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INTELLECTUAL PROPERTY, TRADITIONAL KNOWLEDGE AND
GENETIC RESOURCES

BIO-ADVANCEMENT AND PATENTING: A VIEW FROM CHINA

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ABSTRACT

About the author: Dr. Xuan, Deputy Director General at the Chinese Academy of Engineering (a ministerial institution directly reporting to the PM), is the leader of a national policy-research project taking exactly the name of this report. He served as Assist Office DG for the influential Cabinet Com on IPR of the government, and Secretary of China's Biosafety Com, among others. The following is his personal views.

This presentation focuses on the following aspects:

- I. Bio-Advancement: Review and Projection;
- II. Controversies: Disputes and Issues;
- III. Patenting: Progress and Difficulties;
- IV. Recommendations.

The fast advancement of biotechnology will bring repeated breakthroughs to related industries, and revolutionary changes to our thinking, lifestyle, production mode, and intellectual property rights (IPR) concepts. Biotechnology including genetic engineering has definitely become one of the most powerful engines behind economic growth and development of IPR schemes.

Agriculture and pharmaceuticals will be focus for applications. Functional food and environment-friendly solutions are among top priorities outside the two areas.

The unknown and uncertain outcome of introducing transgenic foods and processes has caused fears of health hazards and that weeds and pests may acquire the same traits from transgenic plants is of huge concern for biosafety. Though technically feasible, national governments throughout the world ban human cloning out of ethical considerations. Cross-genetic tests and experiments in the soils of other countries have produced resentments from those countries.

The IPR schemes especially patenting have a unique role to play in the human advancement of the pioneer technique. However, the present regulations seem to lag far behind the fast movement, for lack of precedents to follow and trained manpower. There is a strong need for the international IPR community to take urgent actions for keeping pace with the technological forward jumping.

The WIPO Member governments are urged to take the fullest possible measures to strengthen their national competence in developing bio-technologies, organizing seminars and exhibitions to exchange experiences and study tours to other countries, and initiating pilot or demonstration schemes.

Member governments should consider establishment of or strengthening national centers, including centers of biotechnology and genetic engineering with special attention to transgenic issues, functional food, health and environment. A center, cross-agency nature, will be important to monitor and issue licenses in control of safety, industrialization of transgenic research, and import/export.

The WIPO secretariat, together with interested donors, other United Nations organizations and the international community as a whole, should undertake necessary activities to promote international cooperation, human resources development, experience sharing, technology transfer and dissemination and capacity building.

Specifically, the secretariat form one new and regular unit to follow bio-breakthroughs and provide advice to its secretary general and the WIPO member governments on IPR issues related to frontier genetic sciences. This will help WIPO and member countries to remedy patenting far lagging behind bio-advancement.

The WIPO secretariat may wish to establish an institute to study relationships between protection of sovereign genetic resources and benefit sharing with other developers of the resources, including access to the end products, intellectual property rights, and technology transfer at concessional and fair terms.

Special attention should be paid to communication systems and technical cooperation among developing countries (TCDC), in order to facilitate the development and popularization of fresh technologies and IPR practices. In order to improve and redesign systems of communication and diffusion, it is recommended that the WIPO secretariat assist in development of a practical manual for information, education and communication programs, newsletter articles, and a video program series.

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