

*Draft for review and comment*

**THE INTERAMERICAN BIODIVERSITY INFORMATION NETWORK (IABIN)**

**ACCESS TO INFORMATION AND INTELLECTUAL PROPERTY REGULATION**

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## WHEREAS:

The biodiversity crisis, which is observed in the loss of habitats, species and genetic variability of living forms forces us to define new policies for nature conservation in a short term, which should be sustained on a scientific knowledge of the principal biotic attributes of the hemisphere's natural ecosystems.

It has become necessary to establish a communication system in the area of biodiversity research which will permit both optimum development of basic research and the development of methods and techniques that contribute to the conservation and sustainable use of biodiversity.

It has become necessary to regulate queries of and use of information of biological collections and databases on biodiversity provided through IABIN, upon ethical and International Intellectual Property rules.

## AGREEMENT

All members and users of the **Interamerican Biodiversity Network (IABIN)**, recognize IABIN's ownership of rights of use of data of its website and therefore by using IABIN's website and resources, agree to the following terms and conditions:

### **CHAPTER 1. DEFINITIONS**

**1.1 IABIN** is both an Internet-based information resource with common infrastructure and content, interoperable through the use of common standards, and a forum for institutions and individuals to discuss the issues related to sharing and exchange of biodiversity information. Its mission is to promote compatible means of collection, communication, and exchange of information relevant to decision-making and education on biodiversity conservation.

**1.2 The principal functions of IABIN** are: (i) to promote the exchange of biodiversity information across national borders, eliminating duplication of effort and leveraging the scarce available resources; (ii) to promote compatible means of collection, communications and exchange of information relevant to decision making and education on biodiversity conservation as appropriate; (iii) to build upon initiatives such as the Clearing House Mechanism (CHM) provided for the Convention on Biological Diversity and the Man and Biosphere network (MABNET Americas) and the Global Biodiversity Information Facility (GBIF) to enhance and strengthen local initiatives of the IABIN countries; (iv) to offer basic knowledge of biodiversity to the general public, under the standards and procedures established herein. **IABIN will operate** with institutions that own databases on biodiversity and natural resources in the Western hemisphere. These constitute the nodes, and their researchers or experts are responsible for the information.

**1.3 Nodes** are institutions that maintain or generate data on biodiversity and that agree to make them available to the general public, based on their policy related to intellectual property rights and quality control standards.

**1.4 The person in charge of the node** is the formal representative of the institution where the node is located. He acts as the liaison of the institution with IABIN.

1.5 **The IABIN database** is composed of data compiled by IABIN from its nodes and other existing databases. IABIN's database has been classified by its structure and characteristics and it can be accessed further to the provisions of chapter 3 of this regulation. Incorporation and elimination of data in the databases will be determined by the Technical Working Group (TWG) subject to the approval of the Network Hub or Secretariat.

## **CHAPTER 2. RIGHTS AND OBLIGATIONS OF THE PARTICIPANTS**

**2.1. Management of the data.** Information compiled in a database is freely accessible via INTERNET. In the case of unpublished information, specimens, species and ecosystem data with a certain protection category, the curator and the node institution will decide whether or not to restrict its public access. Both, the Council and the Executive Committee are required to disseminate information about IABIN and to invite curators and researchers to make available to the public the greatest quantity of information possible through IABIN. However, IABIN at its sole discretion may restrict or remove contents from its database.

**2.2. User Rights.** Users may download, copy and reprint information obtained from the IABIN website for non-commercial purposes as long as the original source is properly cited. Users and participants may not resell, redistribute, or create any derivative works without the proper authorization of IABIN. Commercial use of the data obtained from IABIN will be subject to an additional agreement with IABIN.

**2.3. Use of data.** All information obtained through IABIN is "as is". IABIN makes no warranty as to the accuracy or completeness of any of the materials obtained through its site. Therefore, IABIN is not liable for any expense or damage occurred as a consequence of its use.

## **CHAPTER 3. ACCESS TO THE INFORMATION**

**3.1 Public nature of the data.** The information obtained through IABIN will be considered as public and may be used at no cost, provided that it is consulted for informational purposes only.

**3.2 Intellectual property of the information.** Researchers, collections, institutions, legal and natural persons and IABIN users in general will assume the following obligations:

**3.2.1 Access to data:** IABIN will be an open-access facility. IABIN users in general will have equal access to the data in databases affiliated with or developed by IABIN, through an access code when required by IABIN.

