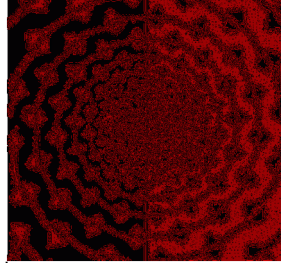


**BIOGOV Unit of the Centre for Philosophy of Law  
Université Catholique de Louvain**



**Study for the implementation in Belgium of the Nagoya Protocol on  
Access and Benefit Sharing to the Convention on Biological Diversity**  
(Terms of reference n° DG5/AMSZ/11008)

**Presentation of preliminary findings of phase 1, phase 2 and phase 3a of the study**

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## I. Introduction

The Nagoya Protocol (Nagoya Protocol) on Access to Genetic Resources (GR) and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (CBD) was adopted at the tenth meeting of the Conference of the Parties, on 30<sup>th</sup> of October 2010, in Nagoya, Japan. The objective of this Protocol is the fair and equitable sharing of the benefits arising from the utilization of genetic resources (GR), as well as from subsequent applications and commercialization. The Protocol aims to contribute to the conservation of biological diversity and the sustainable use of its components. The Protocol will enter into force on the ninetieth day after the 50th ratification by a State or regional economic integration organization that is Party to the Convention on Biological Diversity.

In order to realize the objectives of the Convention on Biological Diversity and the Nagoya Protocol, this study aims to contribute to the ratification and implementation of the Nagoya Protocol in Belgium. As specified in the terms of reference of this study, implementation in Belgium involves the federal level, the Regions and the Communities, and should consider both legal and non-legal measures. This document presents the preliminary findings of this study, which resulted in the selection of possible options for implementation that could be envisioned. In addition, it presents the background of the analysis leading to the selection of these options and the list of legal obligations emanating from the Nagoya Protocol (annex 1).

For the analysis in this document, it is important to remember the scope of the analysis in this study. Access and use of GR is understood and analysed here in the context of the CBD and the Nagoya Protocol. The Protocol applies to GR that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the GR in accordance with the Convention on Biological Diversity (Art. 15.3, CBD). Countries of origin are countries that possess those GR in *in-situ* conditions (Art. 2, CBD). In Belgium this means that these GR exist within ecosystems and natural habitats in Belgium, or, in the case of domesticated or cultivated species, in the surroundings in Belgium where they have developed their distinctive properties (art.2, CBD). The status of the GR in *ex-situ* conditions that have been acquired before the entry into force of the Nagoya is still under discussion at global level. Therefore, this report only considers the

- GR that a provider country possesses in *in-situ* conditions, and
- GR in *ex-situ* collections acquired in accordance with the obligations of the Convention on Biological Diversity and/or the Nagoya Protocol.

The Nagoya Protocol also applies to traditional knowledge (TK) associated with GR within the scope of the Convention and to the benefits arising from the utilization of such knowledge. However, there are no contemporary legal provisions in Belgium explicitly governing the concepts of 'traditional knowledge', and the relevance for Belgium therefore seems to be limited to rights over TK for indigenous and local communities established by foreign domestic law.

It is further important to highlight the provisional nature of the findings presented in this document, as the study is still work in progress, and as the on-going discussions around the implementation of

the Nagoya Protocol at European and international level might further influence the analysis of the options.

## II. Background to the recommended measures and options

For the purpose of the analysis in this study, a distinction was made between:

- core measures: related to the articles of the Nagoya Protocol that need to be considered most urgently, whether as a requirement for ratification or as a minimum requirement to comply with the objectives of conservation and sustainable use, and
- additional implementation measures: important elements for the implementation of the obligations to achieve the objectives of the CBD and the NP, but that are less urgent.

