



DEVELOPMENT, INNOVATION AND INTELLECTUAL PROPERTY PROGRAMME (DIIP)

Monthly Update

February 2016

HIGHLIGHTS

- Side Event to the Twenty-Ninth Session of the WIPO Committee on Genetic Resources, Traditional Knowledge and Folklore: *Preventing Misappropriation of Genetic Resources and Traditional Knowledge: What is the Role of WIPO?* 18 February, held at WIPO Headquarters in Geneva. Viviana Munoz Tellez chaired the panel.



- Carlos Correa, South Centre, highlighted the importance of the disclosure of origin and source obligation with respect to genetic resources (GRs) and associated traditional knowledge (TK) in applications for patent and plant variety protection rights (PVP), as steps towards the implementation of prior informed consent and benefit sharing (ABS) as well as ensuring compatibility between WTO TRIPS Agreement and the Nagoya Protocol to the Convention on Biological Diversity (CBD). Many national and regional laws have already incorporated this obligation. Large numbers of developing countries have proposed at the WTO to include disclosure requirement under Art 29(bis) of the revised TRIPS agreement. The disclosure requirement is consistent with Art. 27(1) of the TRIPS agreement.
- David Vivas, UNCTAD, discussed the relationship between the establishment of a disclosure of origin obligation with respect to GRs and associated TK in IPR applications to meeting the UN Sustainable Development Goals (SDGs) 14 and 15, particularly Target 15.6 and obligations under the CBD Nagoya Protocol. There are examples of compliance with ABS requirements and disclosure by firms, resulting in a win-win outcome for all parties. Members of WIPO, as a UN organization, are bound by the mandate of the SDGs. The WIPO IGC committee in its work must take into account the Nagoya Protocol. 70 countries have ratified the protocol.

- Francois Meienberg, The Berne Declaration, drew a comparison between Swiss banking secrecy laws and the absence of an obligation to disclose origin and source of GRs and associated TK in patent laws. The patent system should not support the violation of ABS laws of other countries. User countries under the Nagoya Protocol have obligations to ensure compliance with national ABS laws for the access and utilization of GRs and associated TK. Several cases were presented whereby patents were granted in Europe in violation with national ABS laws.
- Sangeeta Shashikant, Third World Network, advanced that the disclosure requirement being discussed in the WIPO IGC should apply to applications for PVP, in addition to other forms of IPRs. If there is no disclosure in PVP, there is no trace of the contribution of farmers. It is of concern that the sui generis system of PVP established by the Union for (UPOV) does not allow for disclosure requirements in relation to origin and source of plant GRs and associated TK. Other alternative forms of national *sui generis* PVP systems are possible that can incorporate a disclosure requirement, such as the regimes of India and Malaysia, and that proposed in a new Handbook, Carlos M. Correa et al., *Plant Variety Protection in Developing Countries: A Tool for Designing a Sui Generis Plant Variety Protection System: An Alternative to UPOV 1991*, <http://www.apbrebes.org/news/new-publication-plant-variety-protection-developing-countries-tool-designing-sui-generis-plant>. Patents on plants and their parts thereof should be avoided.
- Three submissions were made to the UN High Level Panel on Access to Medicines, <http://unsaccessmeds.org>. The UN Secretary-General convened the High Level Panel to review and assess proposals and recommend solutions for remedying the policy incoherence between intellectual property rights, human rights, trade rules and access to medicines:
 - Submission No. 67 on the need to assert the primacy of the right to health for all over trade and intellectual property rules. <http://www.unsgaccessmeds.org/inbox/2016/2/26/south-centre>.
 - Submission No. 112 explaining how a binding international instrument/convention/treaty on medical product R&D to be negotiated under the auspices of the UN, can address the misalignment between the pharmaceuticals R&D model under the present trade rules and public health, in order to promote more effective and less costly innovation and increase access to medicines. <http://www.unsgaccessmeds.org/inbox/2016/2/28/south-centrec>.
 - Submission No. 113 on the limitations of the paragraph 6 system of the TRIPS agreement and the need for WTO members to be dissuaded from ratifying the protocol to the TRIPS Agreement incorporating the system under Article 31bis of TRIPS, and the need undertake a comprehensive review and evaluation of the paragraph 6 system. <http://www.unsgaccessmeds.org/inbox/2016/2/28/south-centerb>.
- *Seminar on Current Global Economic Trends and Conditions and the International Development Policy Context After 2015* organized by the South Centre for the Permanent Missions of developing countries on Tuesday, 23 February 2016 at the Palais de Nations.

