

Master Programme in European Intellectual Property Law
Spring Term 2010
Module 2b
Theme: Intellectual Property and Sustainable Development
Schedule-May 7-June 4, 2010

Introduction

In 1987, the World Commission on Environment and Development (Brundtland Commission) called for the development of new ways to measure and assess progress toward sustainable development which is defined as “*development that meets the needs of the present without compromising the ability of future generations to meet their own needs*”. This call has been subsequently echoed in Agenda 21 of the 1992 Earth Summit in Rio and through activities that range from local to global in scale. In response, governments, corporations, non-government organizations, academics, communities, nations, and international organizations in different sectors have undertaken significant efforts to appraise their performance from the view point of sustainable development. The ‘Intellectual Property and Sustainable Development’ course as offered in Master of European Intellectual Property Program at the Department of Law, Stockholm University is an attempt to understand the perspective of intellectual property (IP) in the context of sustainable development. This course will try to explore the key IP issues related to sustainable development, with emphasis on trends and outstanding questions in the international discourse.

From a broader sustainable development perspective, IP rights relate to a number of aspects of a country’s social and economic development, cf. Arts. 7 and 8 of the TRIPS Agreement. It might have impact on the industrial, health, education, nutrition, biodiversity and cultural policies of a country. In this respect, the issues related to access to knowledge, access to medicines, the relationship between the international IP system and the protection of biodiversity and traditional knowledge (TK) and most recently the issue of climate change. IP rights positive or negative effects on a sustainable development have occupied much of the attention of policymakers around the world. This is especially so after the entry into force of the WTO-TRIPS Agreement with uniform standards for material IP rights along with a mandatory enforcement mechanism and requirements of worldwide patenting of biotechnological inventions, which have given rise to greater public debate over public health, environment, food security, farmers' livelihoods and the rights of indigenous peoples over their knowledge and resources. Accordingly, this course will centre its analysis on these issues. It will begin with a brief introduction on the purpose, objectives and goals of the different disciplines of IP rights in relation to sustainable development issues and the present work of the special international organizations that are focusing on IP rights such as WIPO and WTO.

Course Contents and Schedule

The course will provide insights on the following topics:

1. **Brief discussion on the Definition and Concept of Sustainable Development, objectives and purpose of IP law and the role of WIPO and WTO in this context --May 7**

Professor Marianne, PhD, h.c, LLD- 10 am- 1 pm.

2. **Background to the underlying debates and sometimes disagreements on IP and Sustainable Development with special reference to TRIPS Agreement-May 7**

Monirul Azam,LLM(Int. Law) LLM (IP)-2 pm-5 pm.

3. **IP and Public Health –May 8**

Industry perspectives-(10 AM-12 PM)

Peder Oxhammar LLM , Managing Partner, BRANN LEGAL. BRANN AB

Intellectual Property Law Firm

Sustainable Development and Public Health perspectives (2 PM-5 pm)

Monirul Azam, LLM(Int. Law) LLM (IP)

4. **IP and Environment, including Climate Change (6-7 hours) – May 21**

International Environmental Law Dimension-(10 am-12 pm)

Professor Jonas Ebbson, PhD, Director, Center for Environmental Law, SU

Commitments under Environmental Law and IP Agreements (12 pm-1 pm)

Monirul Azam, LLM (Int. Law) LLM (IP)

(Climate Change Negotiation issues) -2 pm-4 pm

Mrs. Marie-Louise Larsson LL D, docent/Associate Professor

Senior Legal Adviser, The Foreign and EU Affairs Division, The Prime Minister's Office

Technology Transfer and related IP issues- 4 pm-6 pm.

Monirul Azam, LLM (Int. Law) LLM (IP)

5. IP, TK and Agricultural developments (TRIPS and CBD) –May 22

Frantzeska Papadopoulou, Swedish Industry Association (TK issues) 10 am-12 pm.

IP, Sustainable Development and the Future-2 pm-5 pm

Monirul Azam, LLM(Int. Law) LLM (IP)

6. IP, Agriculture and Food Security, MAY 24 -10 am-12 pm.

Professor Carl-Gustaf Thornström, Swedish University of Agricultural Sciences, Member CGIAR Genetic Resources Policy Committee, Member ICARDA Board of Trustees, Executive director, SIDA sponsored programme, Genetic Resources and Intellectual Property Rights/GRIP.