This report on the preliminary findings essentially focuses on the core measures. The core measures reflect the measures specified in the terms of reference of this study:

- General
  - The National Competent Authorities and the National Focal Point (Art. 13)
- Access to GR and traditional knowledge (Art. 6,7,8).
- Benefit Sharing (Art. 5,9)
- Compliance and monitoring
  - Monitoring of the use of GR and the designation of one or several checkpoints (Art. 17)
  - The compliance with the legislations or the requirements of the provider country (Art. 15 and 16)
  - The compliance with the Mutually Agreed Terms (MAT) (Art. 18).

It is important to remember that at least one of the legal provisions (designation of National Competent Authorities and the National Focal Point, Art. 13.4) needs to be implemented no later than the entry into force of the Protocol for each party (that is the ninetieth day after the date of deposit of fiftieth instrument of ratification if the Party ratified until the deposit of the 50<sup>th</sup> instrument, or on the ninetieth day after the date of deposit of the instrument of ratification if the Party ratifies after the deposit of the 50<sup>th</sup> instrument). Therefore Art.13 and the core obligations directly related to Art. 13 (such as article 6 which has a direct impact on the tasks of the Competent National Authority) deserve a special urgent attention.

A second set of recommended actions (additional measures) will contain important but less urgent elements for the implementation of the Nagoya Protocol. This second set will be analysed more in depth in the full report and presented during the second session of the Stakeholder Workshop. These are:

- (1) Create legal certainty, clarity and transparency of domestic benefit-sharing legislation or regulatory requirements by setting additional specification of MAT, including possibly terms of BS, for the utilization of GR.

- (2) Establish a clear and transparent access procedure by developing administrative guidance for access procedures.
- (3) Consider additional legal rights and duties for the CNA, such as acting as a coordination body between NFP, CNA, related permits, authorisations and public funding and others; and/or the establishment of a single point of contact.
- (4) Establish monitoring systems, such as due diligence systems.
- (5) Create incentives for users to comply.
- (6) Encourage the development of model contractual clauses, codes of conducts and guidelines.

### III. Relevance of the existing national legislation and measures to the obligations of the Protocol

Based on the analysis in the study, no existing national legislation or measures are in contradiction with the obligations under the Protocol. However, existing instruments that address access and benefit sharing of genetic resources need to evolve and additional instruments are needed to implement the obligations of the Protocol in order to overcome the gaps in the current legal situation. In this section an overview is provided of the existing instruments which already address some aspects of implementation, but that nevertheless have major gaps to be overcome. The overview is based on the analysis of the legal obligations emanating from the NP that has been provided with the terms of reference of this study, by the four Belgian environmental administrations that commissioned this study (cf. full list in annex 1).

#### *Access to genetic resources (Art. 6.1 and 6.3)*

a. subject	Each Party
b. obligation	- if requiring PIC for access: take legislative, administrative or policy measures, as appropriate, containing minimum requirements for access rules and procedures - OR determine that access is not subject to PIC
Applies to	GR

Under the current legislation in Belgium, access is not subject to PIC (Prior Informed Consent) by the Belgian State as a Contracting Party (that is based on a written decision by a Competent National Authority on access and benefit sharing). Even if it is not compulsory, under the Nagoya Protocol, the Belgian State could decide that access is subject to PIC if it wishes and take the necessary legislative, administrative or policy measures, as appropriate, to provide for access permits by one or more Competent National Authorities and establish the mutually agreed terms for these access permits.

#### *National Focal Points and Competent National Authority (Art. 13.1, 13.2 and 13.4)*

a. subject	Each Party
b. obligation	- Designate a national focal point (NFP), which shall make certain information available - Designate one or more Competent National Authorities (CNA) - Notify the Secretariat of contact details of NFP and CNAs
Applies to	- Art. 13.1 = GR +TK - Art. 13.2= GR+TK

Nagoya NFP already exists. Belgium nominated an administrator of the DG Environment of the FPS Environment who currently ensures the function of national focal point on ABS (in accordance with

COP5 Decision V/26 of the CBD). However, this is only a first step, as the obligations related to the Competent National Authority still have to be implemented .

