



Intervention on Positive Measures (Day 1, PM)

Members of the American BioIndustry Alliance (ABIA) appreciate the opportunity to participate in ABS WG-5 as an industry observer. The ABIA was founded by biotechnology companies in 2005 to engage pro-actively in the ABS process. ABIA member companies represent the broad spectrum of American biotech interests and are among the leading US biotech companies engaged in the issues before ABS WG-5.

While recognizing that stake-holders may not share in common all core interests, the ABIA nonetheless believes that it is critical for any international Access and Benefit Sharing (ABS) regime to recognize the ground realities by which businesses operate so that appropriate incentives are balanced against necessary enforcement provisions for the benefit of all stake-holders.

In other words,

The regime should include measures that demonstrably generate benefits and provide positive incentives that will encourage access to genetic resources and the equitable sharing of benefits relating to their commercialization.

The regime should be based on the actual experiences of stakeholders either at the local, regional or state level, including the actual experiences of countries, indigenous communities, NGOs, and industry.

The regime should be based only in reality and experience. On this basis, ABIA Members strongly take exception to the utility and benefit of any additional, new patent disclosure obligations of source and origin as a condition of patentability. However, there are substantial areas where we can find agreement with many CBD members. Here are a few suggestions:

1. Front-loaded non-monetary benefits, and continuing benchmarks or streams of benefits:

Technology Transfer/Capacity Building - - We support the observations throughout the afternoon on the critical need for ABS-related scientific and technical assistance/capacity building. Unlike patent disclosure, joint scientific research, science exchange and other capacity building programs have a proven positive track-record.

Codes of Conduct - - ABIA members support the work of the Biotechnology Industry Organization (BIO) on a Code of Conduct for bio-prospecting and related activities. BIO and ABIA Members and other leading biotechnology companies representing more than 95% of the global industry commit to meet existing CBD ABS obligations, including meaningful Prior Informed Consent (PIC), and Mutually

Agreed Terms (MAT) for commercialization. BIO and ABIA members have a proven positive record of compliance with the Bonn Guidelines.

2. Positive Incentives for ABS:

Traditional Knowledge Digital Libraries (TKDL) - - CBD Parties at varied stages of development, including India, Malaysia, Venezuela, China and others, have already implemented on-line databases of genetic resources and/or traditional knowledge. ABIA Members believe that TKDLs provide a greater degree of transparency and provide a valuable point of contact to the holders of traditional knowledge and sovereign rights over genetic resources.

ABS Model Material Transfer Agreements - - ABIA Members have from the outset supported MTAs and other mutually beneficial agreements which have been demonstrated to bring benefits to ABS Stake-holders and can include assignment of intellectual property rights, benchmarks and/or other royalty payments. BIO will present information tomorrow at the ABIA/BIO Side event about new model ABS MTA terms that may promote access and benefit sharing.

Increasing use of IPRs by Stakeholders - - ABIA Members support the continuing use of patents, trademarks and trade secrets, and expanded capacity building to promote awareness and ability of all CBD stakeholders to benefit from IPRs. A 2006 PIIPA Survey found high unmet demand in developing countries for IP training and capacity building.

Thank you.