agency regarding matters necessary for access to and utilization of genetic resource(s) and benefit-sharing.
- (2) The composition and operation of the Council prescribed in paragraph (1) and other necessary matters shall be determined by Presidential Decree.

Article 19

(Protection of Information)

- (1) The heads of the National Focal Points, Competent National Authorities, National Checkpoints, and Genetic Resources Information Center shall take necessary measures to protect information on genetic resource(s) to protect the rights for the providers and users of genetic resource(s).
- (2) No head of any agency or of the Center prescribed in paragraph (1) shall use any information related to genetic resource(s) for any commercial purpose or provide them to any third person, except for cases prescribed by Presidential Decree.

Article 20

(National Subsidy)

The State may grant subsidies to an agency, corporation, or organization performing projects that promote access to and utilization of genetic resource(s) and benefit-sharing, to help cover all or part of the expenses incurred in such projects.

Article 21

(Securing Financing)

The State shall formulate measures to secure funding to promote access to and utilization of genetic resource(s) and benefit-sharing.

Article 22

(Fees)

- (1) Any person intending to report or report on changes under Article 9 (1), (3), and (4) shall pay a fee.
- (2) The amount of a fee referred to in paragraph (1), payment method, and payment period, shall be determined by Ordinance of the Ministry of Environment.

Article 23

(Delegation and Entrustment of Authority)

- (1) Part of the authority of the Competent National Authority and National Checkpoint vested under this Act may be delegated to the heads of their respective agencies or entrusted to other administrative agency heads, as prescribed by Presidential Decree.
- (2) The duties of the Competent National Authority and National Checkpoint specified in this Act may be entrusted to the heads of related specialized institutions, corporations, or organization, as prescribed by Presidential Decree.

Article 24

(Deemed Public Officials for Purposes of Penalty Provisions)

Any executive officer or employee of related specialized agencies, corporations, or organizations performing duties entrusted pursuant to Article 23 (2) shall be deemed a public official in applying Articles 129 through 132 of the Criminal Act.

Article 25

(Review of Regulation)

The Minister of Environment shall review the appropriateness of the following matters every two years, counting from the following relevant base date (referring to the period that ends on the day before the base date of every second year) and shall take measures, such as making improvements:

1. Reporting access to domestic genetic resource(s) under Article 9 (1): One year after the date the Protocol becomes effective in the Republic of Korea;
2. Prohibiting or restricting access to and utilization of domestic genetic resource(s) under Article 12: The date the Protocol becomes effective in the Republic of Korea;
3. Reporting on procedural compliance under Article 15 and monitoring and recommending procedural compliance under Article 16: One year after the date the Protocol becomes effective in the Republic of Korea;
4. Administrative fines prescribed in Article 28: One year after the date the Protocol becomes effective in the Republic of Korea.

CHAPTER V

PENALTY PROVISIONS

Article 26

(Penalty Provisions)

Any person who accesses or utilizes genetic resource(s) prohibited or restricted from access or utilization, in violation of Article 12 (1), shall be punished by imprisonment with labor for not more than 3 years or by a fine not exceeding 30 million won.

Article 27

(Confiscation and Collection)

In cases falling under Article 26, the applicable genetic resource(s) shall be confiscated: Provided, that, if confiscation is not possible, an amount equivalent to the price thereof shall be collected.

Article 28

(Administrative Fines)

- (1) Any of the following persons shall be subject to administrative fines not exceeding 10 million won:
1. Any person who fails to file a report under Article 9 (1);
 2. Any person who fails to file a report under Article 15 (1).
- (2) A fine not exceeding 5 million won shall be imposed on any person who fails to file a report on changes under Article 9 (3).
- (3) The administrative fines referred to in paragraphs (1) and (2) shall be imposed and collected by the respective heads of the Competent National Authorities or the National Checkpoints, as prescribed by Presidential Decree.

