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April 9, 2020

### **Information Letter 1090**

### **IFRA publishes the IFRA-IOFI Guidance Document for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations**

Dear Colleagues,

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](#)" commits parties to the protocol and was negotiated and adopted under the auspices of the United Nations Convention on Biological Diversity (CBD).

The Nagoya Protocol requires parties (States) to establish a clear and transparent legally binding framework determining how researchers and companies, who utilize genetic resources or traditional knowledge associated with genetic resources, should obtain access to them and how benefits resulting from their utilization are fairly and equitably shared. As a result, a wide variety of Access and Benefit Sharing (ABS) regulations have arisen worldwide, not generally harmonized and often not easy to interpret, thereby often creating a situation of legal uncertainty for the Industry at large.

The flavor and fragrance (F&F) industry fully supports the objectives of the Nagoya protocol which aims at sharing benefits from the utilization of genetic resources or associated traditional knowledge with the respective holders and should be regarded as an element of sustainable and ethical sourcing of natural raw materials. On the other hand, non-compliance with the Nagoya Protocol or related ABS regulations can have significant negative impact on business – from a financial (e.g. fines) as well as reputational point of view.

In order to raise awareness and provide support to companies in understanding the complexity of this legal framework, the IFRA-IOFI Nagoya Protocol TF (NPTF) is now publishing the IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations (Att. 01).



Ensuring compliance requires traceability and therefore awareness and due diligence activities along the whole supply chain. In the case of the F&F industry, the said supply chain is complex and therefore requires excellent understanding by and communication between all stakeholders involved.

With those elements in mind, this document aims to:

- Support fragrance and flavor industry members in understanding the Nagoya Protocol and identifying its potential implications on their business and operations; while providing some keys of interpretation on some national legislations implementing that Protocol, as well as other ABS legislations.
- Support the development of company internal policies and processes to properly ensure compliance with the obligations created by the Protocol and its implementing legislations with regard both to the provider and the user countries.

The overall regulatory framework is complex, with the intertwining of international, European and national rules. The IFRA-IOFI Guidance provides a summary of the national implementing ABS legislation in selected key countries for the F&F business: Brazil (Att. 02), the European Union (Att. 03), India (Att. 04), South Africa (Att. 05) and Switzerland (Att. 06). These Annexes have been prepared with strong support of the NPTF members and the respective IFRA and IOFI national associations and will be updated when regulatory developments occur. In this context, users of the Guidance are kindly requested to inform IFRA and IOFI on any new regulatory development concerning this and other countries of interest to the F&F industry.

In addition to that, it is commonly acknowledged that there is still a lack of clarity on specific concepts of the Nagoya Protocol, notably related to the definition of 'utilization' and the extent to which 'derivatives' fall in scope. This guidance document aims at describing a shared understanding of these concepts in the context of flavors and fragrances. It shall not replace national legislations or the interpretation that national authorities could make of those concepts, which remain the main sources for legal interpretation.

IFRA and IOFI are organizing a webinar for their members and interested stakeholders to present this new Guidance and provide a summary of the key challenges that ABS legislations can present to fragrance and flavor companies. This webinar is scheduled on May 11, 2020 from 1h30 to 3h30pm CEST. Invitations to register to the webinar have already been shared with the membership.

In case of any questions please do not hesitate to contact Matthias Vey ([mvey@ifraorg.org](mailto:mvey@ifraorg.org)) or Cécile González ([cgonzalez@ifraorg.org](mailto:cgonzalez@ifraorg.org)).

Very best regards,

IFRA

#### **Attachments:**

- Att. 01: IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations
- Att. 02: IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations- Brazil
- Att. 03: IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations – European Union



- Att. 04: IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations – India
- Att. 05: IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations – South Africa
- Att. 06: IFRA-IOFI Guidance for the Flavor and Fragrance Industry for dealing with the Nagoya Protocol and Access and Benefit Sharing (ABS) Regulations - Switzerland