7. Climate Parliament (debate session-Chair- Professor Marianne)-June 4 (10 am-1 pm) and 2 pm-5 pm.

Course Duration and Examination

The course is composed of about 25 hours of lectures and 5 hours of debate (exam) sessions, based on individual assignments. Each student may need to submit a short paper (5-10 page) on the IP and Public Health or IP and Agriculture or any other topic relating to this course and from the perspectives of sustainable development. Again, in the debate sessions individual grades will be given on the basis of performance. Each student will represent particular country or interest group and should from this perspective argue its cause against an opposite country or interest group. Students shall in good time before the debate perform a written submission with legal bases and arguments before the debate sessions. The written submission and the oral presentation will be evaluated for the students' grade for this course.

Course Director

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Course Advisor

Professor Marianne Levin, LL.D, Ph.D h.c.

Stockholm University

Groups for Climate Parliament and short paper

Paper topic may also be confirmed by consultation with course director

India, China, South Africa and Brazil- Xue Ying (paper on public health)

LDC-Seble Gebre Giorgis Baraki (paper on agriculture or Tk issues)

USA and EU- Alexei Martinez (paper on IP and Public Health)

Africa- Vicensia Fuko (paper on IP and Agriculture)

IPCC/UNEP- Luo Zhujun (IP and Environment)

Small Island States and other developing countries-Tihitina Ayalew (IP and Environment)

Guidelines for Climate Parliament 2010

1. The topic for 2010 debate session and exam: **Climate Parliament-Interface between IP and Climate Change.**
2. Each student will be allocated particular country or group or regional organization to represent in the debate.
3. On the basis of allocated position one have to prepare written and oral submission considering the IP and Climate change interface , which may include(but not limited to) following issues-
 - a. What are the connecting points between IP and climate change from the perspective of concerned country or group;
 - b. How far existing national, regional and international IP provisions facilitate or hinder reduction of climate change;
 - c. What kind of provisions to be included in any future climate change accord to address IP issues;
 - d. What kind of provisions to be included in the national and international IP agreements (e.g., TRIPS, PCT) to meet climate change challenges;
 - e. What are the recommendations of your country or group regarding role of IP to meet the challenges of climate change.
4. Written submission must be submitted at least one week before the commencement of the parliament (that is last week of May 2010).

5. One participant will be allocated 15 minute for his own submission.
6. Finally all participants will negotiate to make a final accord on the interface between IP and Climate Change.
7. The final negotiated accord may be submitted at a later date as agreed between the participants and course teacher(s).

Twelve essentials for negotiation

1. Representing your country in a multilateral negotiation is a serious undertaking and a major responsibility, not to be entered into lightly.
2. Prepare as much as possible to understand the subject of the negotiations, your country's interests, and the interests of other countries. Learn about the forum and its rules of procedure, both formal and informal.
3. Support the process and participate constructively even in difficult situations. Unwarranted obstructionism can undermine the whole system.
4. Look for the win-win situations, and look for opportunities to support countries with different interests where possible. Their support may be needed in the future.
5. Treat other participants courteously and honestly. Good relationships and trust are invaluable assets, particularly when thinking about the long term. Humour and diplomacy can be very persuasive.
6. Focus on substantive objectives and be flexible on wording when your instructions allow. Focus on the interests of your country and other countries, rather than positions, to make progress.
7. In a session, when concerned and in doubt, request square brackets around the text in question, and allow discussion to move on . However, brackets should not be used lightly, as discussion of brackets can consume valuable negotiation time.
8. A workshop or informal group may help to resolve an impasse. More information and deeper understanding of the issues are sometimes the only way to move forward.
9. Responsible judgment is essential. Think twice before deciding to act or not to act.
10. Listen carefully to what is said and, just as importantly, to what is not said.
11. Prepare carefully for interventions, with a clear focus on objectives. Prioritize interests, and focus the number and length of interventions accordingly. Brevity and restraint are appreciated and are often very effective in winning support from others.

12. Be prepared for practical necessities, including alternative transportation, alternative meals, and local currency (small denominations!). Carrying simple food and a bottle of water is a good idea. Eat when possible – a negotiator’s life is unpredictable, and meals do not always happen when planned!

Collected from *Multilateral Environmental Agreement*

Negotiator’s Handbook, Second Edition: 2007

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