



**PRO30 – Procedure for addressing claims of conduct
inconsistent with ethical sourcing of biodiversity**

2010-11-25

Union for Ethical BioTrade

The Union for Ethical BioTrade.

The Union for Ethical BioTrade is a non-profit association that promotes the "Sourcing with Respect" of ingredients that come from native biodiversity. Members commit to gradually ensuring that their sourcing practices promote the conservation of biodiversity, respect traditional knowledge, and assure the equitable sharing of benefits all along their supply chains.

The continuous compliance with the Ethical BioTrade minimum indicators, the actual implementation of the work plan and the continuous compliance with the Verification Framework after the completion of the work plan are regularly monitored by 3rd party audits.

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PRO30 – Procedure for addressing claims of conduct inconsistent with ethical sourcing of biodiversity		
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INTRODUCTION

The Union for Ethical BioTrade (UEBT) is a non-profit association that promotes the 'Sourcing with Respect' of ingredients that come from native biodiversity. Its mission is to bring together actors committed to Ethical BioTrade in order to promote, facilitate, and recognize practices that meet the sustainable development goals of the CBD.

Members of UEBT are committed to adopting Ethical BioTrade practices for all of their biodiversity-related products. They establish company-wide management systems to gradually implement the Ethical BioTrade Principles and Criteria for all products that use native species, at all levels of the supply chain. Members thus foster long-term relationships with their source countries, contribute to local development, ensure that benefits reach all of those involved, and help preserve local ecologies.

The Verification Framework of UEBT stems from the seven Principles and Criteria developed by UNCTAD BioTrade. The framework is an international standard designed in accordance to the requirements for developing standards as stipulated by the World Trade Organisation (WTO) and the International Social and Environmental Accreditation and Labelling Alliance (ISEAL). The Verification Framework is the tool used to analyse the conduct of a member of UEBT in comparison to the Principles and Criteria of Ethical BioTrade, in order to determine those parts in a member's activities that need to be addressed. As such, it is also the main tool to develop individual work plans that guide members towards compliance with the Principles and Criteria.

As members work towards compliance with ethical sourcing practices, the UEBT verification system establishes several mechanisms for transparency and public participation. Summaries of members' work plans and audit reports are publicly available. Members are also required to present annual reports on their progress, which are periodically assessed by independent auditors. In line with ISEAL requirements, UEBT has an appeal mechanism, open to any interested party, which can be used to question decisions on verification or membership.

Nevertheless, given limited complex legal and policy framework surrounding many of the issues addressed by the UEBT Verification System, UEBT is aware of the possibility of questions or criticism regarding its work or that of its members. On issues such as access and benefit sharing (ABS) or engagement with communities, for example, there may be claims of conduct inconsistent with ethical sourcing practices raised or made public by various stakeholders. UEBT attaches much importance to ensuring a prompt and adequate response in these cases as a way to assert legitimate practices, address any possible problems, and safeguard the reputation of UEBT and its members.

1. SCOPE

This procedure outlines the response required from UEBT and its Members and Provisional Members to claims of conduct inconsistent with ethical sourcing of biodiversity. The requirements listed in this procedure form part of the membership obligations of UEBT (GOV25 – Membership Conditions and Obligations for Trading Members).

2. REFERENCES

UEBT STD01 - Verification for Native Natural Ingredients

UEBT GOV25 – Membership Conditions and Obligations for Trading Members

UEBT PRO07 – Appeals Procedure

3. TERMS AND DEFINITIONS

For the purpose of this document, the following definitions apply:

Biopiracy: Use, commercialization or appropriation of biological resources, or associated traditional knowledge, without adequate authorization or compensation.

Claims of biopiracy: Accusations made in relation to companies or organizations that would have committed, facilitated or supported biopiracy.

Ethical sourcing of biodiversity: refers to practices that aim to advance the conservation of biodiversity, promote the sustainable use of natural ingredients derived from flora and fauna that naturally occur in the sourcing area, and ensure that all contributors along the supply chain are paid fair prices and receive an equitable share in the benefits. The ethical sourcing of biodiversity recognizes countries' sovereign rights over biodiversity and respects the rights of local and indigenous communities over their traditional knowledge.

Claims of conduct inconsistent with ethical sourcing practices: Accusations made in relation to companies or organizations whose policies, procedures or actions would have ignored or contravened the ethical sourcing of biodiversity.

Note: These accusations may be formulated, *inter alia*, through legal or political channels, journals and periodicals, or civil society or academic reports.