*Compliance with domestic legislation (Art. 15.1)*

a. subject	Each Party
b. obligation	Adoption of legislative, administrative or policy measures to provide that GR utilized within jurisdiction have been accessed by PIC and MAT as required by provider country legislation
Applies to	GR

Compliance with PIC and MAT, as requested by provider country legislation, requires compliance with public law and administrative acts as established by the Country of Origin of the GR, for such GR resources that are utilized within Belgium. Therefore, additional legislation will be needed in Belgium to provide for such compliance as required by the obligations under Articles 15, 16 and 18.

*Other Measures directly related to the articles of the Nagoya Protocol*

One existing measure with the potential to monitor the use of genetic resources deserves to be mentioned, namely the disclosure of the information on the country origin in patent application under Belgian law, whenever this information is available. As specified under the discussion of the options, this measure might play a role in the designation of checkpoints under the Protocol. However, this measure still needs to be completed in order to comply with Article 17.1 as it is not organized nor designated as a formal checkpoint.

Other existing measures that deserve to be mentioned in the context of Article 20 NP are the codes of conduct of IPEN and MOSAICC. The development of codes of conduct is strongly recommended as it has proven to be an effective and efficient means to further the implementation of the Protocol.

*Existing ABS-related policy measures and other initiatives in Belgium*

In addition to the existing legal framework described above, which is indirectly relevant to the implementation of the Nagoya Protocol, Belgium has already taken a number of policy measures and initiatives that are specifically concerned with ABS. Amongst other efforts stand the ABS-related policy objectives of the *Federal Plan for the integration of biodiversity in four key sectors*, and the *code of conduct for the sustainable use of micro-organisms and the international regulation of access* of the Belgian Co-ordinated Collections of Micro-organisms and the *IPEN code of conduct* (International Plant Exchange Network) used by the National Botanic Garden of Belgium. They provide a logical starting point for an in-depth implementation of the Nagoya Protocol.

The Federal Plan for the integration of biodiversity in four key sectors was adopted by the Federal Government in 2010. For each of the addressed sectors a separate and detailed action plan has been developed for integration of biodiversity, including several ABS-related measures. Examples include awareness-raising and capacity building of the private sector, increased participation of the customs administration in biodiversity policy, the support of gene banks and ex-situ conservation techniques for genetic resources in developing countries and the inventory of the national collection of plant germplasm.

In addition, in 2006, Belgium adopted its National Biodiversity Strategy 2006-2016<sup>1</sup>, which established 15 strategic objectives and 78 operational objectives to reduce and prevent the causes of biodiversity loss. The 6th strategic objective aims to contribute to an equitable access to and sharing of benefits arising from the use of genetic resources. This objective is projected to be realized amongst others through capacity building of national ABS stakeholders, further implementation of the Bonn Guidelines on ABS, and the establishment of an international regime on ABS.

## **IV. Recommended measures and options**

This first set of recommended actions form the basis of 'minimal implementation' for Belgium, addressing the minimal implementation of the core obligations. of the NP.

### **1. Access and Benefit Sharing**

#### **1.1. Establishing prior informed consent (PIC) and benefit sharing (BS) as horizontal principles**

As a first preliminary finding of the study on the implementation in Belgium of the Nagoya Protocol, it is recommended to establish Prior Informed Consent (PIC) and Benefit Sharing (BS) as a general legal principle in Belgium in order to implement article 5 (on benefit sharing) and article 6 (on access) of the Nagoya Protocol. As a general principle, the operationalization of PIC and BS should be phased, based on subsidiarity and be flexible.

The establishment of prior informed consent (PIC) and benefit sharing(BS) can be divided in two implementation components that are interrelated: the operationalization of PIC (first component) and the specification of the Mutually Agreed Terms (second component). The first implementation component could consider the operationalization of PIC through a notification/registration requirement to the Competent National Authority or authorities, in such a manner that it would allow the Belgian State to deliver an internationally recognized certificate of compliance to users, hence increasing legal certainty. In the second component, implementation measures related to the content of the mutually agreed terms of the access agreements, including as specified in the notification/registration procedure, should be considered. In line with Articles 4 and 8 of the Nagoya Protocol, these measures should have due regard for the particular features of certain sectors, species or areas and in line with Articles 1 and 9 they should contribute to the objectives of conservation and sustainable use of biodiversity.

