Article 25. Financial Mechanism and Resources

1. In considering financial resources for the implementation of this Protocol, the Parties shall take into account the provisions of Article 20 of the Convention.

2. The financial mechanism of the Convention shall be the financial mechanism for this Protocol.

3. Regarding the capacity-building and development referred to in Article 22 of this Protocol, the Conference of the Parties serving as the meeting of the Parties to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the Conference of the Parties, shall take into account the need of developing country Parties, in particular the least developed countries and small island developing States among them, and of Parties with economies in transition, for financial resources, as well as the capacity needs and priorities of indigenous and local communities, including women within these communities.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed countries and small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building and development requirements for the purposes of the implementation of this Protocol.

5. The guidance to the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply, mutatis mutandis, to the provisions of this Article.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of, financial and other resources for the implementation of the provisions of this Protocol through bilateral, regional and multilateral channels.

1 Overview

As foreshadowed in the opening provision of the Protocol, appropriate funding is essential to achieve the objective of the Protocol – ensuring fair and
equitable benefit-sharing, as well as contributing to biodiversity conservation and sustainable use.¹ Financial solidarity – as an international obligation of intensified cooperation without expectations of reciprocity² – is also a necessity in light of the fact that Parties with limited capabilities³ will be unable to comply with the obligations under the Protocol, particularly as they will face several complexities in developing domestic ABS frameworks.⁴ Limited implementation by developing countries will inevitably undermine the functioning of the international regime, which is based on the interoperability of domestic ABS frameworks, to the detriment of the entire community of Parties to the Protocol.⁵ For these reasons, financial solidarity embodies one of the expressions of the principle of common but differentiated responsibility.⁶ It thus serves as a ‘test for the seriousness of efforts and willingness to cooperate’ of developed countries⁷ as an equitable contribution to a common task. In practice, however, the qualified and open-ended formulation of international obligations on financial solidarity (in the Nagoya Protocol, as well as in other multilateral environmental agreements) may lead Parties to avoid systematic scrutiny at the multilateral level of compliance with relevant obligations.⁸

¹ See this commentary on Article 1.
² Campanelli, “Solidarity,” op. cit., paragraph 17, and discussion of the obligation of solidarity in this commentary on Article 22, section 2.
³ This was clearly acknowledged in CBD Article 20(1), which reads: ‘Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.’
⁴ As acknowledged in Nagoya Protocol Article 22(4)(c).
⁵ Greiber et al., Explanatory Guide, op. cit., 221.