

**Notes on Lessons Learned
Meetings and Discussions at ABS Working Group, Grenada**

Note: To be entered into structured feedback table

1. Presentation at Side Event on Swiss Initiatives

- Need to improve ABS MT website
- Question of how to provide researchers (and other GR users) "legal certainty" that the access is legitimate and that providers of the GR have the right to give it – same issue with companies dealing with researchers or other companies e.g. that they purchase
- So a key challenge for the MT is how it interacts with legal regimes;
- possible **MT improvement** :
 - How to ask the right questions to determine legal certainty or steps to take
- Review the Swiss guide for individual researchers – some good approaches to **providing answers to challenges**

2. Presentation at Side Event on BIO Principles

- JC presented emphasizing the need to build trust (JC to add his speaking notes)
- Good discussion in the workshop providing comment and questions about the BIO bioprospecting principles
- **Guidelines for BIO Members Engaging in Bioprospecting and the ABS MT** – Elements of the BIO Guidelines bear strong resemblance to some of the MT standards – both the scope of the Guidelines which goes beyond Bonn Guideline elements (e.g. Measures to Protect the Interests and Rights of Indigenous and Local Communities) reflecting key standards in the MT; and some of the specific language e.g. on conservation and sustainable use – which are close to our standards language) – this may of course be incidental i.e. these are relevant to such guidelines; or it may well be that the MT has informed BIO and its members (who wrote the guidelines) – to be explored when we meet with BIO
- There is a similar situation with regard to **the Japan Bioindustry Association/Ministry of Economy, Trade and Industry Guidelines on Access to Genetic Resources for Users in Japan** and the ABS MT; Seizo Sumida has told us that these guidelines were informed by the MT, as well as other sources such as MOSAICC's Micro-Organisms Sustainable Use and Access Regulation International Code of Conduct
- Why the principles/**demand for Guidelines**:
 - BIO members concerned about the uncertainty and risk associated with accessing and using GR where cannot

define "ownership rights" ; do not want to be accused of biopiracy

- Build legitimacy with providers
 - Safeguard interests of providers
- See Dupont policy/principle on access to genetic resources
- **Possible improvements relevant to the MT:**
- Dispute resolution
 - MT as a complementary instrument to industry guidelines
 - Some form of "compliance" mechanism e.g. sanctions for BIO members not following the Guidelines; some form of verification system; Guidelines as "mandatory" for members/those subscribing to the ABS-MT
 - Transparency as key – e.g.. disclosure of benefits shared
 - A supporting document which providers range of benefits for different circumstances
 - E.g different sectors, different stages of use

Geoff Burton idea – look for benefits which are 1) most valuable to providers (e.g. maintain sets of samples, participate in the research) and not costly/or difficult to provide by user – a win win and most importantly low transaction costs

Ping Pereira idea - Trust can be built by demonstrating good faith; ways for a prospective user/company to do this are:

- take time (e.g. on own or through regulation give the providing community 6 months review period prior to final decision on access
- learn and work to customary law and practices/follow local rituals genuinely

On patent rights (lawyer from Lilly pharmaceutical) made a presentation on a Peruvian challenge to US patents on materials from Peru: her main points were:

- Mostly not our members i.e. not biotech, agriculture, pharmaceuticals who were involved
- Mostly producers of herbal medicines, botanicals, cosmetics
- Mostly extracts from bulk materials not GR isolations involved; most of the source materials are available on the market and seem to be sourced in more than one country

3. Presentation at Side Event with Indigenous Peoples – 8j Meeting

Jorge to fill in

4. Discussions with Lourdes Amos (Des) – Philippines + Asia Indigenous Peoples Pact

Des remains interested in the MT and would like to remain as an "observer" to the Advisory Committee

G.Greene Feb 1, 2006

Her views on the MT from an Indigenous community perspective are:

- too technical and hard for people to use
- not providing specific guidance to local communities
- BUT
 - o It does try to support the right kind of practices
 - o Could be used (if applied properly) to help local communities

She does not think that a meeting or discussion with the Asian Indigenous Peoples Pact is a good idea (not clear why other than sense that the group is too diverse; we need to get feedback at the local level, working with communities)

She is interested to see if the **MT can be used with an Indigenous community in Philippines**; this could involve:

- a situation where access has already been given (or taken) so the focus would be on getting benefits; developing a benefit sharing arrangement
- this could be made possible by Philippines law which recognizes community ownership of and rights to biological resources
- the focus of a possible testing of the MT would likely be on biological resource use rather than specific genetic resource use
- we would need to work with the community – coaching and learning about their local practices and traditional law.
- The purpose would be to determine what type of tool/guide is needed – it could be that the MT will need a different element or even a separate guidance document for local community providers

Follow up:

- She will discuss this with Ping Pereira and others and get back to us;

A meeting could be held in Curitiba to discuss

- We need to be prepared to write down what she and her colleagues tell us the next time we meet (if we ask her and she agrees) – she has a lot of wisdom and experience to offer which is hard to recall following an informal discussion

She would like us to send her several copies of the MT in English and in Spanish

5. Discussion with Preston Scott – follow on to Tanzania Field Test

- He agrees with key lessons learned prepared by JC in presentation to the Advisory Committee
- It is important to remember that while we are intent on having the MT used, companies are not driven by ABS; for them taking account of ABS requirements is only one factor in decision making for a genetic resources project (something to be taken care of but not a driver)
- He feels that continuing discussions and work with the Tanzania government might have overcome their reluctance to work with the company and tests the MT – the MT could be used as a “hidden hand” to guide such a workshop
- He suggests a “project development” workshop with the actors in preparing the ground for negotiation and for use of the MT
- We have to use the MT “carefully” – to respect company sensitivities to not “get ambushed” by ideological NGOs
- He mentioned the possibility of pursuing a field test in Bhutan

G.Greeney Feb 1, 2006