Fair and equitable benefit sharing

Manual for the assessment of policies and practices along natural ingredient supply chains

Union for Ethical BioTrade

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The Union for Ethical BioTrade (UEBT) is a non-profit association that promotes the 'Sourcing with Respect' of ingredients that come from biodiversity. Trading 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 the supply chain.

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On behalf of Federal Ministry for Economic Cooperation and Development

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About this manual

- This manual was developed by the Union for Ethical BioTrade (UEBT) to support the work of its trading and affiliate members, accredited verification bodies, and other organizations committed to Ethical BioTrade.
- The objective of this manual is to facilitate the implementation of equitable benefit sharing in Ethical BioTrade. To this end, it explains what the requirements of equitable benefit sharing in the Ethical BioTrade Standard mean in practice. This manual then outlines a process for assessing the policies and practices along natural ingredient supply chains; this assessment is aimed at determining progress made in relation to equitable benefit-sharing requirements and identifying what still needs to be done.
- The goal of a benefit-sharing assessment is to identify achievements and challenges in the implementation of the relevant Ethical BioTrade Standard requirements. This assessment seeks to determine whether the company knows and understands benefit-sharing requirements, whether these requirements are considered in its organization, policies and procedures, and whether they are put into practice in its operations and/or along one or more of its supply chains.
- Benefit-sharing assessments can be used as part of:
  - The periodic audits foreseen in the Ethical BioTrade verification system, whether internal or independent, and
  - Other projects or initiatives with aims linked to the conservation and sustainable use of biodiversity, as well as the fair and equitable sharing of the resulting benefits.
- Benefit-sharing assessments can be performed in different types of companies (large or small and medium-sized enterprises) and at different stages along the supply chain (production or collection or raw material, production of ingredients, or production of finished goods). Nevertheless, the size of the company, the kind of activities it carries out and its position in the supply chain may affect the extent to which certain requirements apply. These factors will also impact the methodology and time required for the assessment and the recommendations developed for the reinforcement of companies' policies and practices.
- The methodology described in this manual proposes an assessment process that includes reviewing relevant documents, conducting interviews, and organizing workshops with focus groups in order to gather information from various actors. In addition, the assessment contains a training component, so the process also allows actors to gain a deeper knowledge of equitable benefit sharing and Ethical BioTrade. The results of the assessment are presented in a final report to the company, which includes recommendations on how it may improve its policies and practices with respect to equitable benefit sharing.
- Companies should consider conclusions and recommendations of the assessment in their Ethical BioTrade work plan. Verification bodies should also refer to this information in audits. Nevertheless, the benefit-sharing assessment is not equivalent and does not replace audits or other procedures required by the Ethical BioTrade verification system.

Equitable benefit sharing

Why share benefits derived from the use of biodiversity?

Biodiversity refers to the variety of living beings on Earth: people, plants, animals and microorganisms, as well as the ecosystems and landscapes that they make up.

This biodiversity has an intrinsic value, provides essential ecological services and is **fundamental to the economic and social development of humanity**.

For these reasons, the **Convention on Biological Diversity (CBD)**, the main international instrument responsible for the protection of biodiversity, has three objectives:

- Conservation of biological diversity;
- Sustainable use of its components; and
- Fair and equitable sharing of benefits derived from its use.

The three objectives of the CBD are interrelated: Sharing benefits with biologically diverse countries and communities encourages and supports the sustainable use of their resources. Sustainable use leads to the conservation of biodiversity, as well as to the preservation of the rights of current and future generations to rely on biodiversity to satisfy their needs and aspirations.

The CBD addresses the equitable sharing of benefits linked to a wide variety of biodiversity-related topics, including sustainable use, traditional knowledge, protected areas and the ecosystemic approach. In other words, the fair sharing of benefits is a transversal concept in the CBD: it encompasses all of its programs and issues. Similarly, in Ethical BioTrade, the term "benefit sharing" is used with this broad and overarching meaning (see Table 1).

Table 1. 'Equitable sharing of benefits' in Ethical BioTrade

Fair and equitable distribution of benefits refers to the measures taken to ensure that the benefits arising from the utilization of biodiversity and associated traditional knowledge, as well as the subsequent applications and commercialization, are shared in a fair and equitable way among all those organizations or communities identified as having contributed to resource management, research and development, and/or commercialization.

The CBD also specifically addresses to the **sharing of benefits in relation to access and utilization of genetic resources** – such benefit sharing is often referred to with the phrase Access and Benefit Sharing or **ABS**. Utilization of genetic resources can be defined as biodiversity-based research and development. For example, genetic resources can be utilized to develop specialized enzymes, modified genes or small molecules that are employed in new pesticides, medicines, active ingredients and chemical or industrial products. In this case, benefit sharing is closely linked to the recognition – in the CBD – of the rights of countries and communities over the genetic resources and associated traditional knowledge. The CBD establishes a set of principles that aims to guarantee these rights in view of the utilization of genetic resources and associated traditional knowledge for research and development.

CBD principles on ABS are also recognized and put into practice in the context of Ethical BioTrade. There is a specific definition of 'access and benefit sharing' in the Ethical BioTrade Standard, which refers to research and

development (see Table 2). In addition, there are specific requirements that concern the sharing of benefits related to research and development. This use of the term "benefit sharing" is more narrow and specific.

Table 2. 'Access and benefit sharing' in Ethical BioTrade

Access and benefit sharing (ABS) refers to the system for access to genetic resources and the fair and equitable sharing of benefits arising out of the utilization of genetic resources, on the basis of prior informed consent and mutually agreed terms. In many of the laws and regulations implementing the CBD, as well as in Ethical BioTrade, access and benefit sharing requirements extend more broadly to biodiversity-based research and development, as well as subsequent applications and commercialization activities.

What are the benefit-sharing requirements in Ethical BioTrade?

In Ethical BioTrade, putting in practice equitable benefit sharing means companies striving to ensure their operations, policies and practices respect the rights and recognize the contributions of supply chain actors and other stakeholders. This approach should also encourage the conservation and sustainable use of local biodiversity.

Ethical BioTrade, in line with the framework established in the CBD, distinguishes between:

- **Benefit sharing in a general sense,** which is relevant for all activities linked to sourcing[1], production, sales and marketing of natural ingredients. These benefit-sharing requirements arise from the recognition of the economic, social, and cultural aspects inherent to the conservation and sustainable use of biodiversity. They are closely related to fair trade practices.

For example, in sourcing activities, UEBT members must take measures to pay an equitable price for raw materials and organize sourcing activities at a local level in a way that contributes to the sustainable development of the local communities involved. This is considered to be benefit sharing in a broad sense.

- **Benefit sharing in a specific sense,** referring to the research and development activities based on biodiversity and associated traditional knowledge (see Table 3). These requirements correspond to the ABS principles in the CBD and involve the recognition of the rights related to biodiversity and associated knowledge, as well as the value that this biodiversity and knowledge adds within the area of natural ingredients.

For example, in research and development, UEBT members must take measures to ensure that the plants being analyzed have been obtained with prior informed consent of the suppliers. This is one of the specific benefit-sharing requirements for research and development.

Table 3. 'Research and Development' in Ethical BioTrade

Research and development refers to a series of analyses, tests and other investigative activities conducted with the intention of identifying new and useful properties of the plant/animal parts and/or plant/animal extracts, when such findings can be deemed to be novel, involve an inventive step and be subject to industrial application.

1 In the Ethical BioTrade Standard, sourcing is the process of buying, growing or collecting natural ingredients and the species from which they are derived.

How is benefit sharing put in practice?

In Ethical BioTrade, the benefit-sharing requirements in the Ethical BioTrade Standard are put in practice **within the framework of obligations and conditions of UEBT membership**.

In the context of UEBT membership, benefit sharing is thus put in practice:

- **In all operations and supply chains associated with natural ingredients.** On becoming members of the UEBT, companies commit to following the Ethical BioTrade Standard, including requirements for equitable benefit sharing, in all operations and supply chains related to biodiversity.
- **In a gradual and continuously improving manner.** UEBT members must progressively advance towards fulfillment of the Ethical BioTrade Standard, prioritizing the most relevant ingredients in terms of ethical sourcing of biodiversity. The priority of the ingredients is determined with the support of the Ingredient Portfolio Assessment, a tool that identifies the level of risk for each ingredient from the Ethical BioTrade perspective.[2]
- **At different levels in the company.** Each member of the UEBT must fulfill its commitment to the Ethical BioTrade Standard, including that related to equitable benefit sharing, at different levels:
  - Policies: UEBT members need to establish a set of policies and procedures, referring to their own operations as well as to their supply chains, addressing requirements of the Ethical BioTrade Standard. This set of policies and procedures is known as the Biodiversity Management System. The Biodiversity Management System should address equitable benefit-sharing requirements in all operations and along all supply chains related to natural ingredients.
  - Practices: UEBT members must implement these policies and procedures, with respect to both their operations and their supply chains, in order to gradually implement the Ethical BioTrade Standard, including in relation to equitable benefit sharing. For example, audits in the Ethical BioTrade verification system evaluate 1) whether the Biodiversity Management System is being applied systematically; 2) the progress made on complying with requirements in the company's operations; and 3) the progress made on complying with requirements in the company's supply chains.
  - Knowledge: In regards to equitable benefit sharing, a third level of implementation can be identified. As a prerequisite to the development and implementation of equitable benefit- sharing policies, UEBT members need to have a solid knowledge of the pertinent Ethical BioTrade Standard requirements..
- **Throughout the supply chain,** taking into account the role of the company according to its position in this chain. All UEBT members – producer groups, processors, laboratories and brands – must work towards compliance with requirements on equitable benefit sharing. However, the measures adopted by each company in meeting these requirements depend on its position in the supply chain. For example, UEBT members must ensure that an equitable price is paid for raw material for natural ingredients. For companies working directly with producers, this means determining how to calculate and negotiate the price in an equitable manner. For the companies that do not work at a local level, measures will focus on procedures and mechanisms to promote and verify that an equitable price is paid to the producers involved in their supply chains.

