

ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
ARIPO	African Regional Industrial Property Organisation
ARV	Anti-Retroviral
CBD	Convention on Biological Diversity
CGIAR	Consultative Group on International Agricultural Research
CMH	Commission on Macroeconomics and Health (WHO)
DFID	Department for International Development (UK)
DMCA	Digital Millennium Copyright Act
EPO	European Patent Office
EU	European Union
FAO	Food and Agriculture Organisation (UN)
FDA	Food and Drugs Administration (US)
GATT	General Agreement on Tariffs and Trade
GI	Geographical Indications
GM	Genetically Modified
GSK	GlaxoSmithKline Plc
HIV	Human Immunodeficiency Virus
ICTSD	International Centre for Trade and Sustainable Development
IFAD	International Fund for Agricultural Development
IP	Intellectual Property
IPC	International Patent Classification
IPGRI	International Plant Genetic Resources Institute
IPRs	Intellectual Property Rights
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
IUPGR	International Undertaking on Plant Genetic Resources
LDC	Least Developed Country
MRC	Medical Research Council (UK)
MSF	Médecins sans Frontières
NGO	Non-Governmental Organisation
NIH	National Institutes of Health (US)
OAPI	Organisation Africaine de la Propriété Intellectuelle
OAU	Organisation of African Unity
OECD	Organisation for Economic Cooperation and Development
PBR	Plant Breeders' Rights
PCT	Patent Cooperation Treaty
PIC	Prior Informed Consent
PVP	Plant Variety Protection
R&D	Research and Development
SME	Small and Medium-sized Enterprise
STD	Sexually Transmitted Disease
TB	Tuberculosis
TK	Traditional Knowledge
TKDL	Traditional Knowledge Digital Library
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNIDO	United Nations Industrial Development Organisation
UPOV	International Union for the Protection of New Varieties of Plants
USDA	United States Department of Agriculture
USPTO	United States Patent and Trademark Office
WHO	World Health Organisation
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation

GLOSSARY

Biopiracy: There is no accepted definition of “biopiracy.” The Action Group on Erosion, Technology and Concentration (ETC Group) defines it as “the appropriation of the knowledge and genetic resources of farming and indigenous communities by individuals or institutions seeking exclusive monopoly control (usually patents or plant breeders' rights) over these resources and knowledge.”

Bolar Exception: An exception to patent rights allowing a third party to undertake, without the authorisation of the patentee, acts in respect of a patented product necessary for the purpose of obtaining regulatory approval for a product.

Compulsory Licence: A licence to exploit a patented invention granted by the state upon request to a third party for instance in order to remedy an abuse of rights by the patentee.

Copyright: (See Box 1.1) Exclusive rights of the creators of original literary, scientific and artistic works, which are created, without formalities, with the creation of the work, and last (as a general rule) for the life of the creator plus 50 years (70 years in the US and EU). It prevents unauthorised reproduction, public performance, recording, broadcasting, translation, or adaptation, and allows the collection of royalties for authorised use.

Cross Licensing: Mutual exchange of licences between patent holders.

Database Protection: (See Box 1.1 and Box 5.2) A *sui generis* protection system, preventing unauthorised use of data compilations, even if non-original.

Differential or Tiered Pricing: Practice of setting different prices for different markets, typically higher prices in richer markets and lower prices in poorer markets.

Disclosure of Origin: (See Box 4.4) Requirement on patent applicants to disclose in patent applications the geographical origin of biological material on which the invention is based.

Doha Declaration (on TRIPS and Public Health): (See Box 2.1) Declaration, agreed at the Doha WTO Ministerial Meeting in 2001, which states that to the TRIPS agreement should be interpreted and implemented in a way that supports public health. and clarifies some flexibilities allowed by the Agreement for that purpose.

Examination (Substantive Examination): A full examination of the patent application, undertaken by a patent examiner, to determine whether the application complies with all the legal requirements for patentability set out in the legislation. The examination takes into account any documents found during the search.

Exhaustion of Rights: Principle whereby the rightholders' IP rights in respect of a product are considered exhausted (i.e. he no longer can exercise any rights) when that product has been put on the market by the IP holder, or by an authorised party.

Fair Use or Fair Dealing: (See Box 5.1) An exception to copyright allowing third parties to use the copyrighted material in certain circumstances. National copyright laws in most countries incorporate exceptions for copying for personal use, research, education, archival copying, library use and news reporting, based on principles of 'fair dealing', or 'fair use' (US).

Farmers' Rights: (See Box 3.2) Rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/ diversity.

