

Bruno DAVID

Green Mission Pierre Fabre, Pierre Fabre Laboratories, 3 avenue Hubert Curien, BP 13562, F-31035 Toulouse, France
bruno.david@pierre-fabre.com

Legal access to biodiversity has become nowadays a strategic and very sensitive issue for every natural product researcher in either academic or industrial sectors. The need to share the fair and equitable benefits arising from the utilization of genetic/biological resources established by the Rio Convention (1992)¹ was reaffirmed by the Nagoya Protocol (2010)² which was then internationally enforced on 12th October 2014. In this context, national access laws and the European Regulation EU N°511/2014³ have been implemented. These new laws must be clearly understood by researchers and fully integrated into daily working practices⁴.

HISTORICAL BACKGROUND

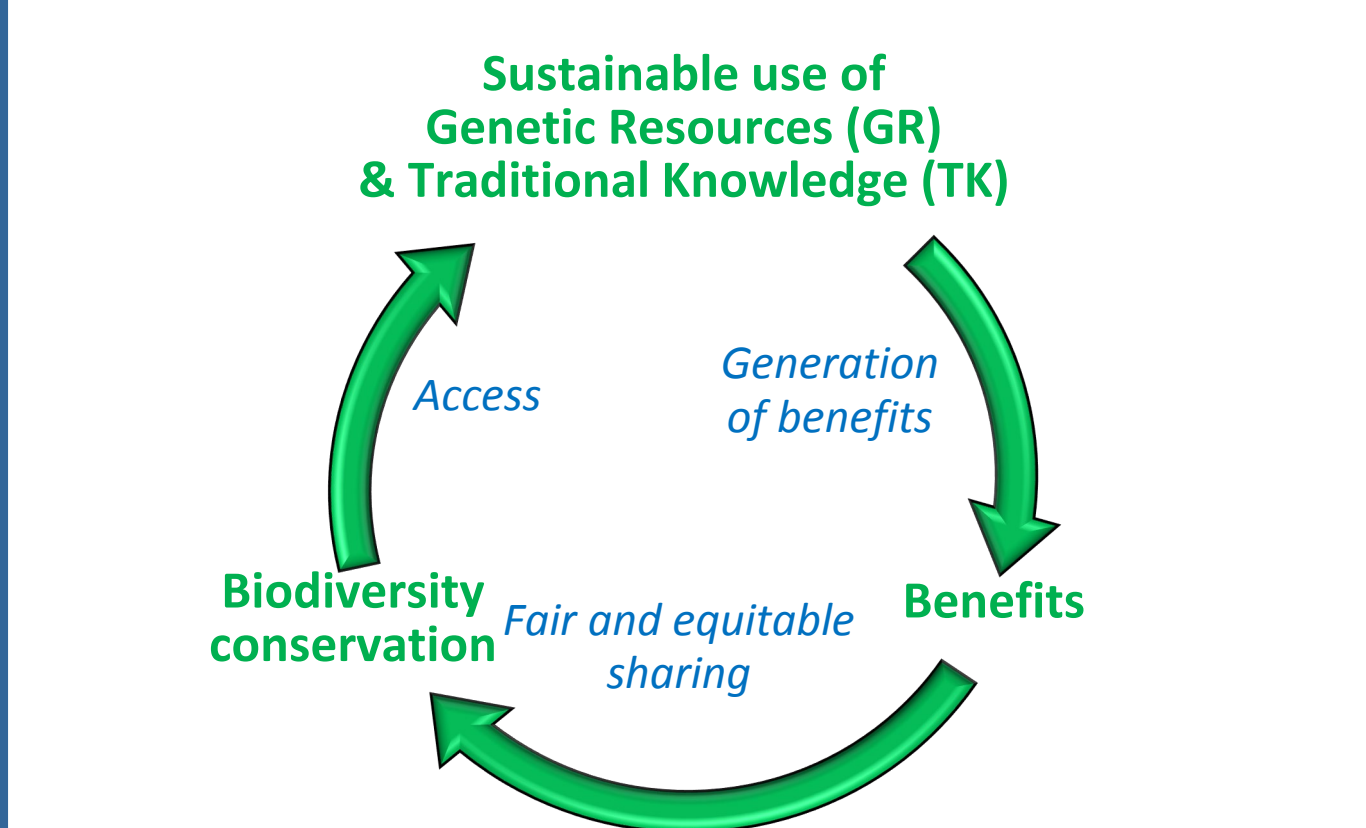


Awareness in the 1970s-80s of the need to conserve and to use the biological diversity and traditional knowledge (TK) in a sustainable and fair way.

