



EUROPEAN PARLIAMENT

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Committee on International Trade

2012/2135(INI)

27.11.2012

OPINION

of the Committee on International Trade

for the Committee on Development

on development aspects of intellectual property rights on genetic resources: the impact on poverty reduction in developing countries
(2012/2135(INI))

Rapporteur: Helmut Scholz

PA_NonLeg

SUGGESTIONS

The Committee on International Trade calls on the Committee on Development, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Regards the fair and equitable sharing of benefits arising from the utilisation of genetic resources as a key objective; emphasises the need to provide transparency and legal certainty for resource providers, inventors and investors; considers it essential to develop a common understanding among international institutions governing trade and trade-related issues regarding the meaning in law of the term 'biopiracy'; deplores the slowness of proceedings in the ongoing negotiations in the WIPO IGC¹ and the TRIPS² review process regarding Article 27.3 (b);
2. Urges the EU and the Member States to ratify the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity; commends the Commission for presenting a draft regulation for the implementation of the Nagoya Protocol; calls on the Commission to instruct its negotiators in the WIPO IGC and the TRIPS review to consider the Nagoya Protocol as their point of departure and to focus in the negotiations on bringing in line the legal framework of the CBD³ and its Nagoya Protocol, WIPO, TRIPS, the ITPGRFA⁴ and UPOV⁵, as well as UNCLOS⁶ with regard to maritime genetic resources; notes that the TRIPS agreement transitionally excludes Least Developed Countries⁷; stresses that this approach must be preserved with regard to any revisions that may result from the CBD-Nagoya process;
3. Agrees with the position of stakeholders that a rules-based international trade system requires preventing the wrongful granting of patents, which in turn requires establishing requirements on disclosing the source and origin of genetic resources during patent proceedings; insists that WTO-TRIPS should converge with the aim of being compatible with the CBD-Nagoya Protocol;
4. Welcomes initiatives providing an alternative option to strictly trade-based bodies, such as the Global Biodiversity Information Facility (GBIF), which promotes free and open access to biodiversity data through global cooperation between different governments, organisations and other international stakeholders;
5. Recognises the potential role of the intellectual property and patent system in promoting innovation, transfer and dissemination of technology to the mutual advantage of stakeholders, providers, holders and users of genetic resources, their derivatives, and of associated traditional knowledge in a manner conducive to welfare and development,

¹ World Intellectual Property Organisation Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

² Agreement on Trade-Related Aspects of Intellectual Property Rights.

³ Convention on Biological Diversity.

⁴ International Treaty on Plant Genetic Resources for Food and Agriculture.

⁵ International Union for the Protection of New Varieties of Plants.

⁶ United Nations Convention on the Law of the Sea.

⁷ Art. 66.1, TRIPS; Decision of the Council for TRIPS of 29 November 2005.

while emphasising the necessity of preventing the adverse effects of the IPR and patent system on indigenous peoples' and local communities' application of traditional knowledge, their laws, practices and knowledge system and their ability to use, develop, create and protect their knowledge in relation to genetic resources; reiterates that, against the background of its recent resolution on the patenting of essentially biological processes¹, especially in the area of breeding, excessively broad patent protection can hamper innovation and progress and become detrimental to small and medium breeders by blocking access to animal and plant genetic resources; points out that, under certain circumstances, contracts between the parties may be identified by indigenous peoples or local communities as a more feasible solution to share benefits and to protect their interests while preserving the environment and preventing social and economic harm, e.g. by means of safeguard clauses;

6. Reiterates its respect for the milestones achieved in the international protection of indigenous peoples' rights over their genetic and other resources and associated traditional knowledge, enshrined in the UN Declaration on the Rights of Indigenous Peoples, in the ILO Convention No 169, in Article 8j of the CBD and in the Nagoya Protocol; expresses its concern at the genetic erosion occurring as a consequence of the almost exclusive dominance on the market of industrially produced seeds, i.e., seeds protected by intellectual property rights, to the detriment of traditional seed varieties.

¹ European Parliament resolution of 10 May 2012 on the patenting of essential biological processes, P7_TA(2012)0202.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	27.11.2012
Result of final vote	+: 13 -: 0 0: 12
Members present for the final vote	Laima Liucija Andrikienė, Daniel Caspary, María Auxiliadora Correa Zamora, Christofer Fjellner, Metin Kazak, Franziska Keller, Bernd Lange, Paul Murphy, Cristiana Muscardini, Helmut Scholz, Peter Šťastný, Gianluca Susta, Henri Weber, Jan Zahradil
Substitute(s) present for the final vote	Josefa Andrés Barea, George Sabin Cutaş, Mário David, Elisabeth Köstinger, Marietje Schaake, Inese Vaidere
Substitute(s) under Rule 187(2) present for the final vote	Isabelle Durant, Francisco José Millán Mon, José Ignacio Salafranca Sánchez-Neyra, Ivo Strejček, Renate Weber