

**Civil Society Organisations' Statement on Compliance  
ABSWG-8, Montreal, Canada - 10 November 2009**

Mr. Co-Chairs, Dear Party Delegates,

I speak on behalf of the Civil Society Organisations present at this meeting.

As we have already pointed out, the International Regime on Access and Benefit Sharing has to be a legally binding protocol to the CBD. We are of the opinion that any legally binding agreement can only be implemented properly if it provides for a strong and effective compliance mechanism.

The compliance mechanism of the future ABS Protocol should, amongst others, consist of following elements:

- 1) A certificate of legal compliance: Such a certificate informs about the use allowed under the MAT and basically works as a "passport" which allows monitoring of the flow and use of genetic resources and traditional knowledge associated with genetic resources.
- 2) Checkpoints that control the "passport": Such checkpoints could be, amongst others, patent offices, market approval institutions, research funding institutions. With these checkpoints an effective system for monitoring and controlling can be established. Such a monitoring and control system will reduce the burden of the provider to seek justice only in the court system, as suggested by some Parties.
- 3) Coverage of misuse and misappropriation: A comprehensive compliance system has to cover both misuse and misappropriation; therefore, a contract based system is incomplete.
- 4) Access to justice for Indigenous Peoples and Local Communities: A comprehensive compliance system has to guarantee access to justice for Indigenous Peoples and Local Communities, in this context we support the proposal of an ombudsperson.
- 5) Compliance of non-Parties: We are of the opinion that non-Parties have to comply with the same standards as Parties when they seek access to genetic resources and traditional knowledge associated with genetic resources.

Thank you, Co-Chairs