PRESENTATION HIGHLIGHTS

IPRS in Agriculture
- Shalini Bhutani

Where do people start the discussion on intellectual property (IP)? The GoI and its trade negotiators start from national legislation; these more often than not do not have any social backing. In the context of knowledge protection, local communities speak from their own language and cosmo-vision, that is the language of intellectual heritage, NOT "property"! That is not recognised and/or respected by domestic laws and policies.

In the knowledge economy, the know-how of local people is being equated to productive assets just as other resources in a capitalist system. The important questions to ask in order to develop our positions on the current IPR system are:
- how as a society we regard knowledge;
- how do we want to protection "creativity"
- and how do we reward innovation?

The IPR system sets out the rules that govern who can make, use and sell innovations. It functions by providing the IP holder with the legal right — although not necessarily the practical ability — to prevent imitation of an innovation for fixed periods. In doing so, it provides the IP holder with the possibility of charging monopoly rents over the invention that not only compensates for inventing and developing the invention but that allows him or her to profit. In distinction to other incentive mechanisms — such as public grants and prize systems — IP works through the allocation of private rights that impose costs on technology users.

IP provisions are very much part of the EU-India bilateral trade and investment agreement (BTIA). In fact, what the "leaked" IPR chapter of the FTA tells us is that IP standards are being taken to a (WTO) 'TRIPS-plus’ level. The IPR elements in the FTA that have a direct impact on agriculture and biodiversity are:
- patents on life forms and biotech products
- plant variety protection on crop varieties
- data exclusivity on agri chemicals
- geographical indications on agricultural products and food stuffs
- provisions on “protection” of traditional knowledge and access to genetic resources

All these were flagged in the presentation made. The linkages were also drawn to IP and the proposed investment provisions in the BTIA, wherein the definition of “investment” includes intangible property such as IP. EU in its FTA talks with partners also lays a lot of emphasis on IPR enforcement and its policing. EU’s aggressive posturing on the IP issue, must be seen not only in the light of its own internal re-strategising to go out there in the world; but also its role in other global IP agreements such as ACTA.

More resource materials on this issue from the presenter:

Why the secrecy?
http://www.deccanherald.com/content/225925/why-secrecy.html

India can’t say ‘cheese’
http://www.thehindubusinessline.com/opinion/article2879675.ece

BIT(s) by bit
http://www.mylaw.net/Article/BITs_by_bit/

The India-EU FTA and its implications on India’s Food and Farm Sector
www.madhyam.org.in/admin/.../Factsheet%20on%20Agriculture.pdf

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