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**Intervention by ICC on behalf of business delegation on access and benefit sharing , 21 May 2008  
UN CBD 9<sup>th</sup> Conference of the Parties (COP) Meeting, Bonn, Germany**

*Intervention Presented by Michael D. Hauser*

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ICC speaking on behalf of the business delegation.

Complimenting the co-chairs for their tireless efforts in moving the ABS negotiations forward.

Business remains **committed to the principles of the** Convention on Biological Diversity (CBD) and looks forward to contributing to substantive discussions in the access and benefit sharing (ABS) negotiations between now and COP 10. The business community has been an active participant in ABS negotiations since even before the entry into force of the CBD in 1993. The business delegation in the ABS negotiations, coordinated by the International Chamber of Commerce (ICC), continues to grow and today represents the interests of numerous business sectors.

**Business plays an essential** role in creating benefits from genetic resources as well as their sustainable preservation and use. Additionally, business can add considerable expertise in areas such as cost benefit and gap analysis, administrative management, planning and resourcing. As a result, sufficient business representation is essential in TEGs and other important discussions regarding ABS.

**The business delegation reminds participants of the following:**

**Access and benefits are fundamentally linked.** Benefits which can be shared accrue only if fair access is granted.

All countries are already **interdependent in terms of genetic resources**. Most countries depend *heavily* on genetic resources accessed from other countries. This interdependence exists equally for countries with extensive biodiversity.

**Different sectors use various methods** to access, use and create value (and thus benefits) from genetic resources.

**Genetic resources are** utilized in many different ways:

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They are not always present in a final product. Rather, the genetic resource may be a step in a process, a research tool or catalyst, a part of a raw material, or an inactive component of a vaccine or herbal medicine;

They may be used in their original form, a modified form, or simply as a source of information (e.g. as a digital gene sequence) or be completely substituted by synthetic models;

They may be used as a fully functional organism or only as a sub-unit of an individual gene;

They may be consumed in an end-market sale or may be reusable;

The **complexity in movements** of genetic resources and the **variety of their sources** also vary:

Many genetic resources have long since been extracted from their original natural environment. Many have become commodities or staple commercial products in the global trading system.

Every day, there are millions of common transactions of genetic resources and of items in some way derived from genetic resources.

**Product development** of genetic resources involves long-term risk and investment, because:

The duration of a product development cycle may take decades;

The success rate of new product development may vary, but often is very low;

Even when the success rate is high, margins may be low;

The usage of genetic resources may or may not be associated with the creation of intellectual property.

Given these observations, the business delegation provides these **selected views**:

Discussions which relate ABS process compliance to patents are more properly undertaken in WIPO.

A "**one-size-fits-all**" ABS regime would be impractical and ineffective for all stakeholders and counter-productive to the CBD's goals. Rather, a more nuanced, practical, and informed approach, respectful of the differences between the various sectors, is necessary.

Any **international ABS regime** should provide guidance to national ABS regimes, work to harmonize efforts among those national ABS regimes, and integrate international systems related to genetic resource management in other international conventions and organizations concerned. Most significant



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among them are: the United Nations Food and Agricultural Organization International Treaty on Plant and Genetic Resources for Food and Agriculture ((FAO ITPGRFA), the International Union for the Protection of New Varieties of Plants (UPOV), the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). The mandates of these organizations should be respected, in particular with regard to: requirements for IP-protection; and the definition and protection of “traditional knowledge”.

The **Bonn Guidelines** still remain the best roadmap to develop and maintain an ABS regime. Through the Bonn Guidelines, the responsibilities of sovereign nations are respected and their full authority can be brought to bear upon the challenge of ABS. Important elements of an ABS regime should always be: one national focal point, non-discriminatory access, legal certainty, and transparency.

Finally, business offers the ICC as a point of contact to integrate business into all our ABS efforts.