2 See the UEBT document ADM17 – Ingredients Portfolio Assessment Tool Guidelines

Benefit-sharing requirements

Benefit sharing in the Ethical BioTrade Standard

Equitable benefit sharing is one of the cornerstones of Ethical BioTrade. It is a crosscutting component of the Ethical BioTrade Standard, which includes various requirements on equitable benefit sharing that UEBT members must put in practice.

Principle 3 of the Ethical BioTrade Standard, which covers "Fair and equitable sharing of benefits derived from the use of biodiversity", contains the main requirements in relation to this subject. However, other parts of the Standard are also relevant and contribute to equitable benefit sharing. For example, Principle 5 requires companies to "respect the international agreements related to biodiversity,' including CBD and the Nagoya Protocol. Another example is Principle 6, which deals with respect for the rights of actors involved in Ethical BioTrade activities, and requires the companies to respect the rights of indigenous and local communities, as well as biodiversity-related traditional knowledge, when carrying out their sourcing activities.

Principle 3 of the Ethical BioTrade Standard

The third principle of the Ethical BioTrade Standard addresses equitable benefit sharing, which is a concept fundamental for the ethical sourcing of biodiversity, as well as conservation and sustainable use of biodiversity. The objective of these requirements is to support the companies in drawing up and applying measures that aim to consolidate the exchange of ideas and information with suppliers and producers, as well as to strengthen the participation of local actors in the benefits that arise from their activities.

In line with the CBD, Principle 3 addressed both benefit sharing in general and specifically in the context of research and development. Therefore, Principle 3 contains different types of benefit sharing requirements (see Figure 1). First, there are criteria that apply to sourcing activities, containing requirements linked to equitable prices, traditional practices supporting sustainable use, and contribution to local development. Second, there are criteria specifically applicable to research and development activities. These criteria, according to the ABS principles in the CBD, require prior informed consent and the equitable sharing of benefits, based on mutually agreed terms. Finally, Principle 3 contains criteria that address both sourcing and research and development activities, requiring negotiations based on dialogue and measures to comply with applicable legislative and regulatory ABS requirements.

Figure 1. Benefit-sharing requirements according to type of activities

Table 4. Implementation throughout the supply chain

All UEBT members – producers, processors, laboratories and brands – must gradually implement requirements on equitable benefit sharing. However, the measures to be taken by the different companies and organizations towards fulfilling these requirements will depend on the nature of their activities and their position in the supply chain. Some factors to consider are:

- Companies with presence at a local level. These companies bear greater responsibility with regards to requirements addressing the relationship with producers and their communities, such as those established by criteria concerning balanced negotiations, equitable prices, contribution to local development and respect for traditional practices.
- Companies without presence at a local level. These companies bear less direct responsibility with regards to requirements addressing the relationship with producers and their communities. However, they do have the responsibility of ensuring that their suppliers and other business partners with local presence follow these requirements.
- Research and development. Whether or not they work at a local level, the companies that carry out research and development activities must ensure that they – as well as their business partners – follow the requirements associated with ABS principles, such as compliance with relevant legislation, respect for traditional knowledge, prior informed consent, and equitable benefit sharing.
- Other activities. The requirements linked to ABS principles also apply to companies that do not carry out research and development activities. This is because these companies will still need to have mechanisms in place to ensure that, if other actors along the supply change conduct research and development, there is respect for related Ethical BioTrade requirements.

Looking at criteria on equitable benefit sharing

Criterion 3.1: Negotiations with transparency and dialogue

Intent: Criterion 3.1 aims to ensure that actors, particularly those on a local level, have the opportunity and necessary information to make free, sound and informed decisions about their engagement in sourcing activities.

Content: This criterion requires all negotiations between actors in a supply chain of natural ingredients to:

- Be transparent and based on dialogue and trust.
- Respect the local rules and practices on discussion and decision-making.
- Provide actors with information that gives them an adequate understanding of the subject.
- Provide actors with the opportunity to effectively participate and express their views.
- Document the process and results of the negotiation.

Criterion 3.1 of the Ethical BioTrade Standard

Negotiations related to the sourcing of biodiversity shall be transparent and based on dialogue and trust.

3.1.1 Negotiations take into account relevant customary law and local practices.

3.1.2 The information used in negotiations is transparent, complete and accessible to the parties involved, so as to provide a good understanding of the issues.

3.1.3 Parties involved in the negotiations are empowered to actively engage in these negotiations.

3.1.4 The approach to and outcomes of negotiations are documented, taking into account local circumstances and practices.

Terminology: It is important to be clear about the fact that that transparency does not entail free access to information concerning a company's operations or supply chains. It is recognized and respected that in a company there is confidential or sensitive information. However, confidentiality requirements must be balanced against the importance of the exchange of information that allows not only the functioning of the chain, but that also fosters the generation of trust. If there is information that is not shared, the reason for its secrecy should be clearly explained.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
Criterion 3.1 requires measures that lead to an effective dialogue with the local actors. Measures must address challenges such as the information asymmetry that often exists between the parties, having a clear and constant local representative for the company and generating trust and solid interaction procedures. For example, the company should have tools to ensure an adequate exchange of information, such as didactic techniques that facilitate a better understanding among producers of the issues to be dealt with. It may be necessary to provide training to local actors in certain aspects of their operations and supply chains. While it is fundamental for those ultimately making decisions to participate, Ethical BioTrade negotiations should be participatory processes, in which all producers, as well as other local stakeholders, should take part. Furthermore, the outcome of the negotiations, which must be documented, should also be communicated to all actors or other stakeholders that were not able to participate in the process.	These companies must establish mechanisms to ensure that their suppliers and partners at the local level are aware of the requirements of Criterion 3.1, and are adopting and putting into practice the necessary measures for putting them in practice. For example, companies can request information from their suppliers on how Criterion 3.1 is considered and what progress has been made via questionnaires, internal audits and field visits.
Responsibilities: • Establishing mechanisms to carry out the negotiations based on dialogue and trust with the producers. • Having procedures in place that ensure a meaningful and informed participation in negotiations and the decision-making process, respecting local rules and practices. • Drafting and maintaining documents to shows the use of these mechanisms and procedures as well as the outcome of the negotiations.	Responsibilities: • Establishing mechanisms to conduct the negotiations with their providers in an informed and transparent manner and based on dialogue and trust. • Having procedures in place to obtain and verify information about the way in which their providers negotiate with the producers.

Criterion 3.2: Equitable prices

Intent: Criterion 3.2 aims to ensure that prices, particularly at a local level, cover all costs of the ethical sourcing practices, thus contributing to the conservation and sustainable use of biodiversity, as well as improving the quality of life of the producers and their communities

Content: This criterion requires the companies to pay equitable prices for the natural ingredients or the species from which they are made. The price is considered equitable if it has the following characteristics:

- Actors, based on negotiations, jointly establish the price.
- Price based on comprehensive calculation of the production costs, in accordance with the relevant Ethical BioTrade Standard requirements, as well as considering a profit margin.
- Periodic price reviews are foreseen.
- The possibility of pre-financing is considered.
- Price is set and paid independently of additional benefits offered by the company.

Criterion 3.2 of the Ethical BioTrade Standard

The organization shall pay equitable prices for the natural ingredients that it sources.

3.2.1 Price negotiations follow the approaches defined in Criterion 3.1

3.2.2 Prices are based on cost calculations that consider the costs of implementing conservation, sustainable use, social and other requirements in this standard as well as a profit margin.

3.2.3 Prices are periodically reviewed.

3.2.4 Price-setting is independent of the benefits considered under Criterion 3.3.

3.2.5 If requested and justified, pre-financing is available at the producer level for part of the contract value.

Terminology: An 'equitable price' can be defined as a price that is negotiated with transparency and dialogue; covers the production costs, including those associated with the implementation of the Ethical BioTrade Standard; and leaves a profit margin. In Ethical BioTrade, equitable prices are not established in a centralized manner but are determined between the relevant parties in each specific case.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
Criterion 3.2 primarily requires two types of measures. On one hand, companies must provide enough information and establish participatory mechanisms in price negotiations, as required by Criterion 3.1. For example, a company can establish price negotiation protocols that ensure local actors have access to information and the opportunity to discuss matters such as cost increases and price fluctuations. On the other hand, the company must ensure that the price calculation considers the full costs of ethical sourcing practices, as defined in the Ethical BioTrade Standard. This does not require the company itself to carry out the price calculations; indeed, in many cases it is preferable to support the producers – with training, price calculation models or independent experts – in order to enable them to perform the exercise autonomously. The profit margin must also be taken into account.	For these companies, criterion 3.2 requires mechanisms to ensure that suppliers working at the local level understand requirements on equitable price and are taking steps towards compliance. In addition to gathering relevant information from suppliers, these companies can provide them with support, for instance by sharing methodologies for cost calculation, including how to deal with costs associated with conservation and sustainability.
Responsibilities: • Establishing mechanisms for price negotiation with the producers. • Having procedures and necessary information for calculating prices at the producer level.	Responsibilities: • Establishing mechanisms for the payment of equitable prices to their own suppliers. • Having procedures to obtain and verify information about the way in which their suppliers set prices at a local level.