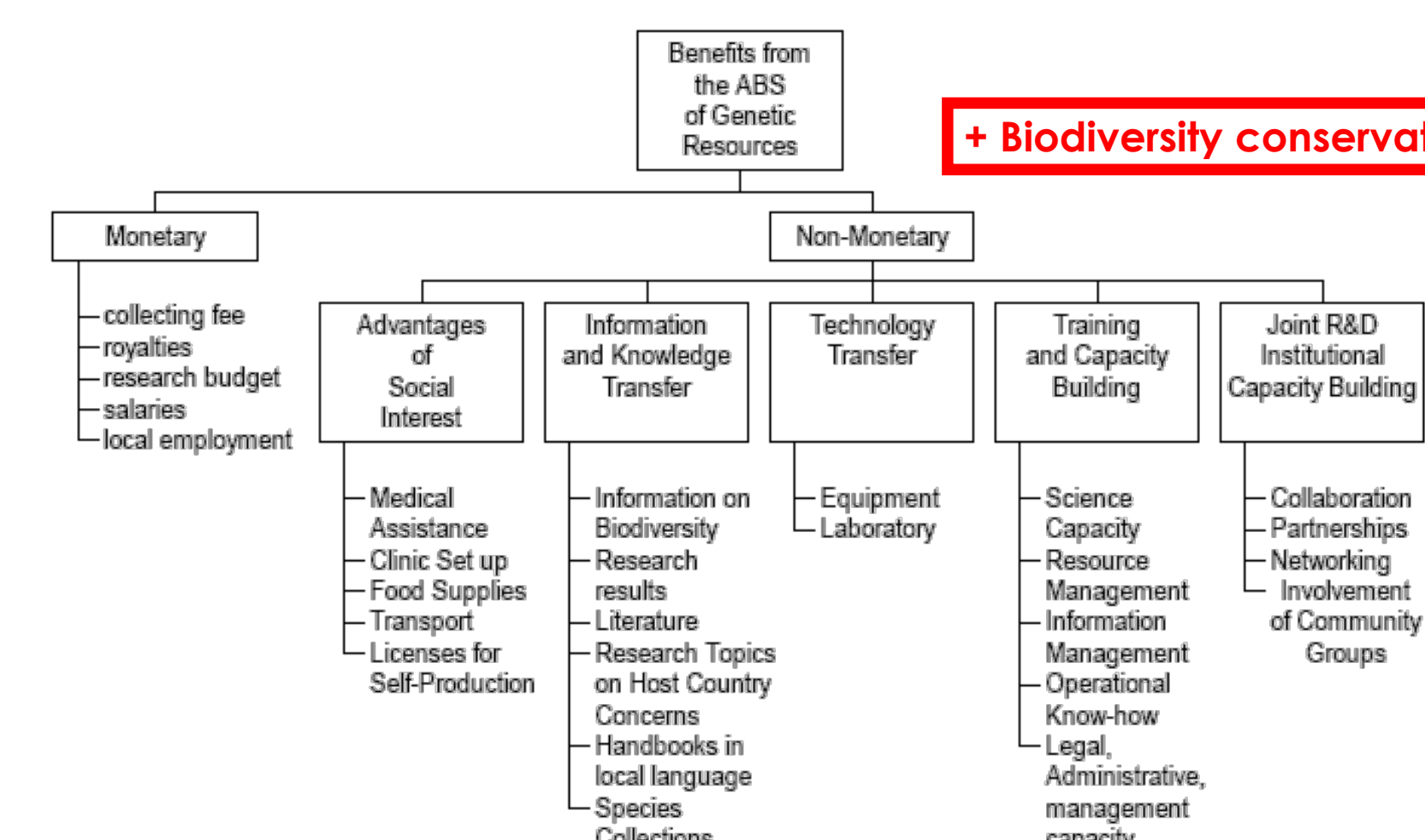


International meetings in Rio de Janeiro (Brazil) 1992 and in Nagoya (Japan) 2010 to achieve 3 objectives in a virtuous circle.

Virtuous circle of Access and Benefit Sharing (ABS)



The three objectives of the Convention on Biological Diversity (art. 1, CBD, Rio, 1992) and of Nagoya Protocol (art. 1, Nagoya, 2010).

