

THE ABS-CH AND THE SECRETS OF THE NAGOYA PROTOCOL

Mock exercise on how to register an ABS measures in the ABS-CH

Part 1: Initial ABS measure

In 2007, before the entry into force of the Nagoya Protocol, Middle-earth had developed a national framework to deal with access and benefit sharing issues (**Law 3/333 on access and benefit-sharing**). The law entered into force on September 1 2007 and its main provisions are the following:

- Article 2 defines issues related to the scope of the measure which deals with all magic genetic resources in Middle Earth and which includes some provisions regarding magic knowledge associated with genetic resources from Elf local communities.
- Article 3 establishes the appropriate Competent National Authority (CNA)) for granting access to different magic genetic resources.
- Articles 3-6 deal with access to genetic resources in general. Article 6 includes some provisions about access for non-commercial research.
- Articles 8-10 address access to magic knowledge from Elf communities.
- Article 11 deals with benefit-sharing
- Article 12 includes measures to ensure compliance with Law 3/333.

The original measures are written in the local language, Raetho-Romance, but Middle-earth has provided a courtesy translation of the measures in English.

The measure can be found at <http://en.wikipedia.org/wiki/Middle-earth>

Instructions for the exercise:

-Complete the common format on ABS measures with the information provided

Part 2: Amendments of ABS measures

The government of Middle-earth ratified the Nagoya Protocol in 2014 and, for this reason, it had to adjust its legal framework to implement the Nagoya Protocol provisions. As a Party to the Nagoya Protocol, Middle-earth has adopted a new law (Law 4/444) to make sure that they comply with the Nagoya Protocol in matters related to compliance (particularly Articles 15-18 of the Nagoya Protocol). The new law amends Article 12 of Law 3/333.

The new law entered into force the 12 October 2014 and has only 5 articles:

- Article 1: scope
- Article 2: Compliance with national ABS measures
- Article 3: Establishment of checkpoints

- Article 4: Monitoring the utilization of magic genetic resources
- Article 5: Compliance with mutually agreed terms

Once again, the original measures are written in the local language, Raetho-Romance, but Middle earth has provided a courtesy translation of the measure in English.

The measure can be found at <http://en.wikipedia.org/wiki/Middle-earth>

Instructions for the exercise:

-Complete the common format on ABS measures with the information provided and make sure that this is reflected as an amendment to Law 3/333.

Part 3: Register guidelines

Middle-earth has also developed some guidelines on benefit-sharing which are still in draft form to provide further guidance regarding the sharing of benefits derived from the utilization of magic genetic resources and associated magic knowledge. The guidelines are meant to support the application of Article 11 of Law 3/333.

The measure can be found at <http://en.wikipedia.org/wiki/Middle-earth>

Instructions for the exercise:

-Complete the common format on ABS measures with the information provided and make sure to link the guidelines to Law 3/333.

Exercise on how to register a Competent National Authority (CNA)

Law 3/333 on access and benefit-sharing includes in its Article 3 that the competent national authority for the Middle-earth plant magic genetic resources in protected areas is GANDALF. Middle-earth has other four competent national authorities dealing with different magic genetic resources.

GANDALF THE GREY's office is located in Rhudaur crossroad in Eriador. Phone number +33-333-333. Email Gandalf@middle-earth.com

Gandalf is a very busy magician but he has a hobbit assisting him called Frodo Baggins in the same office. His phone number is +33-333-331 and his email is Frodo@middle-earth.com

Gandalf responsibilities include granting prior informed consent for accessing to all magic plant genetic resources located in protected areas of the Middle-earth. He is also responsible for negotiating mutually agreed terms on behalf of the country and coordinating with the Elf local communities when dealing with access to their magic associated knowledge.

Instructions for the exercise:

-Complete the common format on Competent National Authorities with the information provided.

Mock exercise on how to register information about a permit or its equivalent constituting an internationally recognized certificate of compliance in the ABS-CH

Part 1: Register a permit or its equivalent constituting an internationally recognized certificate of compliance

After some negotiations between Harry User and Gandalf (the CNA for Middle Earth magic plant genetic resources). Gandalf on behalf of the Government of Middle-earth has agreed to grant access to the Sopophorous Beans to Harry User.

