



EUROPEAN PARLIAMENT

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Committee on Legal Affairs

2012/2135(INI)

6.11.2012

OPINION

of the Committee on Legal Affairs

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: Françoise Castex

PA_NonLeg

SHORT JUSTIFICATION

The report of the Committee on Development aims at considering the effects of intellectual property rights on genetic resources with regard to human rights and global food security, primarily by drawing on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Convention on Biological Diversity and its Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation. The main issue raised in this respect is that of 'bio-piracy', which could refer to either the unauthorised extraction of genetic resources, such as plants with medical properties, or to the patenting of spurious inventions based on such resources or traditional knowledge from indigenous peoples without compensation.

Your rapporteur welcomes a reflection on these issues, in the interest of developing countries with the end goal of poverty alleviation, but stresses that the practical implementation of any set of rules for avoiding bio-piracy involves problems of a legal nature which are not easily solved without a proper reflection on, and a correct interpretation of, the current legal framework as mentioned above.

The legal terminology in the area of intellectual property rights on genetic resources needs to be clarified and consolidated, not least the term 'bio-piracy'. Any definition of this term needs to have a solid foundation, requiring extensive fact-finding and research. The international community should also define the *sui generis* systems in force at international level for plant protection in those cases where patent protection is not applicable.

It is furthermore essential to safeguard the interests of small and medium breeders, taking into consideration that excessively broad patent protection in the area of breeding can hamper innovation and progress and become detrimental to these breeders by blocking access to animal and plant genetic resources.

SUGGESTIONS

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

1. Considers that a clear and coherent system of proprietary rights would contribute to the creation of knowledge and its dissemination to developing countries, to the benefit of local entrepreneurship, research, education and poverty alleviation;
2. Stresses that further work must be carried out in order to clarify and consolidate the legal terminology in the area of intellectual property rights on genetic resources, in particular with a view to a definition of the term 'biopiracy' based on authoritative figures;
3. Takes the view that future bilateral and multilateral agreements aiming at harmonisation,

and in particular those concerning the scope of exceptions and limitations to patent rights, will require careful scrutiny from a development perspective, with a view to achieving global equity for public health in the spirit of the implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement, safeguarding local knowledge and, in relation to plant breeders' rights, securing access to seeds;

4. Takes notice of the work of the World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, and encourages similar measures to be taken and consistent definitions to be used at EU level;
5. Reiterates that, against the background of its recent resolution on the patenting of essential biological processes¹, excessively broad patent protection in the area of breeding can hamper innovation and progress, to the detriment of small and medium-sized breeders, by blocking access to genetic resources;
6. Calls on the international community to take into account the fact that the International Union for the Protection of New Varieties of Plants provides a *sui generis* system, already in force, for plant variety protection where patent protection is not applicable; recommends that core requirements for effective *sui generis* models are contemplated;
7. Takes the view that local knowledge of indigenous methods of water exploitation should be scientifically researched and freely disseminated, while technologies covered by patents in developing countries should facilitate innovation in access to water and sanitation.

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	6.11.2012
Result of final vote	+: 23 -: 0 0: 0
Members present for the final vote	Raffaele Baldassarre, Luigi Berlinguer, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Antonio López-Istúriz White, Antonio Masip Hidalgo, Jiří Maštálka, Alajos Mészáros, Evelyn Regner, Francesco Enrico Speroni, Rebecca Taylor, Alexandra Thein, Rainer Wieland, Cecilia Wikström, Zbigniew Ziobro, Tadeusz Zwiefka
Substitute(s) present for the final vote	Eva Lichtenberger, Angelika Niebler, József Szájer, Axel Voss
Substitute(s) under Rule 187(2) present for the final vote	Sylvie Guillaume