

Concerns About Ownership Control and the Effective Access to Biotechnology and Related Genetic Resources. (C07-aragao141013-Oral)

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Abstract:

Over the past few decades, developments in biotechnology and the application of intellectual property law in this field have stimulated new industries and hopes of beneficial new technologies; yet these developments have also accentuated concerns about ownership, control and exploitation of biotechnology and related genetic resources. International debate has taken up a range of issues, including the impact of modern biotechnology on patent law, and the need to preserve the balance of private and public interests in the patent system; developments in protection of plant variety rights prompted partly by the 1991 revision of the UPOV Treaty and the obligation under TRIPS to provide plant variety protection, which has strengthen plant variety rights internationally; the ratification of the 1992 Convention on Biological Diversity (CBD) by over 180 states, creating a legal framework for mediating between access to biological resources and the sovereign right of States over these resources, expressed in the right to regulate access on the basis of the principles of prior informed consent and the equitable sharing of benefits; the 1994 Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which, inter alia, defines patentable subject matter but leaves some flexibility in the scope of patentability for biological inventions; and the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture by the FAO Conference in November 2001, which seeks to establish a regime, in concord with the CBD, that regulates access and benefit-sharing regime for such resources.

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