**3.2.2. IABIN will make efforts to strengthen the free distribution** of data on biodiversity, for informational purposes only. However, the use of all information obtained through IABIN is subject to proper attribution.

**3.2.3. Intellectual property rights of databases developed by other organizations** is subject to their terms of use as well. Any condition established by the provider data will be respected. The source of the data should be acknowledged and such attribution be maintained in any subsequent use of the data.

**3.2.4 Validation of the Data.** The opinions expressed in materials obtained through IABIN from other databases, are the responsibility of individual authors/compiler and not by any means of IABIN. The information is provided for the benefit and convenience of IABIN's users and members and IABIN is not responsible for its contents. Providing this information does not imply endorsement or approval of its contents by IABIN.

**3.2.5 Access to restricted data:** The owners of databases are entitled to block access to certain sensitive data, such as exact locality data for rare or endangered species.

**3.2.6 Access to data on biological resources:** IABIN will ensure, within reasonable practical bounds, that access to collections of data on biological resources is consistent with national and international laws, and that any relevant requirements for prior informed consent are met.

**3.2.7 Intellectual property rights on data and software developed by IABIN:** The Intellectual Property of any materials or software tool developed by IABIN belongs to IABIN. The materials or tools may be used for informational purposes only, but any commercial use of these is subject to separate agreement with IABIN.

**3.2.8 Transfer of technology:** Subject to any relevant intellectual property rights, IABIN will seek to promote transfer of technology in data processing to research institutions in developing countries, particularly in connection with training and skill development programs.

**3.3 Types of access to data.** IABIN data will be classified in two types: free queries and restricted access.

**3.3.1 Free access data.** Databases of nodes will contain information as highly detailed as possible, of a geographic, taxonomic, ecological or use type, which are compatible with the internal policies of the node. In addition, each piece of information will contain the institutional communication medium, so that the interested party can contact the researcher responsible for the indicated node. The information, which custodians introduce into IABIN will be considered as available to the public and, in general, to all members of IABIN.

**3.3.2 Restricted access data.** Custodians may decide not to release part of the information on which they are working, or they may impose conditions for its public availability, provided that they comply with the minimum information requirements established for IABIN databases. When the information included in the network is not released, there will be a maximum period of five years to make it available to the public, except in the following cases:

- When the release of the information endangers the existence of populations of endangered species.
- When the custodian is analyzing the information prior to its publication, in which case a reasonable period for its release will be determined.

- When the custodian has obtained information from third sources that have imposed restrictions on its use. In this case, the IABIN Executive Committee, as the maximum authority of IABIN, will negotiate with the original sources of the data that imposed conditions on the release of this information.

**3.4 Queries.** IABIN is a port within the web site of the Organization of American States (OAS). To make a query, users shall have accepted the following:

- a. The user querying information on IABIN is obliged to notify those projects for whom they require information, and the form of academic acknowledgment is required in relation to the intellectual ownership of the collectors, determinations or institutions that have generated the information.
- b. Each user consulting the database is obliged to mention in their acknowledgments and bibliographic citations the original source of the data. i.e., they must cite IABIN, the nodes consulted, as well as the suppliers of the data, and this acknowledgment must also be given in any subsequent use of the data.
- c. Neither IABIN nor the curator of the database take responsibility for the accuracy and/or reliability of the data or of the uses of such data by third parties.
- d. The user has the responsibility that the information supplied will not be used to the detriment of national flora and fauna conservation (i.e., species trade) or in processes that irreversibly alter the ecological equilibrium (i.e., indiscriminate extraction or the introduction of alien species).
- e. Data cannot be redistributed and the user must inform IABIN if the data extracted is going to be used for commercial gain or profit.
- f. If IABIN produces materials for a user (i.e., information prepared as summaries, synthesis of data, graphics, statistics, among others), the user must:
  - Acknowledge through citations the original source of all data used as well as the fact that it was obtained through IABIN.

NOTE: National Authorities will be informed about anyone who does not comply with the conditions mentioned above. Any unauthorized editing, reproduction, redistribution, addition or reduction of all or part of the information in IABIN or any other form of commercial exploitation for gain undertaken without the consent of those responsible for said data and IABIN is strictly forbidden.

#### **CHAPTER 4. MODIFICATION OF IABIN REGULATION OF INTELLECTUAL PROPERTY USE**

This regulation is to be revised on a periodical basis or as needed in order to implement the measures required by technology in the future or also academic, economic or social needs. Any modification of the regulations will be discussed and analyzed at the meetings of the Executive Committee and will be approved if deemed necessary by IABIN's Council.

