

Study for the implementation of the Nagoya Protocol in Belgium

Presentation of preliminary findings of the study

Brussels, 29 May 2012

This presentation reflects work in progress. It is based on the provisional results of the Study, based on work both by UCL team and the steering committee, with the aim of collecting input from stakeholders on the most relevant options for implementing the Nagoya Protocol in Belgium

Stakeholder workshop on the
implementation of the Nagoya
Protocol in Belgium, 29th May 2012

Steps of the study

- Analysis of the existing legal framework in Belgium (phase 1)
 - How are genetic resources (GR) and Traditional Knowledge (TK) regulated under the existing legislation in Belgium?
 - What are the existing measures (legal and non-legal) that are currently in place in Belgium and which are directly relevant for the implementation of the Nagoya Protocol?
- Establishment of options and recommendations for possible measures and instruments (legal and non-legal) for the implementation of the Nagoya Protocol in Belgium (phase 2 and 3a of the study).
- **Impact assessment of the options and recommendations (phase 3b)**
- **Reporting (phase 4)**

Scope of the analysis

1. The Protocol applies to GR originating from
 - Countries of origin (i.e. providing *in-situ* GR)
 - Parties that have acquired the GR in accordance with CBD
 - *ex-situ* GR acquired prior to NP is still under discussion



this report's focus:

- provider country's *in-situ* GR
 - GR in *ex-situ* collections acquired in accordance with CBD and/or NP
2. The Protocol applies to TK associated to GR ; however :
 - no contemporary legal provisions in Belgium explicitly governing the concepts of "traditional knowledge"
 - the relevance for Belgium therefore seems to be limited to rights over TK associated to GR for indigenous and local communities established by foreign domestic law.



Study & NP = work in progress

Existing legal measures in Belgium

Access

- If requiring PIC for access each Party shall 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
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- Access to GR is currently not subject to PIC by the Belgian State
 - Belgian can require PIC or not. If PIC required measures needed for access permits and MAT

Existing legal measures in Belgium

NFP & CNA

- 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
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- ABS NFP currently exists (FPS Environment)
 - CNA obligations still have to be implemented

Existing legal measures in Belgium

Compliance with domestic legislation

- 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
- acquisition and loss of property rights established by the laws of the State where the good was situated at the moment these acts or facts have occurred (i.e. moment of acquisition)
 - compliance with PIC requirements involves public law requirements and administrative acts in the Country of Origin of the GR

Other existing measures in Belgium

- Disclosure of the information on the country origin in patent application
- IPEN and MOSAICC codes of conduct
- National Biodiversity Strategy 2006-2016: contribution to ABS

Indirect measures

- environmental law provisions on physical access to genetic material in nature parks and protected species
 - E.g. regulation of collection of specimens
 - E.g. derogations for research and education