

IPRs - Sustaining Innovation

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Innovation

- ☐ Recognized as critical to the future economic growth and prosperity of countries and firms
- ☐ No precise definition but not the same as invention
- ☐ Invention is the creation of a new or improved product or process
- ☐ To be an innovation, the invention must add value – be commercially applied

Innovation cont'd

- ☐ Achieved through the interaction of a number of elements:
 - Research and Development (R&D)
 - legal skills
 - entrepreneurial skills
 - business and management skills
 - marketing skills
 - access to financing

Innovation action plans

- ❑ Some countries have implemented plans to ensure that the necessary interaction occurs
- ❑ The Australian Innovation Action Plan identifies three main areas of focus:
 - Strengthening the ability to generate ideas and undertake research
 - Accelerating the commercial application of these ideas
 - Developing and retaining a skilled workforce

Application to agriculture

- ❑ Agricultural innovation has much in common with industrial innovation
- ❑ Private sector - no difference
- ❑ Public sector - commercialization may be de-emphasised BUT there must be application of the product or process

What are IPRs

- ❑ Defined as rights granted by law to individuals or organisations principally over creative works used in commerce. Creators are given the right to prevent others from making unauthorised use of their property for a limited time
- ❑ Traditionally, there are two main branches of IP – industrial property and copyright and related rights

IPRs cont'd

- ❑ Industrial property covers inventions, industrial designs, trade marks and service marks, geographical indications, trade secrets
- ❑ Copyright and related rights cover literary, artistic and dramatic works, performances, phonograms and broadcasts
- ❑ Sui generis systems e.g. Plant Variety Protection(PVP)/Plant Breeder's Rights(PBRs)

IPRs relevant to agriculture

- ❑ In the area of agriculture, the IPRs which might be most relevant are:
 - patents and petty patents
 - PVP/PBRs
 - trade marks
 - geographical indications

IPRs relevant to agriculture cont'd

- ❑ Patents – an exclusive right granted for an invention (whether product or process) for a minimum of 20 years. Invention must be new, involve an inventive step and be industrially applicable.
- ❑ Petty patents - A lower standard of inventive step is required and the period of protection is much shorter. Available in some countries.

IPRs relevant to agriculture cont'd

- ❑ PVP/PBRs are granted to breeders of new plant varieties which satisfy certain criteria. Under the 1991 UPOV Convention, trees and vines are protected for a minimum period of 25 years and 20 for all other genera/species

IPRs relevant to agriculture cont'd

- ❑ Trade or service mark is a sign or any combination of signs, capable of distinguishing the goods or services of one undertaking from those other undertakings. Protection is for 10 years renewable indefinitely
- ❑ Geographical indication identifies a good as originating in the territory of a country or region or locality in that territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin

Relevance of IPRs

- ❑ IPRs provide the legal means to appropriate and therefore control knowledge
- ❑ IPRs owners can dictate to IPRs users what knowledge is made available and the terms and conditions
- ❑ Innovation is not possible without engaging with IPRs as owner or user

Relevance of IPRs cont'd

- ❑ Owners of IPRs can commercialise and convert them into assets which can be used to generate earnings and encourage further innovation through
 - Production of new goods and services
 - Sale
 - Licensing
 - Consultancies
 - Research contracts
 - Use as collateral

Relevance of IPRs cont'd

- ❑ IPRs especially patents provide access to existing knowledge. This extremely important as innovation is more often incremental than radical
- ❑ Patent databases can help researchers to find other persons involved in complementary research

The Caribbean

- ❑ Caribbean countries must face reality and actively engage the IP System to create IPRs of value to them
- ❑ One step is to ensure that the necessary IP laws are in place. Examples from Jamaica:
 - No mechanism to protect new plant varieties
 - No petty patents in the law
 - No research exemption in the law
 - Not yet possible to register Geographical Indications

The Caribbean cont'd

- Caribbean countries, having created valuable IPRs must protect them to preserve their commercial value
- The Coffee Industry Board owner of the world famous Jamaica Blue Mountain coffee trade mark:
 - Is experiencing difficulties in registering its trade mark in some countries including its largest market, Japan which is claiming genericness
 - Must aggressively police the mark internationally

Innovation infrastructure

- Caribbean governments must put in place the legal, institutional and other policies to protect, manage and commercialise intellectual output including:
 - Review and adjust IP laws
 - Increased spending on human capital development
 - Improvement in R&D infrastructure
 - Increased funding for R&D
 - Provision of seed capital
 - Provision of incentives to the private sector

Innovation infrastructure cont'd

- Caribbean governments have not been able to agree on a regional science, technology and innovation strategy and action plan
- The Jamaican Science and Technology Policy for Socio-Economic Development has been in draft since 2005.

Innovation infrastructure cont'd

- ❑ Caribbean research institutions must put in place institutional and other policies to protect, manage and commercialise their intellectual output including:
 - IP policies which clarify the ownership of intellectual output
 - Incentive schemes for researchers
 - Technology Management Offices

Innovation infrastructure cont'd

- ❑ Technology Management Offices (TMOs) can provide the professional services necessary to protect, manage and commercialise intellectual output:
 - Drafting patents
 - Identifying potential partners
 - Negotiating and preparing licensing agreements
 - Negotiating and preparing collaboration agreements
 - Identifying financing
 - Facilitating spin-off or start-up companies

Innovation infrastructure cont'd

- ❑ The University of the West Indies:
 - Recently registered a patent in Jamaica and filed applications in the USA and Europe for a patent to extract the active ingredients from bitterwood
 - Has received enquiries from 2 European companies about the patent
 - Is being severely hampered in commercialisation activities by the lack of a fully operational TMO

Collaboration

- ❑ Caribbean countries and research institutions must embrace collaboration to maximise resources
- ❑ One form is the Research Network – a collaboration between research institutions which agree common policies and share common services
- ❑ Networks seen as a way to enhance research performance

Networks

- ❑ Networks can be informal or formal
- ❑ Informal networks - informal collaboration with no binding agreement
- ❑ Formal networks - binding agreement or formalized partnership
- ❑ Formal networks can also incorporate provisions dealing with the ownership, protection, management and commercialization of research results

Firm level collaboration

- ❑ Collaboration at the level of the firm is also critical
- ❑ This is especially true for Small and Medium Sized Businesses which are usually constrained by limited resources

IPR related issues

- ❑ Perhaps, the two most important issues for developing country agriculture are:
 - The protection of Traditional Knowledge and Genetic Resources
 - Farmers rights
- ❑ These issues presently fall outside of the scope of the traditional IP system
- ❑ Developing countries need to come together and take ownership of the issues to achieve a satisfactory resolution

Conclusions

- ❑ IPRs owners control ownership and dictate use of knowledge
- ❑ IPRs strongly impact innovation
- ❑ Caribbean countries must actively engage the IP System:
 - To create IPRs of value to them
 - Provide leverage to influence resolution of the TK/Genetic Resources and Farmers Rights issues
- ❑ Caribbean countries must embrace collaboration to maximise limited resources and enhance innovation

Thank you for your attention!

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