Viviana Munoz Tellez presented on the outcomes of the negotiations at the World Intellectual Property Organization (WIPO) and the World Health Organization (WHO) in 2015 and prospects for 2016.

PUBLICATIONS

Research Papers

- Carlos M. Correa, **Implementing Pro-Competitive Criteria for the Examination of Pharmaceutical Patents**, *Research Papers* 64, South Centre, February 2016. Available from <http://www.southcentre.int/research-paper-64-february-2016/>.
- Carlos M. Correa, French and Spanish translations of Research Papers 62 – Intellectual Property in the Trans-Pacific Partnership: Increasing the Barriers for the Access to Affordable Medicines. French version: **Le Partenariat transpacifique: un accord qui étend les droits de propriété intellectuelle au détriment de l'accès aux médicaments**, available from <http://fr.southcentre.int/document-de-recherche-62-septembre-2015/>. Spanish version: **El acuerdo de asociación transpacífico: un acuerdo que amplía los derechos de propiedad intelectual en detrimento del acceso a los medicamentos**, available from <http://es.southcentre.int/documento-de-investigacion-62-sept-2015/>.

Policy Briefs

- French translation of Policy Brief 18, **Le Protocole de Nagoya: présentation de ses principales caractéristiques, des défis qu'il pose et des perspectives qu'il ouvre**, available from <http://fr.southcentre.int/rapport-sur-les-politiques-18-mai-2015/>.

Background Notes

- Matrix of Key Issues in the WTO TRIPS Council and the Working Group on Trade and Transfer of Technology, February 2016.
- Matrix of Key Issues in the World Intellectual Property Organization, February 2016.
- Background Note to the 29th Session of the WIPO Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, February 2016.

External Publications

- German Velasquez, Book chapter: "**Managing an (H1N1) pandemic: Public Health or Healthy business**" in *Protecting the Health of the Poor: Social Movements in the South*, ZED BOOKS, London December, 2016.

EVENTS/MEETINGS

- 2 February, *Annual Strategy and Planning Meeting on the work of the World Intellectual Property Organization (WIPO)*, held at the South Centre. The meeting reviewed the governance and substantive work plan in WIPO for 2016, related developments in other international fora, and identified priority issues for developing countries and LDCs in order to develop joint strategies for action.
- 3 February, *Annual Strategy and Planning meeting on the work of the World Trade Organization (WTO) TRIPS Council and the Working Group on Trade and Transfer of Technology*, held at the South Centre. The meeting reviewed the substantive work plan in the TRIPS Council and the WGTTT for 2016, related developments in other IP fora, and identified priority issues for developing countries and LDCs.
- 10 February, *Working Lunch Meeting* at the South Centre in preparation for the 29th session of the *Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)*.
- 26 February, *Working Lunch Meeting* at the South Centre in preparation for the *WHO consultation on options for establishing a global development and stewardship framework to fight antimicrobial resistance*.

PARTICIPATION IN EXTERNAL EVENTS

- Nirmalya Syam and Viviana Munoz attended the 29th session of the *Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)* held on 15-19 February at the WIPO headquarters in Geneva.
- Mirza Alas, Viviana Munoz, German Velasquez participated in the *WHO consultation on options for establishing a global development and stewardship framework to fight antimicrobial resistance*, held on 29 February 2016 at the WHO Headquarters.
- Carlos Correa participated and made a presentation on benefit sharing at a *Workshop on Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction: Preparing for the PrepCom*, organized by the Centre of International Law of the National University of Singapore in Singapore, held from 3-4 February 2016. The workshop was attended by government representatives and aimed at exploring options for the international binding instrument to be developed in accordance with the UN Resolution 69/292 of 19 June 2015.