Criterion 3.3: Contribution to local development

Intent: The aim of Criterion 3.3 is to ensure that the sourcing activities contribute to sustainable development at a local level, as understood and aspired by producers and their communities. This criterion does not require the company to take over the roles or activities of governmental or cooperation agencies. Rather, it recognizes, in a commitment to ethical sourcing practices, sourcing activities should be structured and carried out with respect for and, where possible, promotion of the local vision of sustainable development.

Content: This criterion requires that the companies, through their sourcing activities, contribute to the local sustainable development goals. A company is considered to contribute to these goals if it:

- Is aware of the sustainable development goals of the communities and producers.
- Generates local employment and work.
- Promotes value addition at a local level.
- Identifies opportunities to cooperate with local institutions.
- Establishes long-term alliances.
- Strengthens the capacities of the producers and their communities.

Criterion 3.3 of the Ethical BioTrade Standard

The organization shall contribute to local sustainable development goals in sourcing areas, as defined by producers and their local communities.

3.3.1 Producers and their local communities are consulted in order to understand their local sustainable development goals.

3.3.2 The organization promotes employment in sourcing areas and gives priority to employing local people.

3.3.3 The organization establishes and manages its activities to build long-term partnerships.

3.3.4 The organization contributes to activities that promote sustainable development at the producer level.

3.3.5 The organization works to build the capacities of producers and their local communities, in the context of its sourcing activities, on issues such as organizational structures, natural resource management, technical and commercial skills, as defined through 3.3.1.

3.3.6 The organization promotes increasing value addition at the local level, in the context of its sourcing activities.

3.3.7 The organization documents the consultations and activities undertaken under this criterion.

Terminology: Criterion 3.3 and other provisions in the Ethical BioTrade Standard use the term 'local' – whether in the context of a local actor, local development, or more generally, local level – to refer to the place where cultivation, collection and/or initial processing of the natural ingredients or species used to produce these ingredients, occurs. In other words, the "local development" referred to in Criterion 3.3 is the development of the communities in which the growers, collectors and other small producers live and work.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
In working towards compliance with Criterion 3.3, the first step is to learn about local development goals. In certain cases, these goals may have already been defined, through community strategies or protocols. In others, it may be necessary to allow the community to identify these goals based on their aspirations. The company should develop mechanisms to appropriately consult the producers and their communities. It might also be pertinent to consult local authorities, which may manage community development strategies or the resource management plans. The second step is to ensure that the sourcing activities recognize, respect and promote these goals. Companies are not required to undertake tasks belonging to governmental or cooperation agencies. Companies should, however, according to their resources, promote training, work and value addition at the local level. For example, a company could provide training on skills that allow the producers to add more value to the raw materials. Training on saving and investment strategies could also be carried out.	For these companies, criterion 3.3 requires mechanisms to ensure that suppliers working with producers understand requirements on contributing to local development and are taking steps towards compliance. In addition to gathering relevant information from suppliers, these companies can provide them with support, for instance through funds, training and a preference for conducting work and value addition at a local level.
Responsibilities: • Having procedures to consult producers and their communities about local development goals. • Establishing mechanisms to identify opportunities for collaboration with local development initiatives. • Establishing mechanisms for employment and work creation, as well as the promotion of value addition at the local level.	Responsibilities: • Having procedures to obtain and verify information on how their suppliers contribute to the sustainable development of the producers and their communities. • Establishing mechanisms to contribute to the sustainable development of the producers.

Criterion 3.4: Traditional practices promoting sustainable use

Intent: The aim of Criterion 3.4 is for sourcing activities to promote, rather than replace, traditional practices through which local and indigenous communities have historically taken care of biodiversity. This objective recognizes the important role played by local and indigenous communities in the conservation of biodiversity, as well as the principles established in the CBD and the United Nations Declaration on the Rights of Indigenous Peoples.

Content: This criterion requires companies, when planning and carrying out their sourcing activities, to recognize the importance of traditional practices in the sustainable use of biodiversity. To fulfill this requirement the company must:

- Identify existing traditional practices of sustainable management and, if these exist:
- Take measures to preserve them and promote their use.
- If traditional practices of sustainability are adopted or disseminated beyond the territory within which they have previously existed, the authorization of the producers and their communities is required, along with recognition for this contribution. In certain cases, if the contribution generates an economic benefit, remuneration may be appropriate.

Criterion 3.4 of the Ethical BioTrade Standard

Traditional practices linked to the sourcing of species and ingredients shall be recognized.

3.4.1 The organization has information on traditional practices linked to the sourcing of species and ingredients.

3.4.2 The organization takes measures to preserve and restore the traditional practices linked to the sourcing of species and ingredients that promote conservation and sustainable use of biodiversity.

3.4.3 The organization utilizes or refers to these traditional practices in sourcing activities only with the approval and involvement of producers and their local communities, as well as adequate remuneration.

Terminology: Criterion 3.4 deliberately refers to 'traditional practices' rather than 'traditional knowledge'. The knowledge of the local and indigenous communities as a source of information regarding the identification and/or development of useful properties or commercial uses of genetic resources is not dealt with here; this issue is addressed in criteria 3.5, 3.6, 3.7 and 3.8. Rather, criterion 3.4 focuses on traditional practices such as the ways in which local and indigenous communities have managed and used resources to ensure the sustainable use of biodiversity.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
These companies must take measures to gather information about existing traditional practices with ecological value, and promote their continuance as part of sourcing activities. For example, the company can conduct surveys or interviews with producers when sourcing new species, in order to identify measures to be considered while sourcing. In general, these surveys or interviews should be carried out with the support of facilitators or local experts. Companies should also recognize the use of these practices in their own activities. For example, a company could promote the wider use of a traditional cultivation method because the result is a better crop yield. Before doing so, it should have the authorization of the relevant producers or communities and have agreed with them an appropriate remuneration.	For these companies, criterion 3.4 requires mechanisms to ensure that suppliers working with producers understand requirements on traditional practices and are taking steps towards compliance.
Responsibilities: • Establishing mechanisms to identify traditional practices. • Establishing mechanisms to ensure there is recognition of the contribution of traditional practices to its own sourcing activities.	Responsibilities: • Having procedures to obtain and verify information about how their suppliers deal with the issue of traditional practices. • Establishing mechanisms to ensure respect for traditional practices at the producer level.

Criterion 3.5: Legal requirements on ABS

Intent: Criterion 3.5 aims to ensure that the companies are aware of applicable ABS requirements contained in national laws and regulations and take measures to fulfill them. Principle 5 of the Ethical BioTrade Standard contains general requirements for compliance with national and international legislation, including the obligation to respect the CBD and the Nagoya Protocol. This criterion aims to highlight the potential relevance of the ABS regulatory framework for the sourcing of natural ingredients.

Content: Criterion 3.5 requires companies to gradually comply with applicable legal requirements on ABS. The company must take the following steps:

1. Gain awareness of ABS principles and their relevance to sourcing and product development linked to natural ingredients.
2. Gather information regarding the specific ABS requirements applicable to their activities, both in the country where the cultivation or collection takes place; and, if applicable, in the country/countries in which research, product development and product commercialization are carried out.
3. Adopt measures towards compliance with these requirements.

Criterion 3.5 of the Ethical BioTrade Standard

The organization shall comply with legislative or regulatory requirements on access to biodiversity and associated traditional knowledge for research and development and the sharing of resulting benefits.

3.5.1 The organization is aware of the concepts and principles of access and benefit sharing and the possible legal implications for its activities.

3.5.2 The organization has information on legislative or regulatory requirements applicable to its activities, including research and development based on biodiversity and associated traditional knowledge.

3.5.3 The organization takes measures towards meeting these legislative or regulatory requirements.

Terminology: Criterion 3.5 refers to the 'legislative or regulatory requirements' related to ABS. It is important to note that though the CBD establishes the basic ABS principles, countries that are parties to the Convention must implement these principles at a national level. Each country can choose how to approach the legislative, administrative, or political measures for implementation, according to the particular circumstances. For example, each country is able to define the scope and specific content of its ABS laws and regulations. To cite a specific case, Australia requires permits for the acquisition of biological resources within territories managed by the federal government for research and development purposes. In Decision 391 of the Andean Community, on the other hand, the ABS requirements cover every acquisition of genetic resources and their derived products for research, industrial application or commercial use.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
In spite not being involved in research and development, companies working at the producer level, as well as companies that focus on the production and sale of natural ingredients or finished goods, have responsibilities in the implementation of Criterion 3.5. Certain requirements in ABS laws and regulations address activities carried out by companies working at a local level. For example, the production of raw natural extracts for commercial products or the export of plants or plant parts for research and development, fall within the scope of certain ABS laws and regulations. Companies sourcing natural ingredients should thus all be aware of ABS and recognize how it relates to their own activities, as well as take necessary measures towards compliance, within a reasonable time frame. In addition, even when their activities are not within the scope of the ABS rules, companies working at a local level must have mechanisms in place that ensure their clients and trading partners are aware of these rules and adopt the measures necessary for their observance.	Most ABS laws and regulations focus on research on biodiversity and development of products based on the identification of new properties of plants, animals or other organisms. For this reason, companies that carry out these types of activities – which generally do not have local presence – will be the ones obliged to follow legal requirements. These requirements may include securing permits and prior informed consent, negotiating contracts on access to genetic resources, and conducting monitoring. As companies working at a local level, these companies must have sufficient knowledge on ABS. ABS rules are not always clear, which makes it all the more important to take measures to better understand the issue and engage in relevant discussions. These measures may include securing training, cooperating with initiatives on ABS and engaging in dialogue with various actors, from national and local authorities to other representatives within the private sector. Based on a better understanding of the regulations, the companies need to establish protocols or procedures to ensure gradual compliance with regulatory requirements. The compliance process may be slow, given challenges that arise in the implementation of some ABS legislation.
Responsibilities: • Establishing mechanisms to remain informed of ABS requirements applicable to their activities. • Having procedures in place for the cases in which ABS applies, whether to their activities or to the activities of other actors in the supply chain.	Responsibilities: • Establishing mechanisms to stay informed of the ABS requirements applicable to their activities. • Having procedures in place to take measures, in a systematic manner, to follow these requirements. • Establishing mechanisms to ensure that their suppliers know and take measures set out in the ABS requirements.