ADDENDA

Article 1

(Enforcement Date)

This Act shall enter into force on the date the Protocol becomes effective in the Republic of Korea: Provided, that Articles 9 through 11, 15, 16, 22 and 28 shall enter into force one year after the date the Protocol becomes effective in the Republic of Korea.

Article 2

(Applicability)

- (1) Articles 12 and 14 shall begin to apply from a person who accesses genetic resource(s) for their utilization after this Act enters into force.
- (2) Articles 9 through 11, 15 and 16 shall begin to apply from a person who accesses genetic resource(s) for their utilization after the effective date of the said provisions.

Article 3

(Transitional Measures following the Enforcement of the Act on the Conservation, Management, and Use of Agricultural Bio-Resources and Act on Securing, Management, Use, etc. of Marine and Fisheries Bio-Resources)

- (1) “The Act on the Conservation, Management, and Use of Agricultural Bio-Resources” prescribed in the Article 8 (1) 2, and “Marine bio-resources in accordance with the Act on Securing, Management, Use, etc. of Marine and Fisheries Bio-Resources” prescribed in the Article 8 (1) 5, shall be construed as “The Act on the Conservation, Management, and Use of Agro-Fishery Bio-Resources” and “Marine bio-resources pursuant to the Act on Securing, Management, Use, etc. of Marine Bio-Resources, and fisheries bio-resources pursuant to the Act on the Conservation, Management, and Use of Agro-Fishery Bio-Resources”, respectively until June 27, 2017.
- (2) “The Act on the Conservation, Management, and Use of Agricultural Bio-Resources” prescribed in Article 13 (1) 2 and “Marine bio-resources in accordance with the Act on Securing, Management, Use, etc. of Marine and Fisheries Bio-Resources” prescribed in Article 13 (1) 6, shall be construed as “The Act on the Conservation, Management, and Use of Agro-Fishery Bio-Resources” and “Marine bio-resources pursuant to the Act on

Securing, Management, Use, etc. of Marine and Fisheries Bio-Resources pursuant to the Act on the Conservation, Management, and Use of Agro-Fishery Bio-Resources”, respectively until June 27, 2017.

ADDENDA <Act No. 14839, Jul. 26, 2017>

Article 1

(Enforcement Date)

- (1) This Act shall enter into force on the date of its promulgation: Provided, that the amended parts of the Acts which were promulgated before this Act enters into force but the enforcement dates of which have not arrived yet among the Acts amended pursuant to Article 5 of the Addenda shall respectively enter into force on the enforcement dates of such Acts.

Articles 2 through 6 Omitted.

Report on Access to Korean Genetic Resource(s)

■ Form 1. Enforcement Rule of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

Report on Access to Domestic Genetic Resource(s)

* Please read the instructions on the reverse side and place a ✓ in the applicable [] (Front)

Registration No.	Registration Date and Time	Processing Period: 30 days
Reporting Person	① Name (The Corporate Representative)	② Affiliation (The Corporate Name)
	③ Date of Birth (The Corporate Registration Number)	④ Contact Number (Phone) (Email)
	⑤ Address (The Location of Its Place of Business)	
Person Providing the Genetic Resource(s)	⑥ Name (The Corporate Representative)	⑦ Affiliation (The Corporate Name)
	⑧ Date of Birth (The Corporate Registration Number)	⑨ Contact Number (Phone) (Email)
	⑩ Address (The Location of Its Place of Business)	
Genetic Resource(s) and Access to and Utilization of Genetic Resource(s)	⑪ Name of the Genetic Resource(s) (Common Name and Scientific Name of the Relevant Species) (/)	
	⑫ Quantity or Concentration ([] Traditional Knowledge)	
	⑬ Methods for Accessing the Relevant Genetic Resource(s) [] Purchase [] Endowment or Exchange [] Gene Bank or Seed Bank, etc. [] Collection [] Access to Genetic Resource(s) through Third-Party by Contract, etc. - Information about Third-Party: (Affiliation / Name of Company) (Name / its Corporate Representative) (Contact Number) [] Miscellaneous()	
	⑭ Purpose for Accessing Genetic Resource(s) [] Commercial [] Non-Commercial	⑮ Purpose for Utilization [] Pharmaceutical [] Cosmetic [] Horticulture [] Miscellaneous()
	⑯ Country(s) Seeking to Utilize the Relevant Genetic Resource(s)	⑰ Method for Utilizing Genetic Resource(s) ⑱ Period of Utilization
Mutually Agreed Terms	⑲ Whether Mutually Agreed Terms are Established [] Yes [] No	
	⑳ If not, reasons for Not Establishing	
	㉑ Details of Mutually Agreed Terms [] Monetary Benefit Sharing [] Non-monetary Benefit Sharing [] Conditions for Later Use by Third-Party [] Conditions for Changes in Use [] Conditions for Reporting or Information Sharing Between Provider and User [] Applicable Jurisdiction, Governing Law of Dispute Settlement Procedure, and Alternative Dispute Resolution (Mediation, arbitration, etc.) [] Miscellaneous ()	