Generic Medicine or Drug: A generic drug is the chemical equivalent of a patented drug.

Genomics: The scientific discipline of mapping, sequencing, and analyzing genomes.

Geographical Indication (GI): (See Box 1.1) Name that identifies the specific geographical origin of a product when , certain qualities, reputation or other characteristics of the products can be associated with that origin.. For example, food products sometimes have qualities that derive from their place of production and local environmental factors. The GI prevents unauthorized parties from using a protected GI for products not from that region or from misleading the public as to the true origin of the product.

Hybrid Varieties: Varieties marketed through seeds derived as the offspring of two different varieties of plant.

Intellectual Property Rights (IPRs): (See Box 1.1) Rights awarded by society to individuals or organisations over inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. They give the titleholder the right to prevent others from making unauthorised use of their property for a limited period.

Landrace: A crop cultivar or animal breed that evolved with and has been genetically improved by traditional agriculturalists, but has not been influenced by modern breeding practices.

Open Source: Software products in which the source code is made publicly available.

Parallel Imports: The import of a patented product from another country once it has been put on the latter's market by the titleholder, or other authorised party. For instance, in the EU it is legal to buy a product from a wholesaler in Portugal to retail in the UK, although the product is patented in both countries. The legal status of parallel imports is a matter for national decision, and is related to the issue of the *Exhaustion of Rights*.

Patent: (See Box 1.1) An exclusive right awarded to an inventor to prevent others from making, selling, distributing, importing or using their invention, without licence or authorisation, for a fixed period of time. In return, society requires that the patentee discloses the invention in the public. There are usually three requirements for patentability: novelty (new characteristics which are not *prior art*), inventive step or non-obviousness (knowledge not obvious to one skilled in the field), and industrial applicability or utility (US).

Plant Variety Protection (PVP): See Plant Breeders' Rights.

Plant Breeders' Rights (PBRs): (See Box 1.1) Rights granted to breeders of new, distinct, uniform and stable plant varieties. They normally offer protection for at least twenty years. Most countries have exceptions for farmers to save and replant seeds on their holdings, and for further research and breeding.

Prior Art: Publications or other public disclosures made before the filing (or priority) date of a patent application and against which the novelty and inventiveness of the invention in the patent application is judged.

Prior Informed Consent (PIC): The consent given by a party to an activity after being fully informed of all material facts relating to that activity. The CBD requires that access to genetic resources shall be subject to the Prior Informed Consent of the Country providing the resources.

Registration: A formal procedure for obtaining an IP right typically requiring an application and examination of that application. Certain IP rights such as copyright are available automatically without the need for registration. Patent applications in some countries may simply be registered after a basic check.

Research Tools: The full range of resources, methods and techniques that are used in research.

Reverse Engineering: Process of evaluating something to understand how it works in order to duplicate or enhance it. Particularly relevant in the copyright field where reverse engineering of software may be necessary to ensure interoperability with other programs. Also relevant, for example, to semiconductors and the production of generic medicines.

Search: A search of the *prior art* by a patent examiner, which brings to the patent applicant's attention documents which are thought by the patent examiner to establish whether the invention in the patent application is novel and inventive. Primary search material is the disclosures in other patent applications, but all forms of prior art in principle should be covered.

Sui Generis: Latin expression meaning "of its own kind". A *sui generis* system of protection for example for traditional knowledge would be a system of protection separate from the existing IP system.

Technological Protection: Technological protection refers to ways of introducing by technological means defences against copying or unauthorised use. The most common examples are forms of encryption in the digital media, and introducing characteristics into plants that make harvested seeds less productive, or possibly sterile.

Trade Secret: (See Box 1.1) Commercially valuable information about production methods, business plans, clientele, etc. They are protected as long as they remain secret by laws which prevent acquisition by commercially unfair means and unauthorised disclosure.

Trademark: (See Box 1.1) Exclusive rights to use distinctive signs, such as symbols, colours, letters, shapes or names to identify the producer of a product, and protect its associated reputation. The period of protection varies, but a trademark can be renewed indefinitely.

Traditional Knowledge (TK): Whilst there is no generally acceptable definition, TK includes for example tradition-based creations, innovations, literary, artistic or scientific works, performances and designs. Such knowledge is often transmitted from generation to generation and is often associated with a particular people or territory.