#### **1.2. Subsidiary and flexible operationalization of prior informed consent (PIC)**

Physical access to biological material in protected areas and physical access to protected species in Belgium is already regulated, e.g. through contracts and/or permits, under the current regional

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<sup>1</sup> Belgian Coordination Committee for International Environment Policy(CCIIEP) (2006) Belgium's National Biodiversity Strategy 2006-2016..The process of drafting the National Biodiversity Strategy was initiated by the Interministerial Conference for the Environment in June 2000. The Strategy was elaborated by a team representing the major actors in the field of biodiversity in Belgium. It acted as a contact group under the "Biodiversity Convention" Steering Committee. This Steering Committee was established under the Belgian Coordination Committee for International Environment Policy (CCIIEP) under the auspices of the Interministerial Conference for the Environment, which endorsed the strategy the 26<sup>th</sup> of October 2006. The National Biodiversity Strategy is currently being updated and revised.

and/or federal legislation. However, additional measures are needed to operationalize the PIC requirement related to the utilization of genetic resources in these areas or for protected species.

#### **1.2.1. Protected Areas/ Protected Species legislation + default**

Because the protected areas and protected species may contain GR of actual or potential high value, and because of their importance for conservation and sustainable use of biodiversity, a first step in the implementation of the PIC and BS requirements could consider refining this legislation in order to include more specific regulation for the access to GR for utilization as defined under the Nagoya Protocol.

Additionally, for all the GR which are not in a protected area or which are not protected species a default rule could be adopted.

For the default rule, 2 options are proposed:

- **Option 1: The bottleneck: only ex-situ access to GR as default rule**  
Alongside the refinement of access legislation of protected areas and protected species, the default rule for GR which are not in a protected area or which are not a genetic component of a protected species under this option is that only Belgian collections can provide access to GR.
- **Option 2: The fishing net model: access from everywhere but with registration as default rule**  
Alongside the refinement of access legislation for protected areas and protected species, the default rule under this option is that GR can be accessed from anywhere, providing the user has registered/notified the CNA.

#### **1.2.2. Legislation for GR beyond protected areas/species + default**

An alternative option could consist of an enlarged approach to refining existing legislation regarding physical access to biological material. Beyond refining access legislation for protected areas and protected species, also other legislation regulating access to a selected group of GR with actual or potential value (e.g. collections), could be considered with the view to operationalize PIC and BS requirements. Additionally, also in this case, a default rule will be needed for those GR not covered by such modified legislation. The default rule under this option is that GR can be accessed from anywhere, providing the user has registered/notified the Competent National Authority.

## **2. Competent National Authority (Art. 13.4)**

The designation of Competent National Authorities needs to be implemented no later than the entry into force of the Protocol for each Party. Therefore this measure deserves a special attention. Based on the options for the operationalization of PIC, the choice of the Competent National Authority would in the first place be based on the relevant competent authorities for protected areas and protected species. This means four Competent National Authorities would be created: one for each



of the three regions and a federal one, hence flowing from the actual division of competences in Belgium.

However, having four different Competent National Authorities might strongly complexify the access procedure, not in the least for foreign users. Additional efforts will be needed in order to clarify the access procedure, e.g. providing users with a clear overview on which of the four Competent National Authorities is responsible for handling access requests, depending on where/which GR are accessed, and/or through developing a single point of contact.

