

# TRIPS : ISSUES OF CONCERN

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# Scheme of Presentation

- Catching Up
- Transfer of Technology : (Environmental technology)
- Bio-piracy
- Access to Knowledge
- Right to science
- Right to food
- Right to health

# Catching UP

- The proven industrialization strategy
- Right emulate
- For eg: Korea , Japan
- Policy space for technology catch-up
- Minimum level of IP protection eliminate the policy space for a custom built IP regime

# Technology Transfer

- UNCTAD Report of 1975
- Strong IP act as a barrier to technology transfer
- Climate change
- TRIPS erects new barrier to technology transfer : Right to import

# Bio Piracy

- What is bio-piracy?
- How does it happen ..
- How TRIPS accelerate it
- The proposal for the amendment of TRIPS

# Access to Knowledge

- Technology transfer deliberations always points out the lack of absorption capacity
- Access to education materials
- Opportunities and challenges of digital technology

# Right to Science

- Article 15.1 (b) of ICESCR
- "The States Parties to the present Covenant recognize the right of everyone: ... To enjoy the benefits of scientific progress and its applications ..."
- IP poses threat to enjoyment of this right
- "the adoption of a public good approach to knowledge, innovation and diffusion" and "suggests reconsidering the current maximalist intellectual property approach to explore the virtues of a minimalist approach to IP protection."

# Right to Food

- Article 27 .3 (b)
- plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis system* or by any combination thereof.



# Right to Health

- Out of pocket expenditure in health
- Medicines a critical part of curative health care
- Patents = Monopoly= Higher Price
- The myth of recouping of R&D expenditure
- Use of flexibilities: Scope of patentability and CL

# Strategy to Balance

- Use of TRIPS Flexibilities
- Flexibilities can minimize the damage but cannot address the development concerns
- Assumptions on flexibility strategy
- Constraints to implement flexibilities : Legal, institutional and Policy
- New developments which threaten use of flexibilities
  - FTA
  - Unilateral

# Conclusion

- Expedite the Article 70 review of TRIPS
- Discussions on the constraints of use of flexibilities at the TRIPS council
- TRIPS Challenge to 2015 should be address within Post 2015 framework