

PARLIAMENT OF INDIA

RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON SCIENCE & TECHNOLOGY, ENVIRONMENT & FORESTS

TWO HUNDRED ELEVENTH REPORT ON "THE PROTECTION AND UTILISATION OF PUBLIC FUNDED INTELLECTUAL PROPERTY BILL, 2008"

(PRESENTED TO THE HON'BLE CHAIRMAN, RAJYA SABHA ON 28TH JUNE, 2010)
(FORWARDED TO HON'BLE SPEAKER, LOK SABHA ON 28TH JUNE, 2010)

(PRESENTED TO THE RAJYA SABHA ON 2ND AUGUST, 2010)
(LAID ON THE TABLE OF THE LOK SABHA ON 2ND AUGUST, 2010)

RAJYA SABHA SECRETARIAT
NEW DELHI
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**COMPOSITION OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON SCIENCE AND TECHNOLOGY,
ENVIRONMENT AND FORESTS (YEAR 2010)**

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 26. Shri Pradeep Tamta
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 28. Shri Mansukhbhai D. Vasava
 29. Prof. Ranjan Prasad Yadav
 - * 30. Shri Akhilesh Yadav
 - #31. Shri K.C. Singh Baba

* Nominated w.e.f. 14th October, 2009

** Nominated w.e.f. 31st December, 2009

Nominated w.e.f. 11th January, 2010

Shri Yashwant Sinha ceased to be a member of the Committee consequent upon his resignation from the Committee w.e.f. 1st February, 2010

SECRETARIAT

Smt. Agnes Momin George, Joint Secretary
Shri Alok Chatterjee, Director
Shri V.S.P. Singh, Joint Director
Shri Girija Shankar Prasad, Assistant Director

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred and Eleventh Report on 'The Protection and Utilisation of Public Funded Intellectual Property Bill, 2008'.

2. In the meetings of the Committee held on the 17th & 24th December, 2009, 5th January, 8th February and 2nd June, 2010; Secretaries of the Departments of Bio-technology, Scientific & Industrial Research, Science & Technology and experts/representatives of the Defence Research & Development Organisation, various institutes, industrial federations, scientists and Non-Governmental Organisations; tendered oral evidence on the various aspects related to 'The Protection and Utilisation of Public Funded Intellectual Property Bill, 2008'.

3. The Committee expresses its thanks to the Officers of the Departments and experts/representatives for rendering their valuable views/clarifications sought by the Members of the Committee.

4. In the meeting held on 7th June, 2010 the Committee considered the draft report and adopted the same.

NEW DELHI:
7th June, 2010

Dr. T. Subbarami Reddy
Chairman,

Department-related Parliamentary Standing
Committee on Science & Technology, Environment & Forests.

REPORT

The Chairman, Rajya Sabha in pursuance of Rule 270 (b) of the Rules relating to the Department-related Parliamentary Standing Committees, referred* 'The Protection and Utilisation of Public Funded Intellectual Property Bill, 2008' (Annexure-I) as introduced on 15th December, 2008 in Rajya Sabha and pending therein, to the Standing Committee on Science & Technology, Environment & Forests for examination and report.

2. The Committee held its first meeting with the representatives of Department of Bio-technology, for a general discussion on the various provisions of the Bill. The Committee also heard the views of thirteen experts from various Institutes, industrial federations, scientists and Non-Governmental Organisations on the subject on 17th & 24th December, 2009, 5th January, 8th February and 2nd June, 2010 (Names of experts at Annexure-II). The Committee also heard the views of the representatives of the Department of Scientific & Industrial Research, and Defence Research & Development Organisation on the 8th February, 2010 and Department of Science & Technology on the 2nd June, 2010. Written memoranda containing comments/suggestions on the various provisions of the Bill were also received from some of the experts mentioned above and the Indian Institute of Science, Bangalore. The Committee adopted the Report in its meeting held on 7th June, 2010.

- Rajya Sabha Parliamentary Bulletin Part II dated the December, 2008.