### 3. Compliance (Art. 15, 16 and 18)

The options for compliance will depend on the sufficiency of the existing criminal code, civil procedural code and Belgian PIC to fulfill the obligations of Articles 15, 16 and 18 of the Nagoya Protocol. Even if the current provisions of the Belgian code of private international law provide some dispositions on mutual recognition and enforcement of foreign judgements in the case of physical access to foreign material, they are clearly insufficient. The granting of PIC on the access to the genetic resource pertains to the country of origin of the GR applying its sovereign rights and therefore compliance with PIC involves public law and administrative acts, which fall outside of the scope of private international law.

To contribute to the implementation of Art. 15, 16 and 18 the following options are proposed:

#### **Option 1: Referring back to the provider country**

Under this option a general criminal provision is created that refers back to the legislation of the provider country. Under this option, the state would enact a general prohibition to use GR/TK accessed in violation of the law of the providing country. The sanctions for violation could in that case be a fine and a confiscation. The state could act *ex officio* to enforce this criminal provision, which is usually taken up on the basis of complaints by individuals. The fact that a violation of foreign law would be considered as a violation of national, Belgian law, and could be prosecuted and sanctioned as such, would make it easier for providers to subsequently claim civil law damages.

#### **Option 2: Self-standing obligation**

Under this option a provision is created containing an obligation to have PIC from the provider country and MAT for the utilization in Belgium of foreign genetic resources, if the legislation of the provider country requires this. As such Belgian legislation would not refer to the ABS legislation of the provider country more in general, but only to the specific obligations of PIC and MAT.

### 4. Checkpoints (Art. 17)

The operationalization of the checkpoints would take place in several phases. The first phase would be minimal implementation, necessary for ratification of the Nagoya Protocol, which requires the establishment of at least one checkpoint.

As legislation is already in place for the disclosure of origin in patent applications (whenever the information is available), it is recommended that in this first phase the patent office would function

as the only checkpoint. The latter would be made possible by an upgraded disclosure requirement in the patent applications, including information related to both the country of origin (as under the current legislation) and information on PIC from the country of origin.

In subsequent phases more effective checkpoints might need to be developed in order to monitor the utilization of GR. Possible checkpoints could include public research funding, ex-situ collections or intellectual property related checkpoints other than the patent authorities, such as authorities for assessing applications for geographical indications of origin.

Additionally, flowing from ideas currently being explored in the EU, a due diligence monitoring system could be established. Such a system would establish specific criteria which need to be fulfilled by all users within the jurisdiction. One option (amongst others) for implementing a due diligence system is to require each user to establish an in-house system to gather information about the provider country's ABS legislation, information about the fulfillment of compliance criteria to this legislation and to verify related facts.

## **5. National ABS Clearing House-component (Art. 14 and 17)**

The actual need for and modalities of a Belgian ABS Clearing House component will depend on the ongoing multilateral negotiations. In this context, it is still unclear whether a Belgian Clearing House component or only a Belgian entry point will be required. If there would be such a component/entry point required, it is clear that the generated information should be useful for Belgian research and development, as well as for the objectives of conservation and sustainable use of biodiversity and general awareness raising regarding ABS.

If needed, possible options for Belgian Clearing-House component are: Royal Belgian Institute of Natural Sciences (RBINS – which currently houses the CBD CHM), Belgian Federal Science Policy Office(Belspo), Scientific Institute for Public Health (WIV-ISP – which currently houses the Biosafety Clearing House).

## **6. National Focal Point (Art. 13)**

Options for the National Focal Point (NFP) to the Nagoya Protocol will depend on the choices for the other implementation measures.

(22 May 2012)

## Annex 1: Overview of Articles under the ABS Protocol that contain legal obligations

This list contains an analysis of the legal obligations emanating from the Nagoya Protocol that has been provided with the terms of reference of this study, by the four Belgian environmental administrations that commissioned this study. This list serves as the background for this study and has been used in particular in the gap analysis below.