Criterion 3.6: Access to biodiversity

Intent: Both criteria 3.6 and 3.7 aim to ensure that, even when there is no ABS law or regulation, ABS principles are respected and implemented by companies in their biodiversity-based research and development activities. In particular, Criterion 3.6 establishes certain requirements that need to be considered when accessing biodiversity or information related to biodiversity, with the intention of using these resources and information for research and development. Through requirements on prior informed consent and mutually agreed terms, this criterion seeks to ensure respect for rights over biodiversity held by government agencies, communities or individuals at a local level.

Content: This criterion requires companies to carry out certain procedures before accessing biodiversity or associated traditional knowledge for use in research and development, as defined in the Ethical BioTrade Standard (see Table 3). These procedures address the need to obtain consent from government agencies, communities or individuals with rights over biodiversity and associated traditional knowledge, and to negotiate the terms based on which this access is permitted. In this regard, the company should:

1. Identify and contact the bodies, groups or individuals with rights over the biodiversity or traditional knowledge at issue, recognized through international, national or customary law.
2. Initiate dialogue, according to the parameters established in Criterion 3.1, with the relevant bodies, groups or individuals towards obtaining prior informed consent and establishing mutually agreed terms. Criterion 3.6 suggests areas that should be taken into account during this dialogue, from the permitted uses for the resources and agreements on benefit sharing to the ethical and cultural aspects of the traditional knowledge.
3. Have in place a mechanism to address allegations of lack of compliance with these requirements. For UEBT members, Procedure 30 establishes the types of reports and procedures that must be in place in order to be able to deal with claims of conduct inconsistent with ethical sourcing.[3]

Criterion 3.6 of the Ethical BioTrade Standard

For research and development activities, even if there are no legislative or regulatory requirements on access to biodiversity and associated traditional knowledge, such access shall be subject to prior informed consent and based on mutually agreed terms.

3.6.1 Negotiations related to access to biodiversity and associated traditional knowledge are transparent and based on dialogue and trust, as defined by Criterion 3.1 of this standard.

3.6.2 The organization has identified government agencies, groups, indigenous and local communities or individuals with recognized rights over the relevant biodiversity and associated traditional knowledge.

3.6.3 The organization takes measures to engage these agencies, groups, communities or individuals, providing information and opportunities for their effective participation in negotiations.

3.6.4 Negotiations on prior informed consent and mutually agreed terms consider issues such as the intended and permitted uses of the biodiversity and associated traditional knowledge, recognition of their origin, possible use of intellectual property rights, safeguards in case of third party involvement, and commitments towards determining and sharing benefits.

3.6.5 If traditional knowledge is used in research and commercial activities, such uses respect the rights of traditional knowledge holders, take into account their ethical and cultural concerns, and allow their continued customary use of the traditional knowledge.

3.6.6 The organization identifies and addresses allegations regarding access to biodiversity and associated traditional knowledge without prior informed consent or mutually agreed terms, in line with PR030 – Procedure for addressing claims of conduct inconsistent with ethical sourcing practices.

Terminology: Criterion 3.6 refers to the basic principles of ABS established by the CBD and the Nagoya Protocol: prior informed consent and mutually agreed conditions. This criterion addresses putting in practice these principles in situations in which there are no laws or regulations that establish ABS requirements or procedures. Thus, it does not refer to the competent national authorities, but to providers of biodiversity or associated traditional knowledge with recognized rights to protect and control these resources (see Table 5). Such recognition may arise from international, national or customary laws, which generally consider that providers of biodiversity and traditional knowledge, as part of their local or indigenous communities, have ownership over their resources and the right to protect and control them according to their values and interests.

3 See document UEBT PR030 – Procedure for addressing claims of conduct inconsistent with ethical sourcing practices.

Table 5. 'Prior informed consent' in the Ethical BioTrade

Prior informed consent refers to the authorization of the providers of biological resources and associated traditional knowledge, including government agencies, groups, indigenous and local communities or individuals with relevant and recognized rights, for access for research and development, granted without coercion, prior to the start of activities, and on the basis of an understanding of the full range of issues and potential impacts.

In the same way, the mutually agreed conditions are those established between the company and the providers of biological resources or associated traditional knowledge to with recognized rights to protect and control these resources (see Table 6). As Criterion 3.6 establishes, prior informed consent as well as mutually agreed terms must be obtained through a negotiation process that observes the requirements of Criterion 3.1. In general, negotiations concerning the access conditions take place in parallel with discussions towards prior informed consent, but they may also occur separately.

Table 6. 'Mutually agreed terms' in Ethical BioTrade

Mutually agreed terms are the conditions for access to biological resources and associated traditional knowledge, and the sharing of resulting benefits, established between the users and the providers of these resources, including government agencies, groups, indigenous and local communities or individuals with relevant and recognized rights.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
Companies working at a local level and producing and selling natural ingredients or finished products have responsibilities in the implementation of Criterion 3.6. In general, it is companies developing new natural ingredients that access the biodiversity resources for research and development. However, the access or physical acquisition itself generally takes place through companies working at a local level. Therefore, these companies may need to coordinate the flow of information and negotiations about prior informed consent and mutually agreed terms. In order to fulfill this role, companies should ensure that they themselves have enough information about how biological material and associated traditional knowledge will be obtained and utilized throughout the supply chain.	Companies that carry out research about biodiversity and develop products based on this information – which generally do not have local presence – have a greater share of the responsibility in following these requirements. These companies need to have specific policies that address obtaining prior informed consent and negotiating mutually agreed terms in relation to the use of biodiversity for research and development. Furthermore, these companies should support and work with their suppliers in order to put these policies into practice. The responsibility for companies that only produce and commercialize finished goods is gathering and keeping the necessary information to ensure that natural ingredients they use comply with of prior informed consent and mutually agreed terms requirements.
Responsibilities: • Establishing mechanisms to obtain information about possible use of biological material or associated knowledge for research and development. • Having measures to obtain and document prior informed consent and negotiate mutually agreed terms. • Establishing mechanisms to ensure compliance with the mutually agreed terms throughout the supply chain.	Responsibilities: • Establishing mechanisms to inform suppliers about the possible utilization of biological material or associated knowledge for research and development. • Having measures to obtain and document prior informed consent and to negotiate mutually agreed terms. • Establishing mechanisms to ensure compliance with prior informed consent and mutually agreed terms throughout the supply chain.

Criterion 3.7: Benefit sharing

Intent: Like Criterion 3.6, Criterion 3.7 aims to ensure that – even in the absence of laws or regulations addressing ABS – companies respect and implement ABS principles in their research and development activities. In particular, Criterion 3.7 requires the fair and equitable sharing of benefits derived from research, development and commercialization of biodiversity-based products among all those who have contributed to these processes. Equitable benefit sharing is based on the respect for the rights of all of the actors and the recognition for their contributions, and contributes to promoting biodiversity conservation and sustainable development at a local level.

Content: This criterion requires companies, when carrying out research and development based on biodiversity or associated traditional knowledge, to ensure there is fair and equitable sharing of the benefits that arise from such activities. For equitable sharing of benefits, the company must:

1. Identify actors – whether they are groups, individuals or governmental agencies – that have contributed to the research, development and commercialization processes. Such contributions may, for example, consist of supplying biological resources of particular interest or value, providing information about the properties and uses of those biological resources, or allowing product marketing to refer to the link with indigenous or local communities.
2. Define the areas, mechanisms and time frames for benefit sharing with the relevant bodies, groups or individuals, through dialogue that meets the requirements established in Criterion 3.1. Criterion 3.7 offers examples of benefits that may be considered by the parties and emphasizes the importance of considering how these benefits will contribute to sustainable development at a local level.
3. Have a mechanism in place to address allegations of lack of compliance with these requirements. For UEBT members, Procedure 30 establishes the types of reports and procedures that they must have in order to be able to deal with claims of conduct inconsistent with ethical sourcing.[4]

Criterion 3.7 of the Ethical BioTrade Standard

For research and development activities, even if there are no legislative or regulatory requirements on the sharing of benefits arising from the use of biodiversity and associated traditional knowledge, as well as subsequent application and commercialization, benefits shall be shared in a fair and equitable way and based on mutually agreed terms.

