

## News Details

### **FICCI apprises PM on biological material transfer issues**

Feb 22, 2005

The Federation of Indian Chambers of Commerce and Industry (FICCI) apprised the prime minister on the need to discuss for mandatory transfer of biological material by the developed countries after the expiry of the patent. It pointed out that the complete control exercised by developed countries over biological material such as yeast, bacteria and virus for expressing various biotech products, puts countries like India in a spot, as they have to obtain them at an exorbitant cost.

Dr Krishna Ella, CMD, Bharat Biotech International and chairman, FICCI biotech committee, pointed out that the biotech industry uses hosts like yeast, bacteria and virus for expressing various recombinant products. As developed countries have patented their inventions relation to vectors, cell culture, viruses, genetic modifications, clones, enzymes, gene expressions and alike life forms and microorganisms and kept the others from using them by availing patent rights, the developing countries have not been able to either conduct research on such material nor use such inventions for the benefit of the public. Since the patentee has availed the exclusive right to use such material/forms under patent for a particular period, it is imperative to ensure that others can avail of such material/forms subsequent to expiry of the patent.

At present, there are no provisions either in the Patents Act or in TRIPS to force a processor of material to transfer such material to the intending party for common benefit of the people, as in the case of compulsory licensing.

A FICCI note on Biological Material Licensing/Material Transfer Agreements states that it would be advisable for TRIPS member countries to discuss a speedy resolution of the issue. While the developed countries may argue that the microorganisms/material is private property governed by common law and not by the patent regime. India should advance its case by pointing out that India being member of GATT has amended its Patents Act substantially to honor the treaty. Also, it should bring home to the developed nations that microorganisms and its systems would cease to be private property once the patent protection availed on such property expires.

However, if the possessor is not willing to transfer such material it would be the duty of the government to bring in legislation to force such possessor to share that material with others for common good. The organization has suggested that in order to avoid ambiguity, the government may acquire such biological material useful for Indian biotech industry and be kept in the custody of institutions like Department of Biotechnology and CSIR and transferred from such institutions to the intending industrial partner.