4. REQUIREMENTS

4.1. Claims regarding Members of the Union for Ethical BioTrade

4.1.1. The Member or Provisional Member accused of conduct inconsistent with ethical sourcing practices shall notify the Secretariat of UEBT no later than three (3) days after it learns of the allegations.

4.1.2. The Member or Provisional Member accused of conduct inconsistent with ethical sourcing practices shall prepare a written statement to UEBT within two (2) weeks of learning of the allegations.

4.1.2.1. The written statement shall be two to four (2-4) pages long. Its aim is to respond to the various allegations and detail efforts to reach compliance with the relevant requirements of the Ethical BioTrade Verification Framework (STD01 - Verification for Native Natural Ingredients).

Note: If the statement includes confidential information, this shall be clearly identified as such.

4.1.2.2. In cases of claims of biopiracy, the Member or Provisional Member shall include in its statement – as far as possible – the suggested information described in annex 1.

4.1.2.3. The Secretariat of UEBT shall inform the Executive Committee, at the meeting after the UEBT Secretariat has heard about the allegation, of the claims against the Member or Provisional Member, as well as share the written statement with the Committee.

4.1.2.4. In consultation with the Member or Provisional Member, UEBT may choose to make public all or parts of the written statement, if it considers that doing so would assist in preserving the integrity and reputation of UEBT and the Member or Provisional Member involved.

4.1.3. The Member or Provisional Member accused of conduct inconsistent with ethical sourcing practices may request that UEBT prepares a separate statement regarding the allegations. If the request is made, UEBT shall prepare a statement focusing on the content of the Ethical BioTrade Verification Framework, the functioning of the Verification System and the existence of an appeals procedure (PRO07 – Appeal Procedure).

4.1.4. Within three (3) months of the initial claims, the Member or Provisional Member accused of conduct inconsistent with ethical sourcing practices shall prepare a report to the Secretariat of UEBT detailing efforts to review, if necessary, address the problems raised by the claims of biopiracy and the results of the contacts with the claimant(s), if relevant.

4.1.5. The Member or Provisional Member accused of conduct inconsistent with ethical sourcing practices shall, in its next annual report to UEBT, highlight efforts to review and, if necessary, address the problems raised by the claims.

4.2. *Claims referring to the Union for Ethical BioTrade*

4.2.1. The Secretariat of UEBT shall inform the Executive Committee of any references to the organization in relation to conduct inconsistent with ethical sourcing practices upon learning of the allegations.

4.2.2. The Secretariat of UEBT, when learning of references to the organization in claims of conduct inconsistent with ethical sourcing practices, shall prepare a public statement addressing the criticisms in the context of the Ethical BioTrade Verification Framework, the functioning of the Verification System and the existence of an Appeals Procedure and make it available on its web site within one (1) week of having learned of the claims.

ANNEX 1: SUGGESTED INFORMATION FOR MEMBER STATEMENT ADDRESSING CLAIMS OF BIOPIRACY

A Member or Provisional Member of UEBT accused of biopiracy shall prepare a written statement to UEBT within two (2) weeks of learning of the allegations, responding to the various claims and detailing efforts to reach compliance with the access and benefit sharing requirements of the Ethical BioTrade Verification Framework. The statement should be kept to two to four (2-4) pages and, wherever relevant, should include the information identified in the present annex.

1. *About the claims*
 - Overview of allegations made.
 - Description of information that allegations are based on.
 - Information on whether the company was contacted in the process.

2. *About the plant, ingredient or product*
 - Background on plant and any related traditional use or knowledge.
 - Information on development of ingredient or product, including how plant was identified, relevant R&D conducted and any role that traditional knowledge may have played in these processes.
 - Information on current value chain, including partners and markets.

3. *About the patent at issue and patenting policies more generally*
 - Description of patent policies and practices, and their link to broader commercial and ethical sourcing strategies.
 - Characterization of patent or patent application at issue, including the link to patentability criteria and reasoning for scope of claims.
 - Explanation of the relationship between the patent and ABS policies and practices.

4. *About ABS policies and practices*
 - Overview of the existing mechanisms for transparency and dialogue along the supply chain, and whether local, regional or national authorities or the communities have ever raised any concerns on the ingredient through these mechanisms.
 - Information on the permits secured for access, harvest or export, as well as contracts or agreements that establish prior informed consent and the terms for sharing of benefits.
 - Description of monetary and non-monetary benefits being generated along the supply chain, with information on the actual benefits flowing to producers.
 - Description of policies for the recognition, promotion and compensation of traditional knowledge.

5. *About follow-up*
 - Explanation of any review and follow-up to be conducted, including in the context of the PRO30.
 - Contact information for any follow-up.