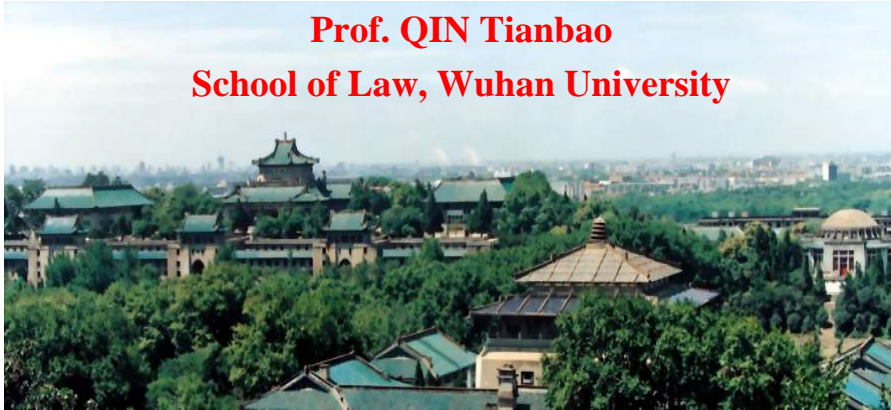


Mapping the ABS Legislation in China

Prof. QIN Tianbao
School of Law, Wuhan University



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OUTLINE

- **1. Shortcomings of current laws on ABS**
- **2. Framework of the legislation on ABS**
- **3. Key points of the legislation on ABS**



1. Shortcomings of current laws on ABS

■ 1.1 Deficiency of Administrative System

- Decentralization:
 - no centralized ministry
 - mostly at provincial and local level
- Indirect administration
 - species level
 - scientific organizations



1. Shortcomings of current laws on ABS

■ 1.2 Legal vacuum:

Seed Law

Wildlife Protection Law

Wild Plant Protection Regulations

Husbandry Law

- No comprehensive and specific ABS legislation



1. Shortcomings of current laws on ABS

■ 1.2 Legal vacuum:

- missing of legislations for certain types of genetic resources
 - marine biological genetic resource
 - microbial genetic resource
 - flower plants genetic resource
 - genetic resource of wild fauna with economic value
 - new microbial species



1. Shortcomings of current laws on ABS

■ 1.3 Defective legal rules

- Contents: non-listed species; no benefit-sharing
- Right and duty: ownership; stakeholders
- Administration: ABS, PIC
- Implementation: General, vague, weak enforcement



2. Structure of the legislation on ABS

■ 2.1 Considerations

- Contents: conservation, access, BS, transfer
- Elements of Legal Instrument
- Past Legislation practices
- Experiences of other countries and international negotiation



Structure of the legislation on ABS

■ 2.2 Table of Contents

1. General provision
2. Institutional Arrangement
3. Conservation of biological genetic resources
4. Access to biological genetic resources
5. Benefit sharing
6. Transportation, import and export
7. Legal liability
8. Supplementary provisions



3. Key points of the legislation on ABS

■ 3.1 Objectives

- To promote the conservation and sustainable use of biological genetic resources ;
- To regulate the access to biological genetic resources;
- To ensure the fair and equitable benefit sharing of biological genetic resources;
- To achieve social and economic sustainable development



3. Key points of the legislation on ABS

■ 3.2 Fundamental principles

- effective conservation
- sustainable use
- scientific management
- fair and equitable benefit sharing



3. Key points of the legislation on ABS

■ 3.3 Legal Hierarchy

- The future legislation on ABS law should take the form of MINISTERIAL RULES with the title of ‘Regulation of the People’s Republic of China on the Management of Biological Genetic Resources’



3. Key points of the legislation on ABS

■ 3.4 Institutional Arrangement

- **Guideline:** keep the *Status quo* of existing division of authorities among relevant departments
- **Principle:** Unified Coordination with Respective Administration
- **Competence:**
 - MEP: mainly coordinator
 - MOA、SFA: competent authorities



3. Key points of the legislation on ABS

- **3.5 Coordination, consultation and Management Bodies**
- 3.5.1 Coordination Body: National ABS Committee
 - Coordination;
 - Planning
 - Identification and monitoring
 - Lists
 - Capacity building
 - International cooperation
 - Others



3. Key points of the legislation on ABS

- 3.5.2 Consultation Body: Subsidiary Committee on Science and Technology (SCST)
To provide scientific supports and advices
- 3.5.3 Management Body
National ABS Office under the Ministry of Environmental Protection of P. R. China



3. Key points of the legislation on ABS

■ 3.6 Approval procedure on ABS

- Application
- Consultation (SCST)
- Review
- Approval



3. Key points of the legislation on ABS

■ 3.7 academic and commercial access (only for Chinese)

- academic access: application-registration at provincial level
- commercial access: written application-review (provincial level)-approval (state level)
- Change of purpose: re-application



3. Key points of the legislation on ABS

■ 3.8 Access by foreigners

- Written application to National Commission; export application when applied
- Cooperative R&D between Chinese and foreigners included



3. Key points of the legislation on ABS

■ 3.9 Benefit sharing

- Contract on ABS between the applicant and competent authority
- Exemption: domestic academic access
- Monetary or Non-monetary benefits

Balance between users and providers



Key points of the legislation on ABS

- **3.10 Interests of local communities**
 - Guideline: local governments at the level of village township as representative of communities
 - Prior informed consent (PIC) of local government
 - A fixed proportion of benefits directly given to local communities



Questions and Comments?

ありがとう!

Thanks!



Contact Information

- Professor of Biodiversity and Biotechnology Law
- Assistant Dean, School of Law, Wuhan University
- Member, IUCN Commission of Environmental Law
- Member, IUCN Academy of Environmental Law –
Committee on Teaching and Capacity Building
- Tel: +86 27 6875 3694
- Fax: +86 27 6875 2091
- Email: tianbaoq@hotmail.com

