

Third National Report of Belgium to the Convention on Biological Diversity

C. ARTICLES OF THE CONVENTION

Article 15 - Access to genetic resources

110. Has your country endeavored to facilitate access to genetic resources for environmentally sound uses by other Parties, on the basis of prior informed consent and mutually agreed terms, in accordance with paragraphs 2, 4 and 5 of Article 15?

a) No	
b) Yes (please provide details below)	X

Further information on the efforts taken by your country to facilitate access to genetic resources for environmentally sound uses by other Parties, on the basis of prior informed consent and mutually agreed terms.

The **National Botanic Garden of Belgium** developed a policy for exchange of genetic resources and benefit sharing in line with most of the other European botanic gardens.

In response to the Convention on Biological Diversity, material is only provided by the Garden to public institutions working in the areas of research, trialling, breeding, conservation and education. No material is provided to individuals or commercial enterprises. Furthermore, any material obtained may not be used to generate commercial profit. Finally, material or its progeny passed on to third parties must adhere to the same conditions.

The **International Network for the Improvement of Banana and Plantain** (INIBAP) conserve all available banana and plantain genetic resources. INIBAP has put in place a system for the safe movement of varieties, this material is distributed freely to users under the terms and conditions of a Material Transfer Agreement.

111. Has your country taken measures to ensure that any scientific research based on genetic resources provided by other Parties is developed and carried out with the full participation of such Parties, in accordance with Article 15(6)?

a) No	
b) No, but potential measures are under review	
c) Yes, some measures are in place (please provide details below)	X
d) Yes, comprehensive measures are in place (please provide details below)	


Further information on the measures to ensure that any scientific research based on genetic resources provided by other Contracting Parties is developed and carried out with the full participation of such Contracting Parties.

Budget lines from the **Belgian Development Cooperation** are available to launch research projects in developing countries in cooperation with Belgian research institutes. Budget lines from the **Belgian Science Policy** are available in the framework of specific bilateral agreements. It may concern projects involving exchange of biological material and technology transfer.

112. Has your country taken measures to ensure the fair and equitable sharing of the results of research and development and of the benefits arising from the commercial and other use of genetic resources with any Contracting Party providing such resources, in accordance with Article 15(7)?

a) No	
b) No, but potential measures are under review	

c) Yes, some measures are in place (please provide details below)	X
d) Yes, comprehensive legislation is in place (please provide details below)	
e) Yes, comprehensive statutory policy or subsidiary legislation are in place (please provide details below)	
f) Yes, comprehensive policy and administrative measures are in place (please provide details below)	
Further information on the type of measures taken.	
The Belgian Coordinated Collections of Micro-organisms (BCCM) use a MTA following the Bonn guidelines and operate in such a way that tracking the biological material is possible.	
The National Botanic Garden of Belgium is member of IPEN, a network of Botanic Gardens that organises the exchange of living plant specimens.	
The NBGB and BCCM are discussing the compatibility of their respective approaches.	

113.  In developing national measures to address access to genetic resources and benefit-sharing, has your country taken into account the multilateral system of access and benefit-sharing set out in the International Treaty on Plant Genetic Resources for Food and Agriculture?	
a) No	X
b) Yes (please provide details below)	
Further information on national measures taken which consider the multilateral system of access and benefit-sharing as set out in the International Treaty on Plant Genetic Resources for Food and Agriculture.	
The International Network for the Improvement of Banana and Plantain (INIBAP) supply germplasms to users under the terms and conditions of a Material Transfer Agreement (MTA). INIBAP is following closely the ABS issue and the International Treaty on Plant and Genetic Resources Material Transfer Agreement development. The development of the ITPGR MTA is awaited for comparison with existing MTA in use in Belgium.	

114. Is your country using the Bonn Guidelines when developing and drafting legislative, administrative or policy measures on access and benefit-sharing and/or when negotiating contracts and other arrangements under mutually agreed terms for access and benefit-sharing? (decision VII/19A)	
a) No	
b) No, but steps being taken to do so (please provide details below)	
c) Yes (please provide details below)	X
Please provide details and specify successes and constraints in the implementation of the Bonn Guidelines.	
Case by case negotiation takes place directly between providers and users without involvement of public authorities in so far the contractual arrangements are lawful.	

115. Has your country adopted national policies or measures, including legislation, which address the role of intellectual property rights in access and benefit-sharing arrangements (i.e. the issue of disclosure of origin/source/legal provenance of genetic resources in applications for intellectual property rights where the subject matter of the application concerns, or makes use of, genetic resources in its development)?

a) No	
b) No, but potential policies or measures have been identified (please specify below)	
c) No, but relevant policies or measures are under development (please specify below)	
d) Yes, some policies or measures are in place (please specify below)	X
e) Yes, comprehensive policies or measures adopted (please specify below)	

Further information on policies or measures that address the role of IPR in access and benefit-sharing arrangements.