(GR = GR; TK = Traditional Knowledge)

### Art. 4.2

a. Subject	The Parties
b. obligation	do not develop or implement other relevant international agreements which are not supportive of or do run counter to the objectives of the Convention and this Protocol.
	GR+TK

### Art. 4.3

a. Subject	?? (everyone with an implementing obligation)
b. obligation	implement Protocol in a mutually supportive manner with other international instruments under this Protocol
	GR+TK

### Art. 5.1 + 5.3

a. Subject	Each Party
b. obligation	take legislative, administrative or policy measures, as appropriate, for benefit sharing with providing party, upon MAT
	GR

### Art. 5.2

a. Subject	Each Party
b. obligation	Take legislative, administrative or policy measures, as appropriate, with the aim of ensuring benefit sharing with ILCs holding GR's, based on MAT
	GR

### Art. 5.5

a. subject	Each Party
b. obligation	take legislative, administrative or policy measures, as appropriate, for benefit sharing with ILC's holding TK, upon MAT
	TK

### Art. 6.1 + 6.3

a. subject	Each Party
b. obligation	- if requiring PIC for access: take legislative, administrative or policy measures, as appropriate, containing minimum requirements for access rules and procedures - OR determine that access is not subject to PIC
	GR

### Art. 6.2

a. subject	Each Party
b. obligation	take measures to ensure that PIC of ILCs is obtained for access to these GR
	GR

**Art. 7**

a. subject	Each Party
b. obligation	take measures, as appropriate, with the aim of ensuring that TK is accessed with PIC and MAT of the ILC holding TK
	TK

**Art. 8**

a. subject	Each Party
b. obligation	In developing and implementing ABS legislation: <ul style="list-style-type: none"> <li>- Create conditions to promote and encourage biodiversity research, including simplified measures on access for non-commercial research</li> <li>- Pay due regard to cases of present and imminent emergencies that threaten or damage human, animal or plant health</li> <li>- Consider the importance of GRFA</li> </ul>
	GR+TK

**Art. 9**

a. subject	The Parties
b. obligation	Encourage users and providers to direct benefits towards conservation of biological diversity and sustainable use of its components
	GR

**Art. 10**

a. subject	Parties (MOP)
b. obligation	Consider the need for and modalities of a global multilateral benefit-sharing mechanism for 1) GR and TK that occur in transboundary situations or 2) for which it is not possible to grant or obtain PIC
	GR+TK

**Art. 11**

a. subject	Each Party
b. obligation	Endeavour to cooperate in instances: <ul style="list-style-type: none"> <li>- where the same GR are found in situ within the territory of more than one Party</li> <li>- where the same TK is shared by one or more ILCs in several Parties</li> </ul>
	GR+TK (Art. 11.1 = GR, Art. 11.2 = TK)

**Art. 12**

a. subject	Parties
b. obligation	<ul style="list-style-type: none"> <li>- In implementing protocol, take into consideration indigenous and local communities customary laws, community protocols and procedures, with respect to TK</li> <li>- Establish mechanisms to inform potential users of TK about their obligations</li> <li>- Endeavour to support the development by ILCs, in relation to TK, of community protocols in relation to ABS, minimum requirements for MAT, model contractual clauses for BS</li> <li>- As far as possible, not restrict the customary use and exchange of GR and TK within and amongst ILCs</li> </ul>
	TK, except Art. 12.4= TK+GR

**Art. 13.1,2 and 4**

a. subject	Each Party
b. obligation	<ul style="list-style-type: none"> <li>- Designate a national focal point (NFP), which shall make certain information available</li> <li>- Designate one or more Competent National Authorities (CAN)</li> <li>- Notify the Secretariat of contact details of NFP and CANs</li> </ul>

	- Art. 13.1 = GR +TK - Art. 13.2=GR+TK
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**Art. 14.2**

a. subject	Each Party
b. obligation	Making certain information available on the ABS Clearing House
	GR+TK

**Art. 15.1**

a. subject	Each Party
b. obligation	Adoption of legislative, administrative or policy measures to provide that GR utilized within jurisdiction have been accessed by PIC and MAT as required by provider country legislation
	GR

