The evaluation of biopiracy and patents on biodiversity in the light of trade related aspects of intellectual property rights agreement (TRIPS) of WTO

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Over the past two decades the role of intellectual property rights in all areas of science and technology has exploded globally—primarily due to rules prescribed by the World Trade Organization’s TRIPS and by bilateral/regional trade agreements. The TRIPS agreement obligates all WTO member countries to adopt and enforce minimum standards of intellectual property rights. The TRIPS Agreement requires member countries to make patents available for inventions, whether products or processes, in all fields of technology without discrimination, subject to the standard patent criteria (novelty, inventiveness and industrial applicability).

During the negotiations on the TRIPS Agreement, consensus was not reached on the controversial area of biotechnological inventions. The United States and some other developed countries pushed for no exclusions to patentability, while some developing country members preferred to exclude all biological diversity-related inventions from IP laws. For many developing countries the patenting of life forms and exclusive monopoly protection on biological products and processes that originate in developing countries (or that are based on traditional knowledge) continues to be controversial.

The major genetic resources are in the southern states and so, many companies are seeking to access to genes, microbes, plants, animals and even native human populations to seize them as a monopoly product. Critics call the establishment of intellectual property rights to these resources for the industrial countries biopiracy and know the obligation of developing nations to pay royalties to wealthy industrial countries for the products that obtained from their own genetic resources and traditional knowldege “biological colonialism”. Pharmaceutical industries are the biggest thieves of genetic and natural resources at the international level. This is the third world countries’ responsibility while preserving their vital resources and reserves, ensure optimal use of these natural blessings.