

NGO Statement on an International ABS-Regime

I speak on behalf of the undersigned NGOs present at this meeting.¹ We support the statement of the International Indigenous Forum on Biodiversity (IIFB) and congratulate the indigenous peoples on their achievements in securing the UN Declaration on the Rights of Indigenous Peoples. The principles contained in this declaration must serve as the starting point for the ABS deliberations and as minimal standards for a legally binding regime that prevents biopiracy and secures the rights of indigenous peoples and local communities over their territories, genetic resources and traditional knowledge. We also support the demand of IIFB to their full participation in these negotiations.

The documents of this meeting clearly show that current regulations and practices in place have not been able to stop biopiracy. Especially user countries have failed to implement the relevant provisions of the CBD.

The international regime should, *inter alia*:

- protect the inalienable rights of indigenous peoples and local communities;
- guarantee free and prior informed consent of indigenous peoples, local communities and countries of origin;
- establish the right to deny access to genetic resources and traditional knowledge;
- define conditions and processes that guarantee truly fair and equitable sharing of the benefits arising from any access;
- require a new free and prior informed consent when the use or user of the genetic resource or traditional knowledge changes;
- ensure participation of all rightholders in order to prevent ABS-agreements from causing conflicts between communities sharing same genetic resources and traditional knowledge;
- establish a multilateral mechanism for benefit sharing of genetic resources and traditional knowledge originating in more than one country or outside national territories such as the High Seas or Antarctica;
- ensure that legal systems in user countries guarantee that users comply with PIC and MAT;
- ensure that legal systems in user countries enable countries and rightholders providing genetic resources and traditional knowledge to enforce their rights in user countries;
- ensure that subsequent to the negotiated access the genetic resources and traditional knowledge can be kept free of intellectual property rights that restrict further access, thus preventing patenting life forms;
- contribute to the conservation and sustainable use of biodiversity.

A certificate of compliance will be an important tool to ensure compliance with, *inter alia*, PIC, MAT and national ABS legislation. It secures transparency concerning the origin of the genetic resource, the traditional knowledge and the negotiated restrictions of use. We welcome the report of the meeting of the group of technical experts in this respect. Such a certificate can only be effective if it is compulsory and supported by respective provisions in IPR-laws and market approval concerning genetic resources, derivatives and the associated traditional knowledge.

The ecological debt of mainly industrialized countries should be recognized. Biopiracy contributed to this debt and is still a major problem. To compensate for this ecological debt, industrialized countries should provide sufficient funding and other support to enable developing countries to conserve and sustainably use their biodiversity.

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