**Art. 15.2**

a. subject	Parties (!), (compare with Article 16.2)
b. obligation	Adoption of measures to address situations of non-compliance with Article 15.1
	GR

**Art. 15.3**

a. subject	Parties
b. obligation	As far as possible cooperate in cases of alleged violation of provider country legislation
	GR

**Art. 16.1**

a. subject	Each Party
b. obligation	Legislative, administrative or policy measures to provide that TK utilized within jurisdiction has been accessed in accordance with PIC and MAT with legislation of country where ILCs are located
	TK

**Art. 16.2**

a. subject	Each Party (!)
b. obligation	Adoption of measures to address situations of non-compliance with Article 16.1
	TK

**Art. 16.3**

a. subject	Parties
b. obligation	As far as possible cooperate in cases of alleged violation of legislation of country where ILCs are located
	TK

**Art. 17.1**

a. subject	Each Party
b. obligation	Adoption of measures to monitor and enhance transparency about the utilization of GRs, which shall include a) the adoption of one or more checkpoints, b) encouraging the inclusion of provision on the sharing of information on the implementation in MAT, c) encourage the use of cost-effective communication tools and systems
	GR

**Art. 17.2-4 (indirect obligation)**

a. subject	Each Party
b. obligation	Minimum-information to be made available to the CHM when notifying permits (read in

	conjunction with Art. 14.2.c) Permits or equivalents issued in accordance with Art. 6.3.e) and made available to CH have to be accepted as internationally recognized certificates of compliance and have to be accepted as evidence that GR have been accessed with PIC and that MAT have been established, as required by provider country.
	GR

**Art. 18.1**

a. subject	Each Party
b. obligation	Encourage providers and users of GR and TK to include provisions in MAT to cover dispute resolution
	GR+TK

**Art. 18.2**

a. subject	Each Party
b. obligation	Ensure that an opportunity to seek recourse is available for disputes arising from MAT
	GR+TK

**Art. 18.3**

a. subject	Each Party
b. obligation	Take effective measures regarding: <ul style="list-style-type: none"> <li>- Access to justice</li> <li>- Utilization of mechanisms regarding mutual recognition and enforcement of foreign judgements</li> </ul>
	GR+TK

**Art. 19.1**

a. subject	Each Party
b. obligation	Encourage the development, update and use of model contractual clauses for MAT
	GR+TK

**Art. 20.1**

a. subject	Each Party
b. obligation	Encourage the development, update and use of ABS voluntary codes of conduct, guidelines and best practices and/or standards
	GR+TK

**Art. 21**

a. subject	Each Party
b. obligation	Take measures to raise awareness of the importance of GR and TK, and related access and benefit-sharing issues
	GR+TK

**Art. 22.1 + 2**

a. subject	The Parties
b. obligation	<ul style="list-style-type: none"> <li>- Cooperate in the capacity-building, capacity development and strengthening of human resources and institutional capacities to effectively implement the Protocol in developing country parties</li> <li>- Facilitate the involvement of ILCs and relevant stakeholders</li> <li>- Take into account their needs</li> </ul>
	GR+TK

**Art. 23**

a. subject	The Parties
b. obligation	- Collaborate and cooperate in technical and scientific research and development programmes - Promote and encourage access to technology and transfer of technology, Where possible in and with provider countries
	GR+TK

**Art. 24**

a. subject	The Parties
b. obligation	Encourage non-parties to adhere to the Protocol and to contribute information to the CHM
	GR+TK

**Art. 25.1+4**

a. subject	Parties (25.4 The Parties)
b. obligation	- In considering financial resources for the implementation of the Protocol, take into account Art. 20 CBD - Take into account the needs of developing country Parties in their efforts to identify and implement their capacity building and development requirements
	GR+TK

**Art. 29**

a. subject	Each Party
b. obligation	- Monitor the implementation of its obligations - Report to MOP on measures taken to implement the Protocol
	GR+TK