



UEBT
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PRO30

Procedure for addressing claims of alleged biopiracy

22-01-2010

UEBT

UEBT

UEBT is a non-profit association that promotes sourcing with respect. We work to regenerate nature and secure a better future for people through ethical sourcing of ingredients from biodiversity. We aim to contribute to a world in which all people and biodiversity thrive.



PRO30 – D – Procedure for addressing claims of alleged biopiracy		
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Introduction

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.

The fair and equitable sharing of the benefits arising out of the utilization of biodiversity, as one of the main concepts in the Convention on Biological Diversity (CBD), is also central to the Ethical BioTrade Verification Framework. Compliance with CBD principles and requirements for Access and Benefit Sharing (ABS) in relation to genetic resources, for example, is checked in the independent audits of Members' practices and advanced through their individual work-plans. Nevertheless, the lack of legal certainty and complex policy debates around ABS mean that members of UEBT, as well as UEBT itself, may still be faced with claims of alleged biopiracy. A prompt and adequate response in these cases is fundamental to assert legitimate practices and safeguarding the reputation of UEBT and its members.

I. Scope

This procedure outlines the response required from UEBT and its members and provisional members to claims of alleged biopiracy. The requirements listed in this procedure form part of the membership obligations of UEBT (gov25 – membership conditions and obligations for trading members).

II. References

UEBT STD01 - Verification for Native Natural Ingredients

UEBT GOV25 – Membership Conditions and Obligations for Trading Members

UEBT PRO07 – Appeals Procedure

III. 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.

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

IV. Requirements

4.1. Claims of biopiracy regarding Members of the Union for Ethical BioTrade

4.1.1. The Member or Provisional Member accused of biopiracy 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 biopiracy 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 and include as much as possible of the suggested information described in annex 1. Its aim is to respond to the various allegations in the claims of biopiracy and detail efforts to reach compliance with the access and benefit sharing 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. The Secretariat of UEBT shall inform the Executive Committee, at the meeting after the UEBT Secretariat has heard about the allegation, of the claims of alleged biopiracy against the Member or Provisional Member, as well as share the written statement with the Committee.

4.1.2.3. 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 biopiracy 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 biopiracy 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.



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

4.2. *Claims of biopiracy 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 biopiracy upon learning of the allegations.

4.2.2. The Secretariat of UEBT, when learning of references to the organization in claims of biopiracy, 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.

V. Contact

UEBT can be contacted at the following address:

UEBT

De Ruijterkade 6
1013 AA, Amsterdam
The Netherlands

Or via email: info@uebt.org

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.