I hereby submit this Report on Access to Domestic Genetic Resource(s) pursuant to Article 9 (1) of Act on Access to and Utilization of Genetic Resources and Benefit-Sharing, Article 4 (1) of the Enforcement Decree thereof, and Article 3 (1) of the Enforcement Rule thereof.

[Month] [Day] [Year]

The Reporting Person

(Sign or Seal)

To:

(Head of Competent National Authority)

Documents to be submitted by the reporting person	1. A copy of Mutually Agreed Terms (if established) 2. Document that can verify the reporting person's identification or affiliation (only if the Competent National Authority cannot verify the identification or affiliation of the reporting person as a foreigner by sharing administrative information)	Fee: KRW 10,000
Matters to be checked by the head of Competent National Authorities	1. Corporate Registration Certificates (in cases of corporations) 2. Foreigner Registration Certificates (in cases of individuals)	

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Consent to Sharing Administrative Information

I hereby consent that officers in charge of reporting can check matters to be checked above by the Competent National Authorities through sharing administrative information pursuant to Article 36 (1) of Electronic Government Act.

※ If the reporting person does not consent to the above, the person must submit the relevant document directly.

The Reporting Person

(Sign or Seal)

Instructions

1. If the reporting person is a corporation, please state the name of corporate representative in column ①; the corporate name in column ②; the corporate registration number in column ③; and the location of its place of business in column ⑤

2. If the provider is a corporation, please state the name of corporate representative in column ⑥; the corporate name in column ⑦; the corporate registration number in column ⑧; and the location of its place of business in column ⑩.

3. Where the name of a certain genetic resource exists, please state such name in column ⑪ Name of Genetic Resource(s), along with the scientific name and the common name of the relevant species. If no name of a certain genetic resource exists, then please state only the scientific name and common name of the relevant species.

4. If the reporting person intends to access to a genetic resource, please state quantity or concentration of the genetic resource in column ⑫ and if the reporting person intends to access to traditional knowledge, then it should be ticked.

5. Multiple ticks are permitted in columns ⑬ Methods for Accessing the Relevant Genetic Resource(s); ⑭ Purpose for Accessing the relevant genetic resource(s); ⑮ Purpose for Utilization; ⑯ Country(s) Seeking to Utilize the Relevant Genetic Resource(s); ⑰ Method of Utilizing Genetic Resource(s); and ⑱ Contents of Mutually Agreed Terms.

6. If there is access to the relevant genetic resource through a third-party by contract, etc. (i.e., a procurement agent, etc. other than the person providing the genetic resource(s)), provide third-party information additionally in column ⑲ Methods for Accessing the Relevant Genetic Resource(s). If the third-party is a corporation, please state the name of the corporation and the name of its representative.