3.7.1 Negotiations related to benefit sharing are transparent and based on dialogue and trust, as defined by Criterion 3.1 of this Standard.

3.7.2 The organization has identified government agencies, groups, indigenous and local communities or individuals having contributed to the research, development or commercialization processes.

3.7.3 The organization takes measures to share benefits in a fair and equitable way with these agencies, groups, communities or individuals having contributed to research, development or commercialization processes, on the basis of the mutually agreed terms.

3.7.4 In determining benefits to be shared, the organization considers their contribution to local sustainable development goals, as defined by Criterion 3.3 of this standard.

4 See document UEBT PR030 – Procedure for addressing claims of conduct inconsistent with ethical sourcing practices.

3.7.5 Other benefits may include access fees; milestone payments; special fees to be paid to trust funds supporting conservation and sustainable use of biodiversity; sharing of research and development results; collaboration, cooperation and contribution in scientific research; and institutional and professional relationships.

3.7.6 The organization identifies and addresses concerns on the sharing of benefits on the basis of mutually agreed terms.

Terminology: In the Ethical BioTrade Standard, as in the CBD, there is no definition of 'fair and equitable'. Indeed, it is not possible to generally define what is fair and equitable, as this depends on the specific circumstances of each case. Nevertheless, benefit sharing can be characterized as fair and equitable if there is recognition, in a commensurate manner, of contributions made by individuals, communities or other bodies to the research, development or commercialization processes. These contributions may consist of access to particular resources, information, innovation or value addition. In addition, it is understood that benefit sharing can only be equitable if the process by which it was defined was also equitable. This requires a dialogue characterized by the exchange of information and mechanisms for effective participation by all the actors, as defined in Criterion 3.1.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
Companies working at a local level and producing and selling natural ingredients or finished products have responsibilities in the implementation of Criterion 3.7. Companies working at a local level can provide more direct and meaningful benefits to producers and their communities. Their role in benefit sharing should be thus considered in the negotiation of mutually agreed terms, which is the agreement on which the benefit sharing is based. In addition, the companies working at a local level must ensure that the terms of benefit sharing are respected throughout the supply chain. For example, a company that has agreed to share the results of research on potential cosmetic applications of a certain plant must informs its customers, as well as other organizations with which it is working on this research, of this obligation.	The companies with the primary responsibility in fulfilling Criterion 3.7 requirements are those that carry out research on biodiversity, develop products based on this information, and are generally not directly involved in the production stage. These companies should have specific policies on benefit sharing for research and development activities, and support and work with their suppliers and customers in their implementation. The responsibility for companies that only produce and commercialize finished goods is gathering and keeping the necessary information to ensure that natural ingredients used comply with the benefit-sharing requirements established in the mutually agreed terms.
Responsibilities: • Establishing and applying mechanisms to contribute to benefit sharing and to address any allegations about lack of compliance with them. • Adopting measures to ensure that the obligation of benefit sharing is recognized throughout the chain.	Responsibilities: • Having procedures in place to identify the actors that have contributed to the research and development. • Establishing and applying mechanisms to negotiate and implement benefit sharing, as well as to address any allegations about lack of compliance with them. • Having procedures in place to obtain and verify information about benefit-sharing agreements.

Criterion 3.8: Patents and biodiversity

Intent: The aim of Criterion 3.8 is ensuring that the use of patents or other intellectual property rights in supply chains of natural ingredients respects and makes gradual progress towards compliance with ABS principles in Ethical BioTrade and the CBD. Patents are recognized as a tool that should be used in a way that complements and is coherent with other Principle 3 requirements, recognizing rights and contributions related to biodiversity and associated traditional knowledge.

Content: This criterion requires companies to adopt measures to ensure that there is respect for legal and ethical requirements on ABS in patents and other intellectual property rights for biodiversity-related innovations. Accordingly, all companies should:

- Learn about the link between patents and biodiversity, including concerns linked to potential challenges for the implementation of ABS principles, or uses and methods that were already part of the traditional knowledge of local or indigenous communities.
- Based on this enhanced awareness, the companies that use patents linked to research and development based on biodiversity and associated traditional knowledge should adopt and implement measures to ensure that Ethical BioTrade principles are respected, particularly the 'UEBT Principles on Patents and Biodiversity'. [5]

Criterion 3.8 of the Ethical BioTrade Standard

Patents and other intellectual property rights shall be exploited and enforced in a manner that is supportive to the objectives of the CBD and the Ethical BioTrade standard.

3.8.1 The organization is aware of the issues around the use of patent protection and research and development on biodiversity and associated traditional knowledge, and the possible legal implications for its activities.

3.8.2 If the organization uses patent protection in relation to research and development based on biodiversity and associated traditional knowledge, it has in place patent and biodiversity policies aiming to ensure that these patent practices support the objectives and provisions of the CBD, and this Standard.

3.8.3 If an organization uses patent protection in relation to research and development based on biodiversity and associated traditional knowledge, the patent application and exploitation process takes into account its patent and biodiversity policy and the UEBT patent and biodiversity principles.

Terminology: A patent is an exclusive right to an invention (generally a product or procedure that provides a new way to do something or a new technical solution to a problem). In order to be patentable, the invention must fulfill certain requirements. However, most patent laws do not deal with ABS, which has raised concerns that patents are requested and used in a way that undermines the rights of countries and communities to their biodiversity and associated traditional knowledge. Therefore, companies themselves may need to address concepts such as the disclosure of the origin of resources or traditional knowledge related to the innovation, to avoid undermining ABS principles. In this way, patents can be used to promote innovation and investment in biodiversity-based products, while generating benefits that can be shared along the supply chain.

5 See document UEBT POL 14 – Union for the Ethical BioTrade Principles on Patents and Biodiversity.

In practice:

Companies working directly with the producers	Companies not directly involved in the production stage
Companies working at a local level and producing and selling natural ingredients or finished products have responsibilities in the implementation of Criterion 3.8. In general, companies working at a local level do not seek patents linked to natural ingredients. However, these companies must take measures to understand the links between patents and biodiversity, as well as how their activities and those of their customers should be carried out to respect relevant ABS principles. These companies must also make sure that the their trading partners understand and adequately address patent practices. For example, a company that sells raw plant material can ask its customers to sign a simple agreement whereby they agree not to utilize these resources as the basis for innovations eligible for intellectual property protection, without prior authorization and proving compliance with the relevant Ethical BioTrade Standard requirements.	The companies with the primary responsibility in fulfilling Criterion 3.7 requirements are those that carry out research on biodiversity, develop products based on this information, and are generally not directly involved in the production stage. These companies must take measures to understand the links between patents and biodiversity and how they should be addressed in their activities or those of their trading partners. In addition, companies that use patents to protect their innovations should adopt a policy on patents and biodiversity. This policy, which would form part of the Biodiversity Management System required by UEBT, must guarantee that companies operations on intellectual property are coherent with their commitment to Ethical BioTrade. In particular, measures must be taken to ensure that their patent portfolios are gradually adjusted to respect the policy, as well the 'UEBT Principles on Patents and Biodiversity'.
Responsibilities: • Learning about the links between patents and biodiversity and how they should be addressed in their activities or those of their trading partners. • Having procedures in place to ensure that trading partners understand and adequately address the links between patents and biodiversity.	Responsibilities: • Learning about the links between patents and biodiversity and how they should be addressed in their activities. • Adopting a policy on patents and biodiversity that recognizes their Ethical BioTrade commitments. • Taking measures to ensure their patent portfolio gradually complies with this policy.

Assessing equitable benefit sharing

Why assess benefit sharing?

UEBT trading members are committed to gradually moving towards compliance with the Ethical BioTrade Standard, including requirements on equitable benefit sharing. To fulfill this commitment, companies must assess their portfolio of natural ingredients, develop Ethical BioTrade targets and work plans, and periodically subject themselves to independent audits.

Within the framework of UEBT membership, an assessment of policies and practices on benefit sharing could therefore be used to:

- **Gather additional information to develop the company's work plan.** For example, the company might want to further define challenges found in audit reports within the UEBT verification system, or check how these issues are addressed in specific operations or supply chains.
- **Obtain guidance or support for the implementation of the company's work plan.** For example, the company may have an expert consider, in greater detail, the problems that need addressing; or give specific recommendations towards compliance with equitable benefit sharing.

The assessment of policies and practices on benefit sharing described in this manual IS NOT a substitute or replacement for independent audits.

In addition, the concepts and methodologies in this manual may be used – even outside of an assessment – to complement the **training** of UEBT members, verification bodies or other partners in equitable benefit sharing. Nevertheless, the Ethical BioTrade Standard and verification system always constitute the main reference for independent audits.

Other companies or organizations, even if they are not UEBT members, may also use the Ethical BioTrade Standard, which is internationally recognized, and its benefit sharing concepts and methodologies as:

- Reference to examine and improve their policies and practices.
- A tool to facilitate dialogue and increase the level of trust among actors in a supply chain, or between these actors and other interested parties.
- Guidance for the development of a project or activity associated with benefit sharing.
- A basis for an application process for access to genetic resources within a national regulatory framework. [6]

Who can carry out the assessment?