Belgium has amended its patent laws of 18.03.1984 in function of the implementation of the Directive 98/44/EC of the European Parliament and of the Council of 06.07.1998 on the legal protection of biotechnological inventions.

The current Belgian patent law goes beyond the conditions to comply with Directive 98/44/EC, and brings the legislation on patents in accordance with international developments. Since practical modalities on disclosure of origin are still being discussed at international level, the law provides a leeway for further developments. The new requirement "that patent applications must contain the geographic source of the plant or animal material, if known, that formed the basis for the development of the invention" is a formal requirement that aims to contribute to transparency with regard to the geographic origin of the genetic source on which the invention is directly based.

116. Has your country been involved in capacity-building activities related to access and benefit-sharing?

a) Yes (please provide details below)	X
b) No	

Please provide further information on capacity-building activities (your involvement as donor or recipient, key actors involved, target audience, time period, goals and objectives of the capacity-building activities, main capacity-building areas covered, nature of activities). Please also specify whether these activities took into account the Action Plan on capacity-building for access and benefit-sharing adopted at COP VII and available in annex to decision VII/19F.

Belgium supports a research network on ABS governance coordinated by the Centre for Philosophy of Law of the **Catholic University of Louvain** (UCL) (within the IAUP V programme), providing PhD fellowships for students coming both from developed and developing nations. This programme also is supported by an integrated project coordinated by the CPDR and funded through the 6th framework programme for research and development. A website is being developed to capitalise the results of these programmes: www.cpdr.ucl.ac.be/biodiversity.php.

Capacity building on the implementation of the ABS provisions in the field of microbiological information is a key component of the building of a future technology platform of biological resource centres (EPIC: European Platform for International Biological Resources Consolidation), coordinated by the **BCCM**.

BCCM, in collaboration with the World Federation for Culture Collections, has organised a training course 'Management of Culture Collections of Micro-organisms' in Morocco. IPR and ABS was one of the topics of the course. In addition, the trainees had the opportunity to handle specific IPR and ABS cases during tailor-made case study sessions.

The **Belgian Development Cooperation** supports capacity-building activities contributing indirectly (though not explicitly) to the ABS objective of the Convention, through different development co-operation channels. Most of the ABS-related development aid deals with agronomic research, training and technical assistance, either through inter-universitarian co-operation or through support to international organisations (CGIAR and several of its components: IITA, ICRISAT, CIMMYT, IRRI, IPGRI, CIAT, ILRI, ICRAF). The overall support for the CGIAR-related institutes amounts to €6,000,000 for 2003, of which €4,000,000 consists of earmarked funding through a dozen of programmes that include an ABS component.

Through UNESCO, Belgium provides support (€125,000 in 2002; €180,000 in 2003) to the ERAIFT (Ecole Régionale d'Aménagement et de gestion Intégrés des Forêts Tropicales) in the Democratic Republic of Congo, with a strong emphasis on high-degree education aiming at the conservation and the sustainable use of forest resources. A component herein addresses the issue of the access to and the equitable sharing of benefits from the rain forest genetic diversity for the local populations.

Inter-universitarian ABS-related cooperation includes research and training programmes in developing countries' universities in such topics as: crop protection and resistance improvement, livestock food and livestock health improvement, applied microbiology. They cover: Senegal, Kenya, China, Ecuador, Cuba.

Support to fair trade projects through development NGO's contributes to improve both the diversification of local production and the sharing of benefits from biodiversity resources in favour of small producers. Yearly, around €70,000 are devoted to this support by the Belgian Development Cooperation.

Box LIV.

Please elaborate below on the implementation of this article and associated decisions specifically focusing on:

- a) outcomes and impacts of actions taken;
- b) contribution to the achievement of the goals of the Strategic Plan of the Convention;
- c) contribution to progress towards the 2010 target;
- d) progress in implementing national biodiversity strategies and action plans;
- e) contribution to the achievement of the Millennium Development Goals;
- f) constraints encountered in implementation.

f) funding of the 5-days training course in Morocco has been obtained mainly from a small subnational budget line, although it had an multilateral, North-African impact with participants from nine countries. Budgets for such courses are generally low and it is more difficult to get the appropriate funding for 'micro'-projects and small events than for big programmes, although these micro-projects are very effective, fill a gap at short and medium time and answer specific practical needs, by helping managers of biological resources in developing countries to face the problems they encounter in their daily operations.

Multilateral projects are less likely to be financed by national bodies than by international instances, but the administrative work to get financial support from international bodies is disproportionate compared to the necessary budget. The design of a micro-budget for micro-projects up to €75,000 should be undertaken in the framework of the CBD, on the model of the micro-loans in developing countries.