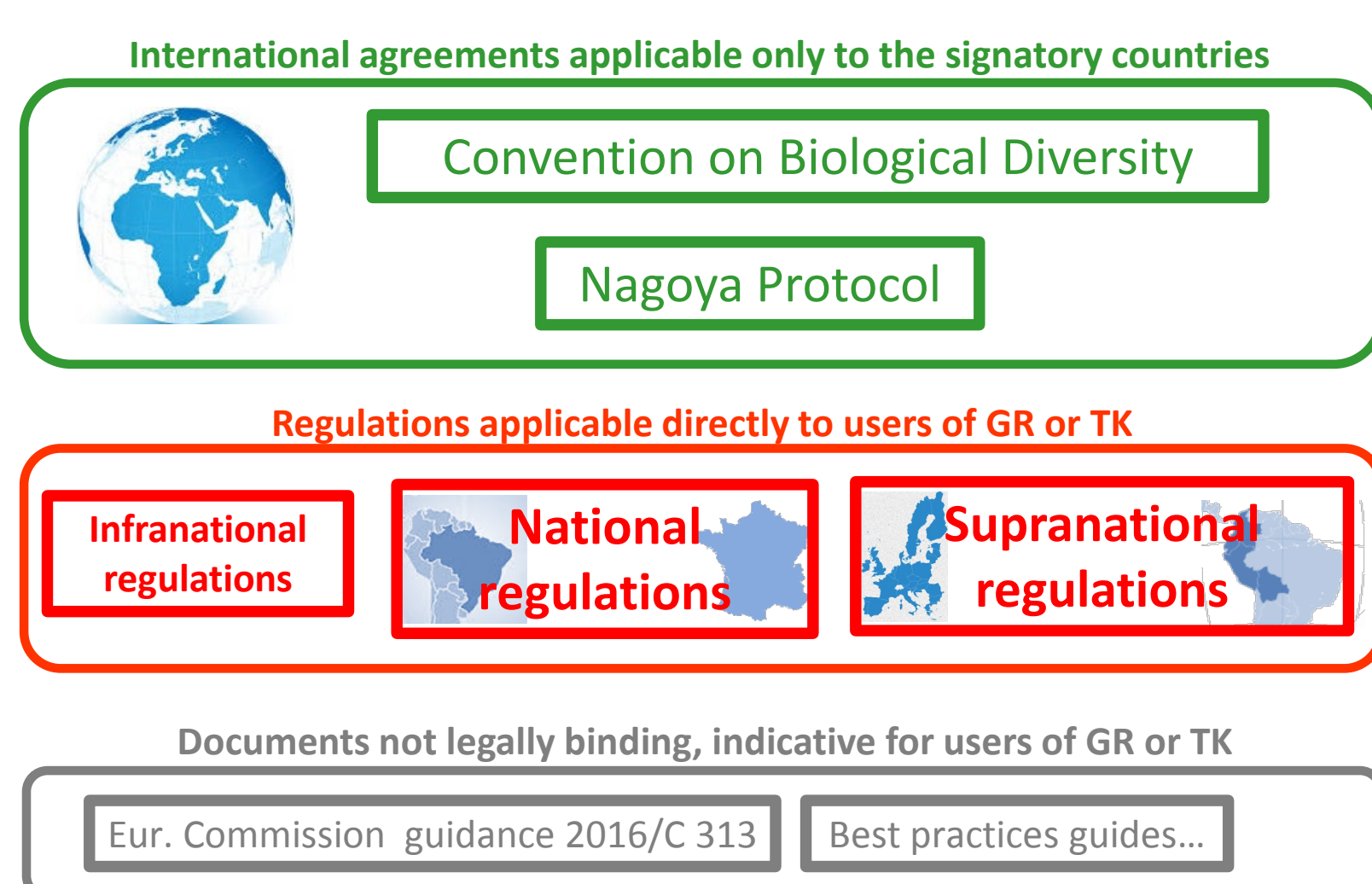


When applicable, benefit sharing can be monetary or non-monetary and are negotiated with the National Competent ABS Authorities of the source country.