- **The company's** own staff can perform this assessment as part of their internal monitoring and evaluation procedures and/or other steps towards fulfillment of its obligations as a UEBT member.
- Upon request or with the authorization of the company, the assessment can be carried out by **other experts**, including:

6 However, it is important to acknowledge that this use of the Ethical BioTrade Standard **does not** turn these companies or organizations into UEBT members, nor give them any right to communicate or make claims regarding, in a formal or informal manner, their policies and/or practices related to Ethical BioTrade.

- The UEBT Secretariat, as part of the technical support given to UEBT members, or as part of a project or consultancy.
- Other organizations, in the context of their work as UEBT affiliate members or other projects or initiatives.

What can be assessed?

In all cases, what is assessed is progress towards the implementation of the equitable benefit-sharing requirements in the Ethical BioTrade Standard. Nevertheless, assessment of such progress may focus on certain aspects of these requirements, as well as on certain operations and/or the supply chains. The scope of the assessment is defined by to the needs and interests of the company in each particular case.[7]

The scope of the assessment can be defined in function of:

1. Different levels of implementation

There are three levels of implementation of benefit-sharing requirements in Ethical BioTrade (see "How is benefit sharing applied?"); accordingly, there are also three possible levels to assess equitable benefit sharing. The assessment may look at these levels jointly or focus on a particular one, according to the circumstances and the company's priorities.

Figure 2. Levels of implementation of benefit sharing.

- **Knowledge**: Is there an adequate understanding of Ethical BioTrade concepts, approaches and requirements on equitable benefit sharing, both in the company and along its supply chains?
- **Systems**: Is there a system – in other words, a set of policies, procedures, manuals or other documents – for benefit sharing that applies to both the company's operations and its supply chains?
- **Implementation**: Is the benefit-sharing system being implemented in the company's operations and along its supply chains? How are the relevant Ethical BioTrade Standard requirements addressed and to what extent are they observed?

7 This flexibility, however, does not exist in cases in which benefit sharing is assessed in the context of an independent audit in the Ethical BioTrade verification system; which has specific protocols and methodologies.

As mentioned, the assessment may focus on one or more levels of implementation of benefit sharing, according to the company's situation or interests. For example, a company that has just started working with Ethical BioTrade may only seek an initial assessment of the level of awareness on benefit sharing among its managers and staff. A company that is already working on the subject and has designed parts of a Biodiversity Management System may be interested in assessing the knowledge and systems levels, in order to determine whether its employees understand the approaches and are starting to implement them.

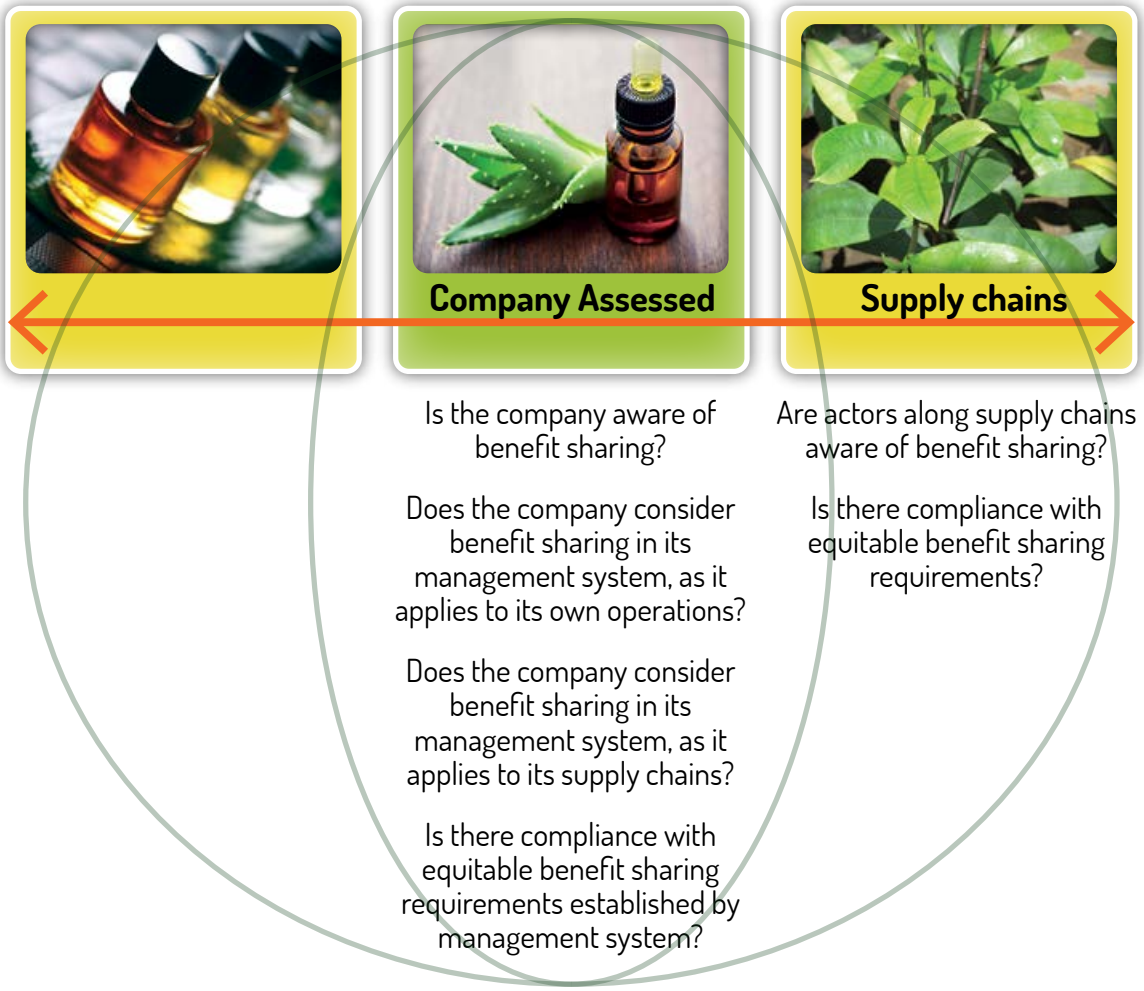
2. The company and/or its supply chains?

The levels of implementation of equitable benefit sharing can be considered solely in the context of the company's operations or also take into account the situation along its supply chains (see Figure 3). This depends, again, on the company's circumstances or interests, as well as available time and resources. For example, certain operations or supply chains may be considered, either because they have higher strategic value, present specific challenges or have been prioritized in the Ethical BioTrade system.

Therefore, taking into account its focus, the assessment may be:

- **Broad,** looking at implementation of benefit sharing in both the company and its supply chains.
- **Limited,** looking at implementation of benefit sharing in the company, but not along its supply chains.
- **Targeted,** looking at certain operations in the company or certain of its supply chain.

Figure 3. Potential areas for the benefit-sharing assessment.



What point of reference is used for the assessment?

Equitable benefit sharing is assessed with reference to Principle 3 of the Ethical BioTrade Standard.

For companies that are UEBT members, the Ethical BioTrade Standard is the basis of their membership conditions and obligations. UEBT members are committed to the gradual fulfillment of its requirements, including on equitable benefit sharing.

For other companies, the Ethical BioTrade Standard represents internationally recognized policies and practices on equitable benefit sharing. For example, the latest revision of the standard –during which the text of Principle 3 was updated – was developed according to international guidelines and included a participatory process with a balanced contribution from companies, associations and individuals representing different parts of the world and a wide variety of interests and perspectives.

An assessment of progress towards compliance with benefit sharing requirements thus looks at the intent, content and ways of implementing each one of the criteria in the Principle 3 of the Ethical BioTrade Standard (see "A look at the criteria"). In Ethical BioTrade, all companies, whether they are groups of producers, processors, laboratories or brands, must make gradual progress towards fulfilling equitable benefit-sharing requirements. However, each company's approach and responsibilities towards compliance may differ, according to its place in the supply chain and the type of activity it carries out (see Table 4 in the section on "Principle 3 of the Ethical BioTrade Standard"). This must be taken into account in the assessment and will have a direct impact on the kind of information requested for each criterion (see Table 7). At the same time, the questions must consider the desired scope for the assessment (see example in Figure 4).

Figure 4. Examples of questions for assessing Criterion 3.2 on equitable prices.