7. Briefly describe technology including biological engineering technology applied to the genetic resource(s), in column ⑲ Method for Utilizing Genetic Resource(s)

8. If you have not establish the agreement on sharing benefits under Article 11 of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing ("Mutually Agreed Terms"), please briefly state the reasons as to why no Mutually Agreed Terms were Established, in column ⑳ Whether Mutually Agreed Terms are Established.

※ If Mutually Agreed Terms are established *ex post facto* in accordance with Article 4 (4) of the Enforcement Decree of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing, please submit an Application Form for Verifying the Establishment of Mutually Agreed Terms and evidencing documents to the head of the Competent National Authority; and a verification certificate will be issued.

9. Only if Mutually Agreed Terms are established, please tick in column ㉑ Details of Mutually Agreed Terms; and if the relevant details exist in Mutually Agreed Terms, then they should be ticked.

Administrative Process

■ Form 2. Enforcement Rule of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

(Front)

Serial No.

Declaration Certificate for Access to Domestic Genetic Resource(s)

The Reporting Person	Name (The Corporate Representative)		Affiliation (The Corporate Name)		
	Date of Birth (The Corporate Registration Number)		Contact Number	(Phone) (Email)	
Person Providing the Genetic Resource(s)	Name (The Corporate Representative)		Affiliation (The Corporate Name)		
	Date of Birth (The Corporate Registration Number.)		Contact Number	(Phone) (Email)	
Contents of Report on Access to Domestic Genetic Resource(s)	Name of the Genetic Resource(s)				
	Quantity or Concentration		Methods for Accessing the Relevant Genetic Resource(s)		
	Access to Genetic Resource(s) through Third-Party	(Affiliation) (Name) (Contact Number)			
	Purpose for Accessing Genetic Resource(s)	<input type="checkbox"/> Commercial <input type="checkbox"/> Non-commercial	Purpose for Utilization	Country(s) Seeking to Utilize the Relevant Genetic Resource(s)	
	Whether Mutually Agreed Terms is Established		<input type="checkbox"/> Yes <input type="checkbox"/> No		Period of Utilization

This Declaration Certificate for Access to Domestic Genetic Resource(s) is issued regarding the above details in accordance with Article 4 (3) of the Enforcement Decree of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing and Article 3 (2) of the Enforcement Rule thereof.

[Month] [Day] [Year]

**Head of Competent
National Authority**

Seal

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Items of Changes

[Month][Day][Year]	Categories	Contents of Changes

Application Form for Verifying the Establishment of Mutually Agreed Terms

■ Form 3. Enforcement Rule of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

Application Form for Verifying the Establishment of Mutually Agreed Terms

* Please read the instructions on the reverse side and place a ✓ in the applicable []

Registration No.	Registration Date	Processing Period: 15 days
Applicant	① Name (The Corporate Representative)	② Affiliation (The Corporate Name)
	③ Date of Birth (The Corporation Registration Number)	④ Contact Number (Phone) (Email)
	⑤ Address (The Location of Its Place of Business)	

Serial Number of Declaration Certificate for Access to Domestic Genetic Resource(s)	
Mutually Agreed Terms	⑥ Details of Mutually Agreed Terms
	[] Monetary Benefit Sharing [] Non-monetary Benefit Sharing
	[] Conditions for Later Use by Third-Party [] Conditions for Changes in Utilization
	[] Conditions for Reporting or Information Sharing Between Provider and user
	[] Applicable Jurisdiction, Governing Law of Dispute Settlement Procedure, and Alternative Dispute Resolution (Mediation, arbitration, etc.)
	[] Miscellaneous ()

I hereby submit this Application Form for Verifying the Establishment of Mutually Agreed Terms in accordance with the main sentence of Article 4 (4) of the Enforcement Decree of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing and Article 3 (3) of the Enforcement Rules thereof.