PRACTICAL TIPS

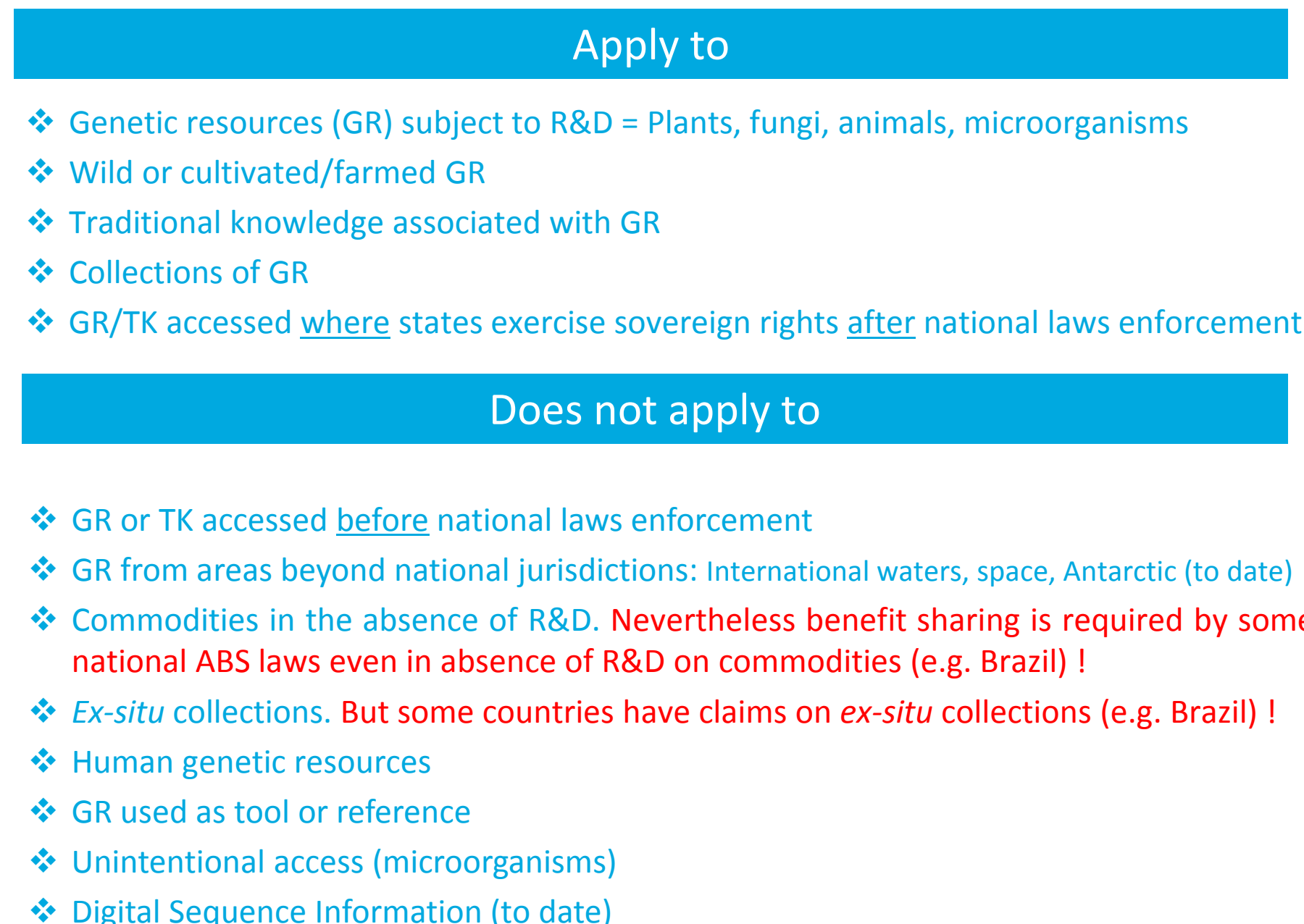


What regulations apply in practice to the users of GR or TK



Within the 3 layers of legal texts only the **national, infranational and supranational regulations** apply in practise to the users of GR or TK

What falls in the scope of these national regulations ?