Companies working directly with producers	Companies not working directly with producers	
Is there understanding of the intent and specific requirements on paying an equitable price for raw material and natural ingredients at local level? Are producers aware of how prices are established and what factors impact price calculation?	Is there understanding of the intent and specific requirements on paying equitable prices for raw material and natural ingredients at local level? Are producers aware of issues and requirements on payment of equitable prices?	Knowledge level
Are there mechanisms to negotiate prices with producers? Are there procedures for calculating the price at the producer level? Do these mechanisms adequately consider Ethical BioTrade requirements such as information exchange, prices that cover ethical production practices and the possibility of pre-financing?	Are there mechanisms to ensure paying equitable prices to their own suppliers? Are there procedures to guide, obtain and verify information on the way in which providers establish prices at the producer level? Do these mechanisms adequately consider Ethical BioTrade requirements such as information exchange, prices that cover ethical production practices and the possibility of pre-financing?	System level
Are these policies and procedures being put into practice and, if so, what progress has been made towards equitable prices in the various supply chains?	Are these policies and procedures being put into practice and, if so, what progress has been made towards equitable prices in the various supply chains?	Practices level

Table 7. Key questions by criterion

	Companies working directly with the producers	Companies not directly involved in the production stage
3.1 Balanced negotiations	How does company approach interaction with the producers? What information does it provide on its work and supply chain? What mechanisms does it use to ensure effective engagement of its local partners?	How does company approach interaction with its own suppliers? What information does company have on the way in which interactions are carried out at a local level? What mechanisms does it use to learn about and verify its suppliers' policies and practices?
3.2 Equitable prices	What processes and factors determine the price to be paid? Who participates in the price setting? Is there a cost calculation? Is a profit margin for the producer included? How often is the price reviewed? On what basis is it reviewed?	How are the prices paid to its suppliers established? What information does company have on the way in which prices are set at a local level? What mechanisms does it use to learn about and verify its suppliers' policies and practices?
3.3 Contribution to local development	Are the local sustainable development goals discussed with the producers? Are contributions made in a consistent and organized way? Are activities carried out coherent and do they have a broader meaning? Is there any kind of follow-up?	How does the company request, recognize and support their own suppliers to comply with these requirements? Have mechanisms been identified to support local development, either directly or through suppliers? Is there any kind of follow-up?
3.4 Traditional practices	Are traditional management practices for species and ingredient systematically identified? Is there promotion of these practices if they support sustainability? Is there any recognition in cases where these practices contribute to management, production or trading activities?	What information is there about awareness and recognition of traditional practices at a local level? How does company ensure that suppliers maintain and promote respect for traditional management practices?
3.5 ABS legislation	What is known about ABS? Is there monitoring of the evolving legal framework? Are applicable requirements put into practice? What tools support and ensure compliance with these requirements along the chain?	What is known about ABS? Is there monitoring of the evolving legal framework? Are applicable requirements put into practice? What tools support and ensure compliance with applicable requirements along the chain?
3.6 Prior informed consent	What tools are used to support and ensure compliance with these requirements along the supply chain?	Are there policies on the utilization of biodiversity and traditional knowledge for research and development? Are actors with the right to prior informed consent identified and involved? Are conditions of use adequately discussed? Which tools and mechanisms are used to apply company policies and ensure compliance with these requirements along the supply chain?

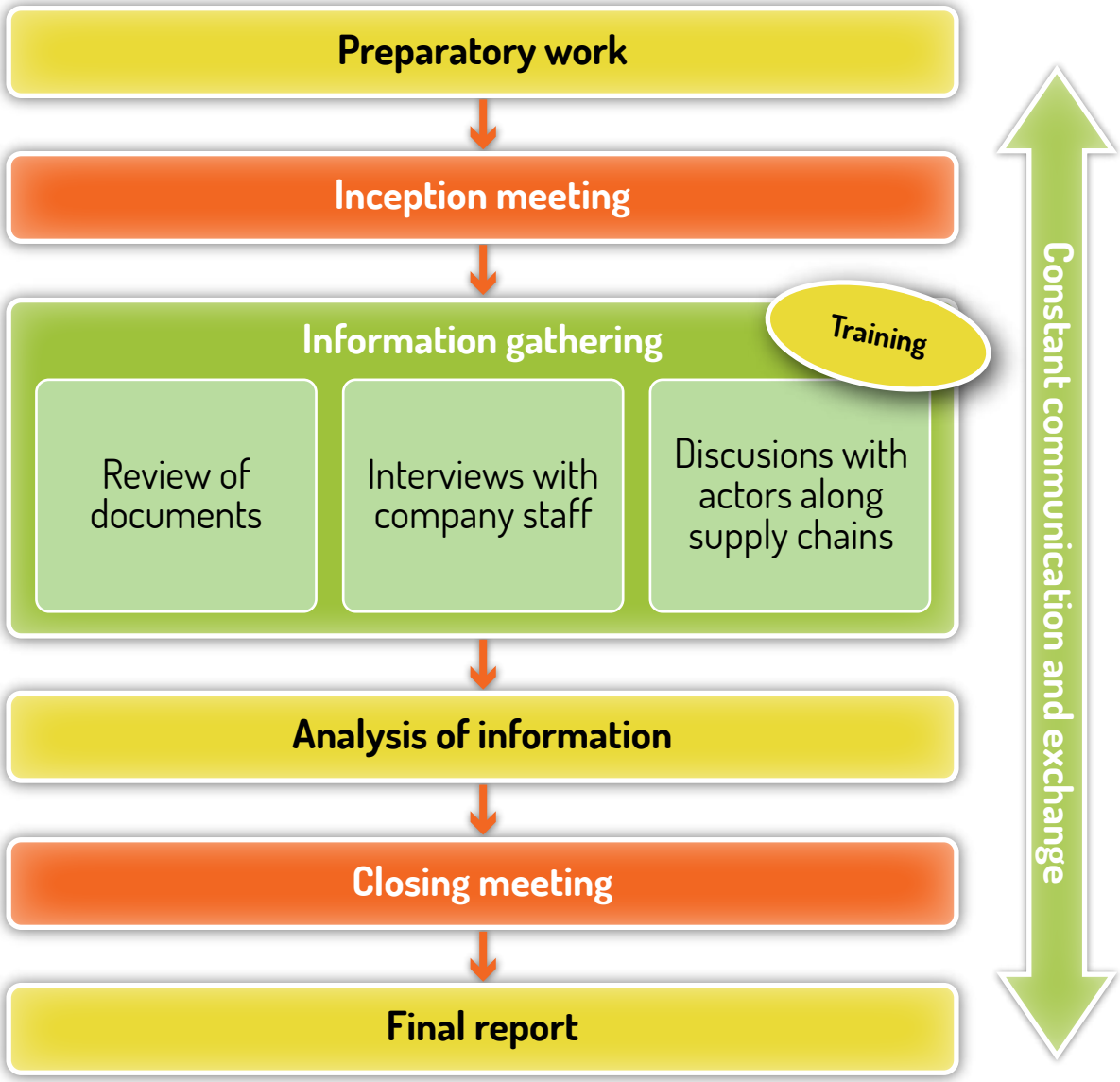
>>

>>	Companies working directly with the producers	Companies not directly involved in the production stage
3.7 Benefit sharing	What tools are used to support and ensure compliance with these requirements along the supply chain?	Are there policies on the sharing of benefits resulting from research and development? Are actors that contribute to such benefits identified? Is benefit sharing agreed? Which tools and mechanisms are used to apply company policies and ensure compliance with these requirements along the supply chain?
3.8 Patents	What tools are used to support and ensure compliance with these requirements along the supply chain?	Is the link between patents and biodiversity recognized? Are there policies and measures to address this link? What is current situation of patent portfolio? What tools exist to ensure patent practices support Ethical BioTrade requirements?

Step by step: The benefit-sharing assessment process

As has been described, the specifics of the benefit-sharing assessment depend on the scope, levels and areas of assessment. Likewise, the assessment process will also depend on specific issues and challenges to be addressed in each particular case. Nevertheless, the main steps for a benefit-sharing assessment to follow can be generally defined, as guidance for those planning such an assessment:

Figure 5. Benefit-sharing assessment process.



Constant communication and exchange

Throughout the assessment process, there should be a steady and efficient communication process with the contact person(s) in the company, in order to coordinate logistics, share information and initial impressions, clarify facts or findings, determine possible corrections to the process or additional information needed.

1. Preparatory work

Purpose: To have basic information needed to design an assessment plan.

Who is involved?	Actions to be taken	Additional considerations

Contact person(s) in the company, person responsible for the assessment	• Gather basic information about:
	  • the company,
	  • the supply chains it works with,
	  • the purpose and scope of the assessment;
	• Identify key actors from whom the information should be gathered;
	• Draw up the assessment plan
		If workshops, focus groups or interviews will be organized with producers or communities, it is important to respect customary law and local practices on timing, representation, etc. For this reason, assessments should be planned with sufficient time in advance.

The assessment plan should include:

- Purpose, scope and objectives of the assessment,
- Methods and tools to be used to gather information,
- List of documents to be reviewed,
- Information on company staff and other actors to contact,
- Logistics for interviews, workshops and/or focus groups with various actors,
- General schedule for the assessment, and
- Responsibilities of the assessment team.

2. Inception meeting

Purpose: To confirm facts, information, and planned actions for the assessment.

Who is involved?	Examples of issues to be addressed	Additional considerations
Contact person(s) and relevant company staff	• Introduce UEBT and give general information about the assessment; • Highlight the importance of benefit sharing; • Present the assessment plan; • Confirm the schedule of interviews and workshops; • Complete the list and relevant information about key actors to be contacted; • Complete the list of documents and their delivery or shipment.	In the inception meeting it is possible to suggest documents, contacts or additional information for inclusion in the assessment. It is important that the person(s) responsible for the assessment stay open to these suggestions and should foresee adjustments in the assessment plan.

3. Data collection

Purpose: To gather, from different actors and sources, relevant information for assessing equitable benefit sharing.

Data collection can be carried out using different methods and tools, and through consultation of various actors and sources. Some possible methods for assessing benefit sharing in a company and/or its supply chains are presented below:

a. Review of documents

Purpose: To find evidence of the level of understanding and the inclusion of equitable benefit sharing in the company's systems (policies and procedures), as well as evidence of its implementation in practice.