Harry User lives at No 9 of the Forbidden Forest Road in Hogwarts (harry@hogwarts.edu, +99-999-999)

However, the mutually agreed terms signed between the two parties include some restrictions on how Harry User can make use of the genetic resources of the magic beans. Access to the beans has only been granted for non-commercial use, and therefore patents related to the genetic resources of the magic beans or the future commercialization of a potion on its basis is not allowed. The University of Middle-earth will be partnering in the research, and one of its students of the Magic Studies department will be travelling to Wizards Kingdom to assist Harry User with the ancient art of creating potions in a cauldron and to learn the most modern techniques of use of magic wands.

A clause was included that in case the results of the research are positive and the potion based on the beans has a commercial potential, Harry User and Gandalf will renegotiate the agreement.

While non-commercial research is being done, Harry User has insisted that he prefers to maintain his research on the Sopophorous Beans confidential, as he wants to prevent other Wizards from stealing his idea. A clause is included in the contract where Middle-earth commits to keep this information confidential and only made available in its national records.

The contract includes a clause providing that transfer to a third party of the Sopophorous Beans is not permitted.

Gandalf has issued a national permit on June 1 2014 to Harry User for a period of 10 years from issuance and the national reference number for the permit is HarryUser/1-June-2014. Gandalf and Frodo keep a good filing system with all information available about this dossier

Instructions for the exercise:

-Complete the common format on permits and its equivalent constituting an internationally recognized certificate of compliance with the information provided

Part 2: Amending a permit or its equivalent constituting an internationally recognized certificate of compliance

After filling the information on the national permit in the ABS-CH, Harry User, Gandalf and the NFP of Middle-earth received a copy of the internationally recognised certificate of compliance (IRCC). After some exciting discoveries of the research project Harry User wants to commercialise the potion based on the magic beans, so he contacts again Gandalf (Middle-earth CNA) and they decide to renegotiate the mutually agreed terms.

Patents and commercialization of the potion which include the magic beans is allowed in exchange for a share in all the profits. They also agree to a milestone payment if a patent is granted.

Gandalf goes to the ABS-CH to provide this new information about the national permit and update the IRCC.

Instructions for the exercise:

-Amend the common format on permits and its equivalent constituting an internationally recognized certificate of compliance with the information provided. You have two options:

(a) To issue a new permit and therefore having two different national permits and two IRCCs one dealing with non-commercial use and another with commercial use. To save time, you can duplicate the existing record containing information about the national permit HarryUser/1-June-2014 and make the necessary changes to it.

(b) To replace the existing record and IRCC for a new one that would cover both commercial and non-commercial use. In this case, the previous record will no longer be valid so the old permit is revoked.

Mock exercise on how to register a checkpoint in the ABS-CH

Wizards Kingdom CNA has designated WIZARD WORLD Review, an international peer reviewed magic journal, as a checkpoint for the Nagoya Protocol.

According to the Royal Decree on designation of checkpoints adopted in May 19 2014, the Wizard World Review is required to ask for information on prior informed consent, to the source of the genetic resource, to the establishment of mutually agreed terms, and/or to the utilization of genetic resources, every time an article dealing with research and development on the magic genetic and/or biochemical composition of genetic resources is presented for publication in the journal.

The NFP of Wizards Kingdom has been designated as the authority to receive all checkpoint communiques published in the ABS-CH. The National Focal Point is Rowena Ravenclaw from Hogwarts School at Hogwarts (+77 777-777 rowena@hogwarts.edu)

Instructions for the exercise:

-Complete the common format on checkpoint with the information provided

Mock exercise on how to register a checkpoint communicate in the ABS-CH

After conducting research and development on the magic composition of the Sopophorous beans, Harry User decides to write a manuscript and publish it in the main journal of Wizards Kingdom. The paper is co-authored by the visiting student from the Magic Studies department of the Middle-earth University, the elf Arwen Undomiel (Rivendell, arwen@middle-earth.com, +5-555-555)

Arwen Undomiel is following the process for getting the paper published at the Wizard World Review.

Wizard World Review asks Arwen for information on prior informed consent, the source of the genetic resource, the establishment of mutually agreed terms, and/or the utilization of genetic resources.

On October 12 2014 Arwen provides one of the following types of information:

- The IRCC
- The national permit

Instructions for the exercise:

-Complete the common format on information for the checkpoint communicate with the information provided. You can complete the format on the basis of the IRCC entered for the previous exercises or based on the information about the national permit.