

Exchange of views and discussion on possible options for implementation

Brussels, 29 May 2012

Overview Core implementation obligations

1. Establish PIC and Benefit sharing (BS)
2. Competent National Authority (CNA)
3. Compliance
4. Monitoring the utilization of GR
5. National ABS Clearing-House component
6. National Focal Point

Discussion of proposed preliminary measures/options

- Are they a good basis for further research regarding the implementation of the Nagoya Protocol in Belgium? Are there other relevant measures/options that should be taken on board?
- What could be the advantages and disadvantages of the different measures and options for implementing the Nagoya Protocol?
- Is there any other specific relevant information available that the stakeholders could share with the study team?

Access to GR (PIC - BS)

No PIC required from BE	PIC required from BE
<p><u>Possible Advantage/Disadvantage</u></p> <ul style="list-style-type: none"> + No additional legal measures needed (except on BS and clarification current situation) + Lower administrative burden for users at time of access - Lack of legal certainty for user as limited proof of legal access - No access data/statistics kept - No tracking of accessed GR (in BE) - Limited control on BS of GR accessed in BE 	<p><u>Possible Advantage/Disadvantage</u></p> <ul style="list-style-type: none"> + increased legal certainty: internationally recognized certificate of compliance (!) + keeping track of accessed Belgian GR + Keeping access data/statistics + useful information for R&D and CSU + more effective implementation of the NP (PIC linked to BS) - Need to develop access rules/procedures - May create additional administrative burden for users, also for biodiversity related research

Subsidiary and flexible operationalization of PIC

<p>Bottleneck: refined PA/PS legislation + only ex-situ access to GR as default</p>	<p>Fishing net: refined PA/PS legislation + access to other GR: registration as default</p>	<p>Intermediary model: enlarged PA/PS legislation + same default as fishing net</p>
<p>Possible Advantages/Disadvantages</p>		
<ul style="list-style-type: none"> + reduced burden for PS/PA (existing legal basis, CSU link) + centralized system facilitates monitoring, data generation/ collection, follow up of MAT + BS could generate additional financial support/data for coll. + Costs limited as most already work through standard MTAs - Costs/burden involved for access when GR are not yet in coll. - much GR outside collections - the value of the BE GR (outside coll/PS/PA) might not justify the added expenses 	<ul style="list-style-type: none"> + reduced burden for PS/PA + low costs for the State if notification obligation is setup through standard system + lighter administrative burden encourages use, and incentive to provide data - Default category difficult to monitor if much use and for subsequent applications - not sensitive to specific uses beyond PS/PA - might need to limit the default to non-commercial use 	<ul style="list-style-type: none"> + same advantages as for fishing net + Reduces amount of GR in default category + picks up specificities of certain GR/GR uses - Similar disadvantages as Fishing net but with less consequences given reduced default category - only interesting if potentially interesting BE GR outside PS/PA

Competent National Authority

<p>4 authorities - separate input: 3 regional + 1 federal CNAs</p>	<p>4 authorities - centralized input: 'point of single contact' for all access</p>
<p><u>Possible Advantage/Disadvantage</u></p> <ul style="list-style-type: none">+ each authority organizes individually- User needs to know who's authorized for which GR before requesting access- difficult to anticipate all requestsIncreased burden for administrations and users- possible different operationalization reduces clarity	<p><u>Possible Advantage/Disadvantage</u></p> <ul style="list-style-type: none">+ reduced administrative burden as user has only one contact+ less confusion re which authority should provide the GR access+ avoids double work in administrations (to develop own systems)+ more clarity through uniform process (remark: different levels of process integration and harmonization are envisageable)- Higher initial administrative burden for 4 authorities to establish a common system- closer cooperation needed

Compliance

Existing criminal code, civil procedural code & Belgian PIC is not sufficient to fulfill the obligations of article 15, 16 and 18 NP.

Option 1: Referring back to the provider country legislation	Option 2: Self-standing obligation
Possible Advantages - Disadvantages	
<p>+ strong measure to support compliance with <i>entire</i> provider country's PIC/ABS legislation</p> <p>- Requires more effort of BE enforcement authorities to check/enforce compliance</p> <p>- Might add to legal uncertainty in BE for their users, eg in case of third party transfer of GR</p>	<p>+ statutory choice of limiting the BE enforcement of provider countries legislation in BE (eg. On delicate aspects of scope)</p> <p>+ less legal complexity for users in BE</p> <p>- possibility to address compliance of provider country's ABS legislation statutory (and therefore strictly) limited to requirement of PIC and MAT</p>

Monitoring/Checkpoint(s)

Combine several instruments, executed by the appropriate authorities and at the appropriate level with a view to come to effective monitoring

COM proposal?

Phase 1: PIC + upgraded patent disclosure
Phase 2: more effective checkpoints added

Public research
funding, coll.,
other IP auth,
...?

Advantages

- + fast start with ltd. resources
- + early ratification
- + time to identify problems
- + time to learn from others

Disadvantages

- Should not wait to address existing problem areas
- Longer time span to come to effective checkpoints

National ABS – CHM Component

Two separate functions of a CHM Component for ABS:

1. Information exchange on ABS, including on the NP, within framework of CBD
 - This is ongoing and can be further strengthened by integrating more into the BE CBD CHM managed by the Royal Belgian Institute of Natural Sciences (RBINS)
 - Questions: Knowledge and use of BE CBD CHM for NP? Info lacking?
2. Support exchange of information on specific ABS measures within the framework of the NP
 - Measures needed to organize technical information to be provided to the NP CH (for example on the international certificate of compliance)
 - Depending on decision on exact modalities, three options could be explored:

Option 1: RBINS (biodiv CHM)

Option 2: Belspo (biodiversity platform?)

Option 3: similar set up as for Belgian BCH?

Any other?

- ... relevant options, measures?
- ... relevant ideas, comments, elements for further reflexion?
- ... relevant information to share?

Thank you!