	Illustrative list: Which documents could be consulted?	
	In the company being assessed	In its supply chains
In case the company and/ or other actors are UEBT members	• Membership application form; • Audit reports; • Work plans; • Annual reports; and • Other reports, studies or notifications.	• Membership application form; • Audit reports; • Work plans; • Annual reports; and • Other reports, studies or notifications.
Documents referring to the company and its supply chains	• Fundamental principles of the company (for example, mission, vision, management commitments or code of ethics); • Strategies and policies related to Ethical BioTrade – that is, addressing issues such as fair trade practices, sourcing of natural ingredients, research and development, marketing, patents and corporate responsibility, as well as the implementation reports on these policies; • Organizational charts and terms of reference; • Standard operating procedures on relationships with providers, research and development, patents, legal compliance and reports on their implementation; • Contracts, agreements and understandings with providers and other business partners; • Permits and authorizations from local and national authorities; • Certifications, verifications and related reports; • Training programs and reports on their progress; • Projects linked to sustainable development at a local level and reports on their progress; • Forms, records, questionnaires and other information about the providers; • Minutes of meetings with providers; • Price-setting procedure at a local level and reports on its utilization; • Patent portfolio; • Internal monitoring and control systems; and • Internal audit reports, visits or other monitoring and assessment mechanisms	• Strategies and policies related to local sustainable development; • Standard operating procedures on relationships with the producers and their communities and reports on their implementation; • Contracts, agreements and understandings with producers, employees, customers and other business partners; • Records of payments to producers, employees and other commercial partners; • Permits and authorizations from the local and national authorities; • Certifications, verifications and related reports; • Training programs and reports on their progress; • Projects linked to sustainable development at a local level and reports on their progress; • Forms, records, questionnaires and other information about the producers; • Minutes of meetings with producers; • Price-setting procedure at a local level and reports on its utilization; • Internal monitoring and control systems; and • Internal audit reports, visits or other monitoring and assessment mechanisms.

b. Interviews with company staff

Purpose: To examine more closely and complete the information gathered through documentation review or explore some specific aspects or criteria.

Method	Who is involved?	Examples of issues to address
Interviews	• People to be interviewed include contact person(s), managerial staff and employees dealing with issues linked to Ethical BioTrade. The number and specific people will depend on the size and structure of the company. For example, in a small company, one person may have knowledge or responsibilities in various fields, whereas in a larger company, staff from various departments must be involved.	• Sourcing process (how are ingredients sourced, collected or cultivated, in which areas and under which conditions?); • Strategies and procedures for research, development, patents, product manufacturing, and sales; • Ways of working with suppliers and other partners; • Knowledge of Ethical BioTrade and benefit-sharing requirements; • Perceptions of objectives, approaches, progress and challenges in the implementation of equitable benefit sharing.

c. Discussions with actors along the supply chain

Purpose: To gather the views of other actors along the supply chain about equitable benefit sharing. This is especially important if the aim is to assess its implementation in practice.

- **With producers and communities**

	Who is involved?	Examples of issues to address	Additional considerations
Workshops or focus groups	• Communities, producers and collectors	• How company engages in and outlines sourcing process; • The current status of each criterion in Principle 3, identifying actors' views on progress made, difficulties encountered and recommendations for improvement; • Actor's perceptions on strengths and weaknesses in the relationship with the company, and recommendations for improvement.	• Ensure discussions are as inclusive as possible; • Respect traditional practices and structures; • Use participatory methodology and simple language; • If possible, establish a dialogue between the company, the producers and their communities, establishing specific commitments to improve their interaction and benefit sharing in particular; • In the case of these workshops or focus groups being carried out with producers or communities, it is important to follow up, sending them a summary of the work conducted, in simple and understandable language.
Interviews	• Producers, collectors	• How company engages in and outlines sourcing process; • Implementation of each criterion; • Relationship with the company.	• Identify persons representing producers or their communities; • Conduct an in-depth examination of the information gathered in the workshops.

- **With other actors**

Method	Who is involved?	Issues to address
Interviews	• Representatives of other actors in the supply chain or other interested parties (e.g. local authorities, non-governmental organizations, intermediaries, universities or donors)	• Perceptions of the company, its work and its engagement with actors at the local level; • Implementation of the criteria in Principle 3 along the supply chain.

4. Training

Purpose: To strengthen understanding of equitable benefit sharing in the company and/or among other actors in the supply chain, in the context of the Ethical BioTrade system and approach..

Who is involved?	Examples of issues to address	Additional considerations
• Company contact person(s), management and staff, depending on the size and structure of the company	• What is Ethical BioTrade and how does it work? • Principle 3 of the Ethical BioTrade Standard and its background, key concepts and practical requirements; • Specific elements of Principle 3 that are relevant to the company.	• Important to involved representatives from across relevant departments; • Clearly define the aim and usefulness of the training; • Emphasize the link between company procedures and activities and ethical sourcing; • Allow participates to themselves define their understanding, achievements and opportunities for improvement.
• Representatives of commercial and non-commercial partners, providers and other interested parties	• What is Ethical BioTrade and how does it work? • Principle 3 of the Ethical BioTrade Standard and its background, key concepts and practical requirements; • Specific elements of Principle 3 that are relevant to their role in the supply chain.	• Ensure wide participation of various partners; • Clearly define the aim and usefulness of the training; • Emphasis on the link between the activities of various actors in the supply chain and ethical sourcing; • Allow participates to themselves define their understanding, achievements and opportunities for improvement.
• Communities, producers, collectors	• What is Ethical BioTrade and how does it work? • Concepts and criteria from Principle 3 of the Ethical BioTrade Standard; • Specific parts within Principle 3 that apply to their particular role in the chain.	• The aim should be for the training to be as inclusive as possible; • Respect traditional practices and organization; • Participatory methodology, experiential learning and simple language; • Self-identification of achievements and opportunities for improvement.

5. Analysis of information

Purpose: To identify findings and recommendations for each relevant criterion from Principle 3, based on the data collected.

Actions	Additional considerations
• Organize the information gathered according to the relevant Principle 3 criteria; • On the basis of the information, identify findings of equitable benefit sharing; • Develop preliminary recommendations based on these findings.	• Remember that Ethical BioTrade entails a gradual and continuous improvement, which is why the recommendations are so important. • Findings and recommendations must consider the purpose and scope of the assessment.

6. Closing meeting

Purpose: To discuss the findings of the assessment and make some initial recommendations.

Who is involved?	Examples of issues to address	Additional considerations
• Company contact person(s) and management representatives	• Findings on gaps or challenges in understanding, addressing or putting in practice equitable benefit sharing; • Preliminary recommendations for improvement.	Feedback from the company may be fundamental in clarifying contradictory or unclear information, as well as to define or validate the pertinence and viability of the recommendations.

7. Final report

Purpose: Detail the results of the assessment results and the resulting recommendations.

Suggested Structure of the Benefit-sharing Assessment Report

- **Context, objective and scope of the assessment.**
- **General information:** about the company, supply chain(s), socio-economic and environmental context, among others.
- **Methodology:** description of the activities carried out and methods used during the assessment.
- **Results::**
  - For each one of the criteria, though not necessarily indicators;
  - Assessment at the knowledge, systems and/or implementation levels;
  - Identification of specific strengths and weaknesses; and
  - Assessment of medium and long-term risks and opportunities.
- **Recommendations:**
  - Issues to be taken into account;
  - Levels, sectors and supply chains that require further attention;
  - Structures, procedures, activities and tools to be considered;
  - Opportunities for improvement in the context of the company's work plan for the UEBT; and
  - Possible cooperation with other experts, NGOs or other organizations

Conclusions

- Equitable benefit sharing is a central tenet of Ethical BioTrade, based on the principles of the Convention on Biological Diversity; it addresses the social, economic and cultural aspects inherent to the conservation and sustainable use of biodiversity.
- Companies that are members of the Union for Ethical BioTrade (UEBT) have committed to working towards equitable sharing of benefits in all their operations and supply chains related to natural ingredients. For the companies that are not UEBT members, the Ethical BioTrade Standard constitutes an internationally recognized reference framework for equitable benefit sharing, as well as a source of concepts and methodologies.
- Principle 3 of the Ethical BioTrade Standard contains general requirements on benefit sharing that apply to all activities linked to sourcing, manufacturing and commercialization of natural ingredients, as well as specific requirements that arise from biodiversity-based research and development activities.
- All UEBT members, whether they are groups of producers, processors, laboratories or brands, should make gradual progress towards fulfillment of all equitable benefit-sharing requirements in the Ethical BioTrade Standard. However, the measures companies must adopt to fulfill these requirements depend on their activities as well as their position in the supply chain.
- The objective of the benefit-sharing assessment is to identify progress and difficulties in the fulfillment of the relevant Ethical BioTrade Standard requirements. The assessment examines whether the company is aware of the requirements; if these requirements are considered in its structure, policies and procedures; and whether they are put into practice in its operations and/or along one or more of its supply chains.
- A benefit-sharing assessment may focus on certain aspects of the implementation of the benefit-sharing requirements, according to the needs and interests of the company.
- The process proposed for the benefit-sharing assessment includes the review of documentation, as well as interviews, workshops and focus groups to collect data from various actors. In addition, the benefit-sharing assessment has a training component. The results of the assessment are presented in a final report that includes the recommendations on how the company can improve its policies and practices on equitable benefit sharing.
- The conclusions and recommendations of the assessment should be considered in the company's work plan, as well as in subsequent audits. However, the benefit-sharing assessment is not equivalent to and does not replace the audits or other procedures required by the Ethical BioTrade verification system.

Union for Ethical BioTrade

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Fair and equitable benefit sharing

Manual for the assessment of policies and practices along natural ingredient supply chains