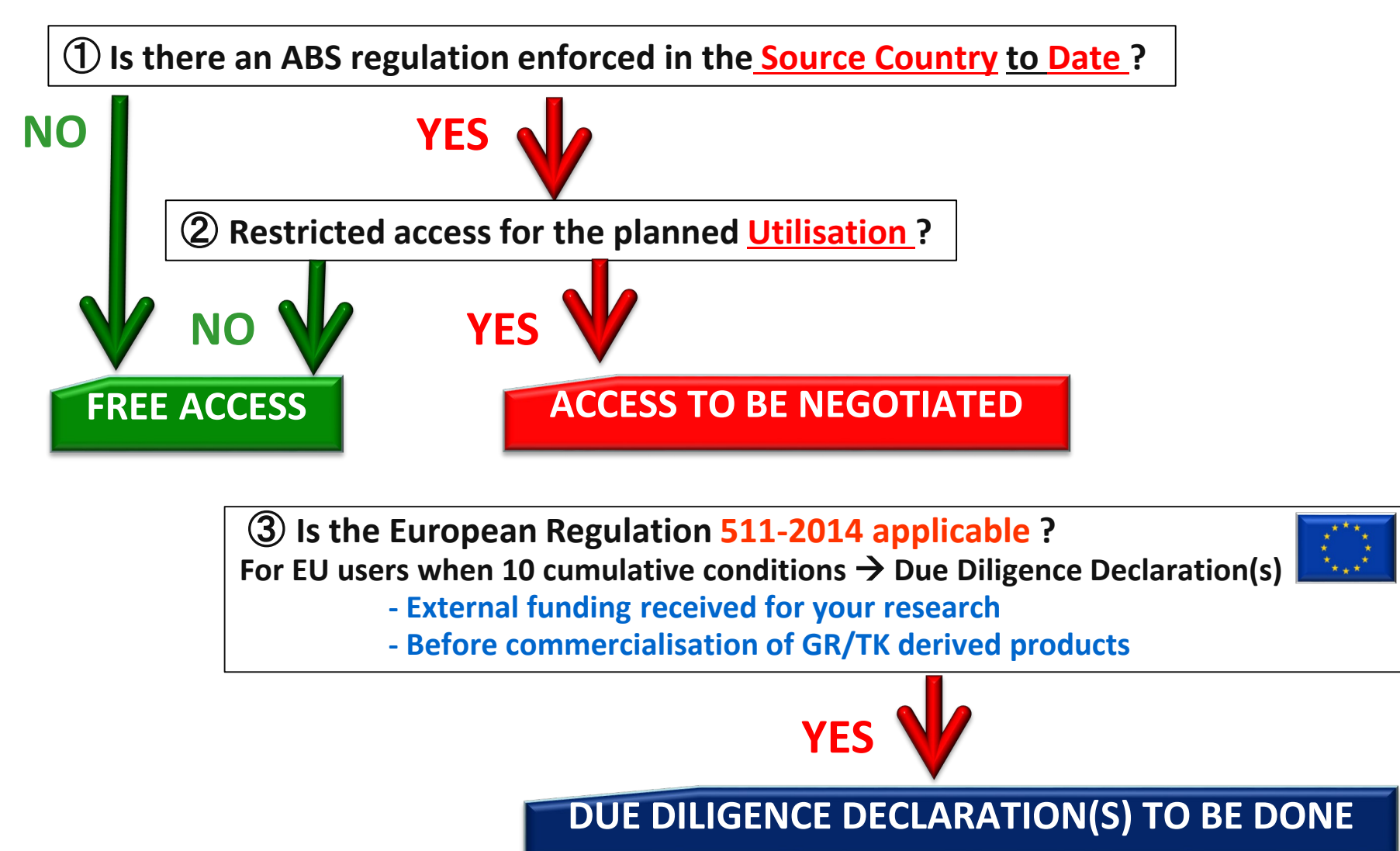


How to find information on national regulations and to contact the National Competent Authorities?