Utility models: (See Box 1.1) A utility model is a registered right which confers on its proprietor exclusive protection for an invention, in a similar manner to a patent. Many developed countries, and several developing ones, have some form of utility model system in addition to their patent system, but the precise forms of these systems vary widely. In general, as with a patent, to be protected by a utility model, an invention must be new, involve an inventive step, and lend itself to industrial application. The level of inventiveness required, however, is generally lower than that for a patent. In addition utility models may be granted without prior *examination* to establish that these conditions have been met.

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List of Organisations Consulted

BRAZIL: A2R Environmental Fund, ABAPI, ABES, ABRASEM, Action Aid Brazil, Bioamazonia, Brazilian National Library, CREA, Daniel & Cia, Dannerman, Siemens & Ipenema Moreira, EMPRAPA, Extracta, FAPESP, FINEP, FIOCRUZ, Forum ONG Aids, GlaxoSmithKline, Grupo dela Vidda, IBAMA, IBPI, INPI, Instituto Socio Ambiental, Interfarma, Ministry of Agriculture, Ministry of Culture, Ministry of Development, Industry and Commerce, Ministry of Environment, Ministry of Foreign Affairs, Ministry of Health, Ministry of Science and Technology, Monsen, Leonardos & Cia, SBACEM, SOCIMPRO, Sun Microsystems.

BRUSSELS, BELGIUM: Association Internationale de la Mutualité (AIM), EFPIA (European Federation of Pharmaceutical Industries and Associations), European Commission – DG Development, European Commission – DG Trade.

CHINA: Beijing High Court, China Bureau of Copyright, Chinese Academy of Science, Double Crane Pharmaceuticals, Fudan University, Legend Computers, Microsoft, Ministry of Science and Technology, Office for the Protection of New Plant Varieties, Shanghai Pudong Intellectual Property Centre, Shanghai Video and Audio Software Co. Ltd, SIBS, Monsanto, SIPO, Tong Ren Tang, Tsinghua University, UK Embassy Beijing, United Gene Institute, US Consulate General Beijing, Yong You Software Company.

GENEVA, SWITZERLAND: Australian Permanent Mission, Canadian Permanent Mission, Center for International Environmental Law (CIEL), Ghanaian Permanent Mission, IFPMA, Indian Permanent Mission, Malaysian Permanent Mission, Peruvian Permanent Mission, Quaker United Nations Office, Third World Network, UK Permanent Mission, UNCTAD, WHO, WIPO, WTO, WWF.

INDIA: Abbott, Anand & Anand, BDH Biotech Ltd, Centre for Biochemical Technology, CIPLA Ltd, Corporate Law Group, Department of Indian Systems of Medicines & Homeopathy, Department of Industrial Policy and Promotion, Department of Science and Technology, GlaxoSmithKline plc, ICI India Ltd, ICRIER, IDMA, IPA, Kumaran & Sagar, National Botanical Research Institute, National Innovation Foundation, National Institute of Science Communication, National Working Group on Patent Laws, Nicholas Piramal India Ltd, Novartis Ltd, OPPI, Pfizer Ltd, Ranbaxy Laboratories Ltd, Subramaniam, Nateraj & Associates, Themis Medicare Ltd, Unichem.

KENYA: African Centre for Technology Studies (ACTS), African Regional Industrial Property Organisation (ARIPO), African Seed Trade Association (AFSTA), Coffee Research Foundation, Cosmos Pharmaceuticals Limited, GlaxoSmithKline (GSK), Institute of Economic Affairs (IEA), Kenya Agricultural Research Institute (KARI), Kenya Industrial Property Office (KIPO), Kenya Plant Health Inspectorate Service (KEPHIS), Kenyan Coalition for Access to Essential Medicines (KCAEM), Kenyan National Farmers Union (KNFU), Ministry of Agriculture, Ministry of Health - Chief Pharmacist, Ministry of Tourism and Trade, Registrar's General Office, Seed Trade Association of Kenya (STAK), Tea Research Foundation.

LONDON, UK (Commission on Intellectual Property Rights International Conference and Workshops): ActionAid, Actions Jeunesse, African Centre for Technology Studies, AIPPI, Amersham PLC, Amsterdam Center for International Law, Animal Diseases Research Institute, Aslib-IMI, Assinsel, Association of University Teachers, AstraZeneca, Australian National University, Authors' Licensing and Collecting Society Ltd, Berne Declaration, Biogenetics Inc, BioIndustry Association, Bowdoin College, Brazilian Embassy to the UK, British Computer Society, British Computer Society, British Copyright Council, British Music Rights, British Phonographic Industry, Buko Pharma-Kampagne,

