

Developing nations gain victory at WIPO against patent harmonization agenda

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The member states of the WIPO have reached an agreement on a renewed and strengthened mandate for the Intergovernmental Committee (IGC) on IP on Genetic Resources, Traditional Knowledge and Folklore, which would now undertake text-based negotiations on an international legal instrument aimed at protecting these resources. This can be termed as a victory for the developing nations in their fight against the developed nations' suspected hidden agenda of pushing a patent harmonization through WIPO.

However, whether the agreement will be treated as an international treaty is not yet clear.

Experts view this development as a setback to the developed nations led by the US, Japan and EU nations, as all through the negotiations, they argued that agreeing to text-based negotiations and an international legally-binding instrument was premature, and instead attempted to satisfy developing countries with a political declaration or a recommendation on the issue.

The agreement came just before the close of the annual WIPO Assemblies on October 1, following several days of intense lobbying among regional groupings and other members, as well as intensive negotiations between developing countries on one hand, and the Group B nations consisting of developed countries, on the other.

The developing countries worked hard in the negotiations at the 47th Series of Meetings of the Assemblies of the WIPO in Geneva for getting a renewed mandate for the IGC that would begin text-based negotiations for an international legally-binding instrument, with clear time-frames identified for the work of the IGC. These countries had taken strong objection to the efforts being made by the developed nations to undermine the flexibilities available under TRIPS by stretching the definition of counterfeiting. They had also earlier expressed concern on the larger agenda of the organisation, controlled by US, EU and Japan, on pushing a patent harmonization agenda.

The developing countries had vehemently argued for an extension of the term of the IGC for the next biennium and for taking forward the extensive and valuable work done by WIPO in the last nine years by mandating the IGC to undertake text based negotiations with the objective of developing a legally binding international instrument on Genetic Resources, Traditional Knowledge and Folklore, within a clearly defined time frame. These countries had also warned in the negotiations that any efforts to undermine the flexibilities available under TRIPS by stretching the definition of counterfeiting to prevent the flow of affordable and genuine generic drugs to the poor in the developing world would adversely affect the perception of legitimacy of the global IP framework.