[Month] [Day] [Year]

Applicant

(Sign or Seal)

To : (Head of Competent National Authority)

Documents to be submitted by Applicant	A copy of Mutually Agreed Terms	No Fee
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Instructions

1. If the applicant is a corporation, please state the name of corporate representative in column ①; the corporate name in column ②; the corporation registration number in column ③; and the location of its place of business in column ⑤.
2. If the relevant details exists in Mutually Agreed Terms, please place a tick in column ⑥ Mutually Agreed Terms.

Administrative Process

Completing Form	→	Receiving Form	→	Reviewing Form	→	Making a Decision	→	Issuing a Certificate
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Verification Certificate of the Establishment of Mutually Agreed Terms

Form 4. Enforcement Rule of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

Serial No.

Verification Certificate of the Establishment of Mutually Agreed Terms

Serial Number of Declaration Certificate for Access to Domestic Genetic Resource(s)				
Applicant	Name (The Corporate Representative)		Affiliation (The Corporate Name)	
	Date of Birth (The Corporation Registration Number)		Contact Number	(Phone) (Email)
Mutually Agreed Terms	Established			

This Verification Certificate for the Establishment of Mutually Agreed Terms is issued in accordance with the latter part of Article 4 (4) of the Enforcement Decree of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing and Article 3 (4) of the Enforcement Rules thereof.

[Month] [Day] [Year]

Head of Competent National Authority

Seal

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■ Form 5. Enforcement Rule of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

Change Report on Access to Domestic Genetic Resource(s)

※ Please read the instructions below and place a √ in the applicable []

(Front)

Registration No.		Registration Date		Processing Period: 30 days	
The Reporting Person	① Name (The Corporate Representative)		② Affiliation (The Corporate Name)		
	③ Date of Birth (The Corporation Registration Number)		④ Contact Number (Phone) (Email)		
	⑤ Address (The Location of Its Place of Business)				
Serial Number of Declaration Certificate of Access to Domestic Genetic Resource(s) to be Changed					

Contents of Changes

Category	Before Changes	After Changes
[] To Change Purpose for Accessing the Declared Genetic Resource(s)		
[] To Increase in Quantity or Concentration of the Declared Genetic Resource(s)		
[] To Change the Details of Mutually Agreed Terms Concerning the Relevant Genetic Resource(s)		

I hereby submit this Change Report on Access to Domestic Genetic Resource(s), as above, in accordance with Article 9 (3) of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing, Article 4 (6) of the Enforcement Decree thereof and Article 4 of the Enforcement Rules thereof.

[Month] [Day] [Year]

The Reporting Person

(Sign or Seal)

To: Head of Competent National Authority

Documents to be submitted by the reporting person	1. Declaration Certificate for Access to Domestic Genetic Resource(s) 2. A copy of Mutually Agreed Terms (If amended)	Fee: KRW 5,000
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Instructions

1. The reporting person does not have to state the shaded columns.
- 2.If the reporting person is a corporation, please state the name of corporate representative in column ①; the corporate name in column ②; the corporation registration number in column ③; and the location of its place of business in column ⑤.

Administrative Process



Procedural Compliance Report on Accessing and Utilizing Foreign Genetic Resource(s)

■ Form 6. Enforcement Rule of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing

Procedural Compliance Report on Accessing and Utilizing Foreign Genetic Resource(s)

※ Please read the instructions below and place a ☒ in the applicable [] (Front)