Burns, Doane, Swecker and Mathis, LLP, CAB International, Cafod, Cambridge Economic Policy Associates Ltd, Caribbean Regional Negotiating Machinery, Centre for International Development at Harvard University, Centre for International Programmes and Links, CGIAR–ISNAR, Chartered Institute of Patent Agents, CIPLA Ltd, CISAC, Commonwealth Secretariat, Confederation of British Industry, Conserve Africa International, Consumer Project on Technology, Consumers International, DEFRA, DOH, DFID, Dow Jones Newswires, Drug Study Group, Duke University School of Law, ECHO International Health Services, Economic Commission for Africa, EPSRC, Essential Drugs Project, e-TALC, European Medicines Evaluation Agency, European Patent Office, Falco-Archer, Inc, FCO, Florida State University College of Law, Foga, Daley & Co, Food Right, Forum for Biotechnology and Food Security, Foundation for International Environmental Law and Development (Field), Free Software Foundation European, French Embassy Economic Service, GENE CAMPAIGN, Genetic Engineering Alliance, Genewatch UK, German Patent and Trade Mark Office, GlaxoSmithKline, Global Alliance for TB Drug Development, Herbert Smith, HM Treasury, Honeybee Network, House of Lords, IFPI, Indian Institute of Management, Indian National Botanical Research Institute, Indigenous Peoples Biodiversity Network, Information Waystations and Staging Posts, Institute for Agriculture and Trade Policy, Institute for Global Health, Institute of Arable Crops Research, Institute of Development Studies, International Association for the Protection of Intellectual Property (AIPPI), International Centre for Trade and International Chamber of Commerce, International Federation of Pharmaceutical Manufacturers' Associations, International Federation of Red Cross and Red Crescent Societies, International Indian Treaty Council, International Policy Network, International Union for the Protection of New Varieties of Plants (UPOV), International Vaccine Institute, IPPPH - Global Forum for Health Research, ITDG, John Innes Centre, Kent Law School, Kenya Mission to WTO, Kenya Plant Health Inspectorate Service, Kenyan Plant Breeders Rights Office, Ketchua-Aymara Association for Sustainable Livelihoods, Lakhanpal Productions, Library Association, Light Years IP, Limbe Botanic Garden, Linklaters and Alliance, Liverpool University, Max Planck Institute for Foreign and International Patent, Copyright and Competition Law, McDermot, Will and Emery, Médecins Sans Frontières, Merck & Co Inc, Microsoft Corporation, Monsanto, National Centre for Genetic Engineering and Biotechnology (Thailand), Natural Resources Institute, Natural Resources International Limited, Nigerian Coalition for Access to Essential Medicines, Nigerian Federal Medical Centre, NM Rothschild & Sons Limited, No Patents on Life Coalition, Non Profit Library, Congo DR, OECD, Open University, Oxfam, Oxford IP Research Centre, PATH, Pfizer Inc, Portuguese Institute of Industrial Property, Prospect, Quaker United Nations Office, Queen Mary Intellectual Property Research Institute, Research & Information System for Developing Countries, Reuters, Rothamsted International, Rouse and Co. International Ltd, Royal Botanic Gardens Kew, Royal Courts of Justice, SCF, SciDev.Net, Science Centre for Social Research Berlin, Sheffield University, Sociedad Peruana de Derecho Ambiental, South Centre, SSL International plc, Stanford University, Steptoe and Johnson, Stop AIDS Campaign, Sustainable Development, Swiss Federal Institute of Intellectual Property, The Association of the British Pharmaceutical Industry, The British Council, The British Society of Plant Breeders, The Burnhams Group, The Economist, The Journal Server Trust, The Lancet, The Patent Office, The Rockefeller Foundation, The Royal Society, The World Bank, Third World Network, Trade Marks Patents and Designs Federation, UNAIDS, UNCTAD, UNDP, Unique Solutions, United Nations Association, University College London School of Public Policy, University of the West of England, UNU/INTECH, US National Science Foundation, USTR, VSO, Wellcome Trust, Catalyst Biomedica, Willoughby & Partners, World Health Organization, World Intellectual Property Organisation, World Markets Research Centre, World Press Centre, Zambian Mission in Geneva, Zikonda and Associates.

MUNICH, GERMANY: European Patent Office

WASHINGTON DC, USA: AEI, BIO, CPTech, Dept Health and Human Services, House Judiciary Committee, IIPA, IPI, Merck, National Institute of Health, PGFM, PhRMA, Senate Judiciary Committee, State Department, USTR, Venable, World Bank.