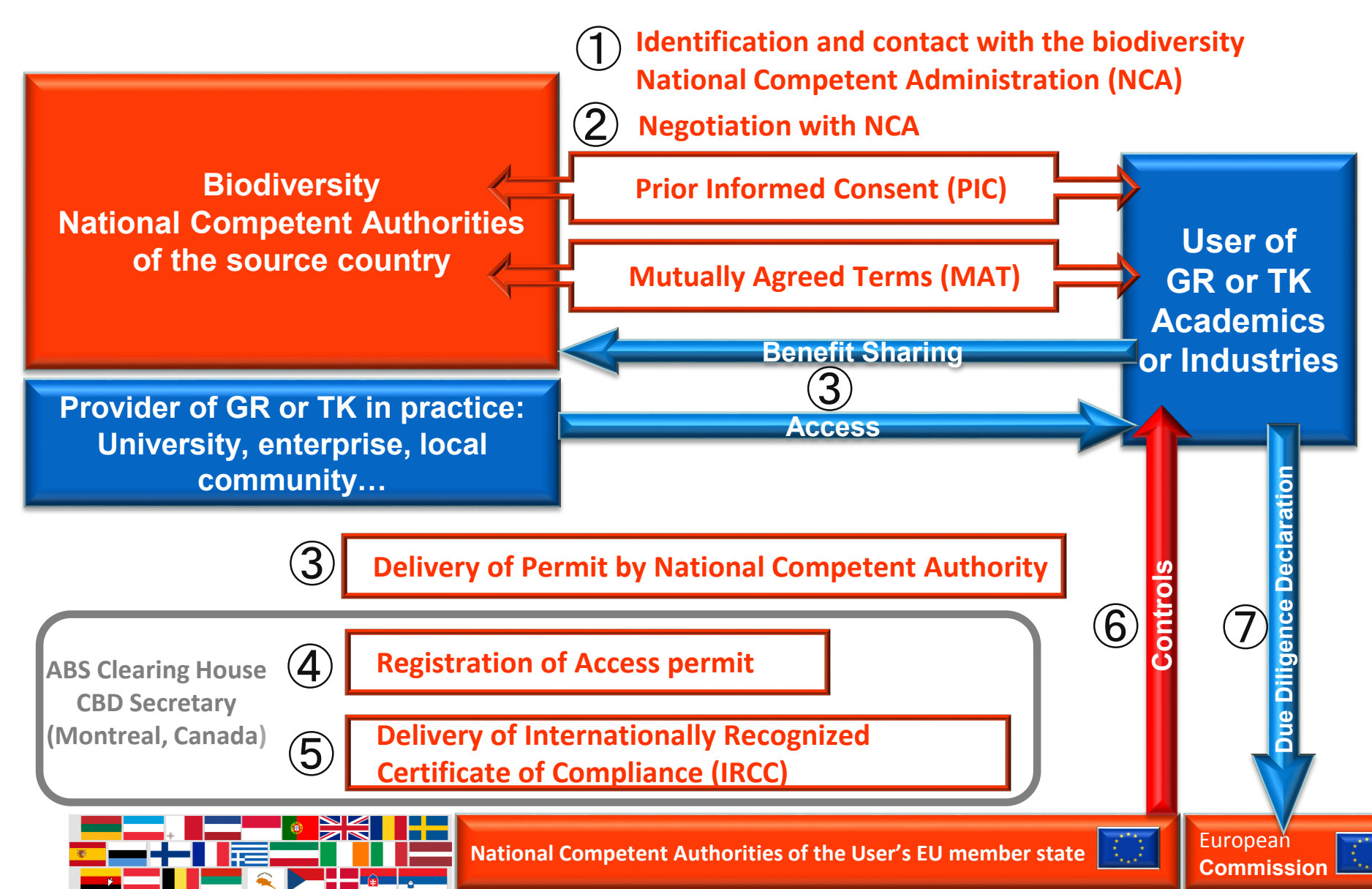
<https://absch.cbd.int>



Important questions to be answered



The administrative steps to insure legal certainty



Take home message

- A for ACCESS**
The access to GR or TK must be negotiated with the source country prior to any use where and when applicable. Nations are free to control access and to request benefit sharing (or not)
- B for BENEFIT SHARING**
Benefit Sharing is negotiated according to agreed terms with the National Competent Authorities of the source country and must be effective
- In addition for EU users**
- C for CONTROLS and COMPLIANCE**³
Research carried out without permit from the source country (when applicable) will be sanctioned by the EU country where the research is conducted
- D for DUE DILIGENCE DECLARATION**³
Declarations must be done via EU e-portal « declare »:
<https://webgate.ec.europa.eu/declare/web>
- when external funding is received for your research
- before commercialization of GR/TK derived products

CONCLUSION

- ❖ ABS legislations on Access to Genetic Resources and compliance obligations represent a challenge for the users and stakeholders.
- ❖ These regulations are not just new taxes but instead active contributions for the preservation of biodiversity.
- ❖ Implementation of these new rules should facilitate access and bring legal certainty to researchers in a win-win situation for all parties: source countries, researchers & developers, patients & clients of the biodiversity derived products and of course for biodiversity preservation.

REFERENCES

- [1] <http://www.cbd.int/doc/legal/cbd-en.pdf>
- [2] <http://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf>
- [3] http://ec.europa.eu/environment/nature/biodiversity/international/abs/legislation_en.htm
- [4] David B (2018) New regulations for accessing plant biodiversity samples, what is ABS? *Phytochem Rev* 17: 1211–1223