Intellectual property rights in agricultural biotechnology: Summary report of the ABDC-10 parallel session[1]

National and international agencies and organizations invest in the production of biotechnologies for the improvement of agriculture with high expectations as to accessibility of research results and products. Property rights establish ownership and influence access to, and the distribution and use of, the products and processes of biotechnological applications.

It remains to be established what kind of intellectual property (IP) legislation optimizes innovation and the dissemination of products. The current regulatory framework is complex. Several international instruments are relevant (e.g. TRIPS, UPOV, CBD, ITPGRFA[2] and WIPO instrument under discussion). The flexibility in international instruments may build opportunities for national options to deal with different sorts of IP. Several countries have formulated IP protection systems based on the social and commercial needs of the countries:

- "Common knowledge" varieties in national lists under Mexican seed law
- The Brazilian Agricultural Research Cooperation (EMBRAPA) benefited in negotiations with international providers of IP from the existence of a comprehensive national IP policy since 1996
- Cuba's IP law to protect national investments in biotechnology in the health and food security sectors

Equally important might be a pragmatic treatment of technology transfer using best practices and sound contracts.

New public private partnerships are appearing that combine public sector research with private sector resources and development expertise: e.g. EMBRAPA-BASF.
Similarly, there are initiatives to overcome difficulties in developing countries to access protected technologies: e.g. African Agricultural Technology Foundation (AATF).
There are increasing opportunities for collaboration and augmentation of capacities by joining global (e.g. ICGEB) or regional networks.

There is a development away from seeing technology transfer from research institutions as simply a means of generating revenue, to ensuring product development that is of benefit to society and dissemination of these products. IP management has to support strategic biotechnology goals at the institutional level. IP capacity needs to be improved to enhance the producers of biotechnology and not just treat developing countries as recipients.
Practical tools to obtain information updates on IP and biotechnologies, and intelligent search engines to scan agricultural innovations (such as the patent landscape developed by Cambia with WIPO support) are needed.

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[1] This is the summary report of the parallel session organized by the World Intellectual Property Organization (WIPO) on the third day of the FAO international technical conference on Agricultural Biotechnologies in Developing Countries (ABDC-10) that took place in Guadalajara, Mexico on 1-4 March 2010 (http://www.fao.org/biotech/abdc/parallel/en).

[2] Acronyms: TRIPS = WTO Agreement on Trade-Related Aspects of Intellectual Property Rights; UPOV = International Union for the Protection of New Varieties of Plants; CBD = Convention on Biological Diversity; ITPGRFA = International Treaty on Plant Genetic Resources for Food and Agriculture; ICGEB = International Centre for Genetic Engineering and Biotechnology