Registration No.	Registration Date	Processing Period: 5 days	
Reporting Person	① Name (The Corporate Representative)	② Affiliation (The Corporate Name)	
	③ Date of Birth (The Corporation Registration Number)	④ Contact Number (Phone) (Email)	
	⑤ Address (The Location of Its Place of Business)		
Person Providing the Foreign Genetic Resource(s)	⑥ Name (The Corporate Representative)	⑦ Affiliation (The Corporate Name)	
	⑧ Name of the Providing Country of the Foreign Genetic Resource(s)	⑨ Contact Number (Phone) (Email)	
	⑩ Address (The Location of Its Place of Business)		
Prior Informed Consent	The Country Granting the Prior Informed Consent	The Institution Granting the Prior Informed Consent	
	Granting Number	Date of Granting	
Genetic Resource(s) and Utilization	⑪ Name of the Foreign Genetic Resource(s) (Common name and scientific name of the relevant species) (/)		⑫ Quantity or Concentration ([] Traditional Knowledge)
	⑬ Purpose for Accessing the Genetic Resource(s) [] Commercial [] Non-commercial	⑭ Purpose for Utilizing the Foreign Genetic Resource(s) [] Pharmaceutical [] Cosmetics [] Horticulture [] Miscellaneous ()	
	⑮ Whether the Mutually Agreed Terms is Established [] Yes [] No		⑯ If not, reasons for Not Establishing
	⑰ Details of Mutually Agreed Terms [] Monetary Benefit Sharing [] Non-monetary Benefit Sharing [] Conditions for Later Use by Third-Party [] Conditions for Changes in Use [] Conditions for Reporting or Information Sharing Between Provider and User [] Applicable Jurisdiction, Governing Law of Dispute Settlement Procedure, and Alternative Dispute Resolution (Mediation, arbitration, etc.) [] Miscellaneous ()		

I hereby submit this Procedural Compliance Report on Accessing and Utilizing Foreign Genetic Resource(s) pursuant to Article 15 (1) of the Act on Access to and Utilization of Genetic Resources and Benefit-Sharing, Article 6 of the Enforcement Decree thereof, and Article 5 of the Enforcement Rules thereof.

[Month] [Day] [Year]

The Reporting Person

(Sign or Seal)

To: Head of National Checkpoint

Documents to be submitted by the reporting person	1. One Document to demonstrate that he/she has been approved for access to genetic resource(s) from a country providing relevant genetic resource(s) 2. A copy of Mutually Agreed Terms (if established) 3. Certified copies of resident registration cards, or foreigner registration certificates (Only if the National Checkpoint cannot verify the identification or affiliation of the reporting person by sharing administrative information)	No Fee
Matters to be checked by the Head of National Checkpoint	1. Corporation Registration Certificates (in cases of corporations) 2. Certified copies of resident registration cards, or foreigner registration certificates (in cases of individuals)	

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Procedural Compliance Report on Accessing and Utilizing Foreign Genetic Resource(s)

(Back)

Consent to Sharing Administrative Information

I hereby consent that officers in charge of reporting can check matters to be checked above by the Head of National Checkpoint through sharing administrative information pursuant to Article 36 (1) of Electronic Government Act

※ If the reporting person does not consent to the above, the applicant must submit the relevant document directly.

The Reporting Person

(Sign or Seal)

Instructions

1. If the reporting person is a corporation, please state the name of corporate representative in column ①; the corporate name in column ②; the corporation registration number in column ③; and the location of its place of business in column ⑤
2. If the provider is a corporation, please state the name of corporate representative in column ⑥; the corporate name in column ⑦; the corporation registration number in column ⑧; and the location of its place of business in column ⑩.
3. Where the name of a certain genetic resource exists, please state such name in column ⑪ Name of the Foreign Genetic Resource(s), along with the scientific name and the common name of the relevant species. If no name of a certain genetic resource exists, then please state only the scientific name and common name of the relevant species.
4. If the reporting person intends to access to genetic resource(s), please state quantity or concentration of the genetic resource(s) in column ⑫ and if the person intends to access to traditional knowledge, then it should be ticked.
5. Multiple ticks are permitted in columns ⑬ Purpose for Accessing the Genetic Resource(s) and ⑭ Purpose for Utilizing the Foreign Genetic Resource(s)
6. If you have not established an agreement on sharing benefits with the providers, please briefly state the reasons as to why no Mutually Agreed Terms were established, in column ⑮.
7. Multiple ticks are permitted in column ⑯ if Mutually Agreed Terms are established; and if the relevant details exist in Mutually Agreed Terms, then they should be ticked.

Administrative Process