18th

3. We are today living in a highly complex and excessively competitive world. While on the one hand, the world order is characterized by globalization which calls for growing economic interdependence of countries worldwide through increasing volume and variety of trade and transaction in goods and services, free flow of international capital, exchange of technology, etc., what stands in stark contrast to this, on the other hand, is the attempt to claim distinct monopolies and exclusive rights over creation of intangible assets, such as discoveries and inventions, artistic and literary works, etc. Both the phenomena – globalization, as well as, creation of monopolies by way of patenting have their potential fallouts, specially on the developing countries. Trade liberalization and technological improvements tend to change the course of economy of a country by allowing cheap imports of manufactured goods and in the process destroying traditional sources of income and livelihood like agriculture and small scale industries. The inevitable consequence to this causes large-scale unemployment, as employment opportunities in the traditional sectors of economy become scarce and people being not properly skilled and qualified to handle the jobs which are created. At the same time, patenting serves as a tool to preclude sharing of scientific know how with the developing countries and denial of technology transfer.

4. Now, when we are confronted with such a complex and conflicting world order, it becomes incumbent upon us to be geared up and get ready to brave the challenges in order not only to survive but to prosper and flourish as well. It is a well-known fact that Research and development of products and processes by the universities as well as the academic and research institutions is of prime importance for the socio-economic growth of the country. In fact the manufacturing competitiveness of a country depends on how far it is able to utilize its knowledge infrastructure for the purpose of innovation, generation as well as controlling Intellectual Property Rights. Generation of Intellectual Property Rights in modern world depends upon abilities to make strategic investments into research and development. Appreciating this, the Government of India has been investing large amounts of funds into basic and applied research, through the scientific and other Central Ministries and Departments. The expenditure on research and development by Central Ministries and Departments including the major scientific agencies is to the tune of approximately Rs. 52,503.96 crore from 1998-99 to 2002-2003.

5. Secretary, DBT during his evidence before the Committee informed that as regards, institutional framework for patents there are no proper guidelines on what to patent, how to even bring it to the notice that there is something patentable and after patenting how to manage the decisions for technology transfer to relevant companies, etc. He further informed the Committee that the flow of knowledge from laboratory to industry is happening but it is not happening effectively and uniformly in all the public funded academic research institutions because this requires process development. This Bill is, therefore, an attempt to institutionalize processes by bringing a uniform understanding and practice of mapping of intellectual property, patenting and doing technology transfer, so that, the flow of knowledge to industry is seamless, efficient and guided by some principles and the universities and academic and research institutions are supported to build this capacity to handle it efficiently. In nutshell, the Secretary, DBT informed that the Bill aims to provide for patenting as an obligation, technology transfer

as a responsibility and royalty as a right to the scientists. This Bill gives an obligation to the scientists to patent when there is something patentable because lot of scientists do not want to patent or don't patent. It makes obligatory on the scientists and the institution to negotiate with companies for technology transfer which they may not be interested in.

6. The Committee enquired from the Secretary, DBT as to what will be the impact when this Bill becomes an act and comes into force, vis-à-vis the current scenario. The Secretary, DBT replied that currently India has no law which makes it necessary for any scientist to patent anything, nor does the country have any law which makes it obligatory for research and academic institutions to transfer a technology. Such an initiative has become all the more inevitable in view of the fact that in the innovation ranking of the world today, India is at the bottom, the Secretary mentioned before the Committee. Even a small country like Finland and Ireland are way ahead of India. India, therefore, needs to become a discovery – innovation – nation capable of discovering and making things on our own and not by copying others. The Secretary further informed the Committee that it is not that our academic or research institutions are not doing anything in the direction of patent. There are some elite scientific and academic institutions which have gradually institutionalized some of the practices and policies, but only a small, say 5 per cent of the institutions have a technology transfer office, most Universities do not have anyone skilled in technology transfer and majority of Universities do not have patenting cells or facilities. So the current scenario can be summed up by saying that we range in practice from good in about 10 to 12 per cent of the institutions to average in about 20 to 30 per cent to non-existent practices and policies in about 60 per cent.

7. This gives us a very hazy picture of the state of affairs in the country and it is in this background that such a legislation has become the need of the day, so that, this problem could be dealt with in a holistic and uniform manner through out the country and across all the academic and research institutions. The *leit motif* of the Bill is, therefore, to create guidelines and institutional framework in academic and research institutions.

8. The Secretary, DBT brought to the notice of the Committee the following positive aspects of the Bill:-

8.1 This Bill will give rise to number of patents because now every scientist getting public money would be under an obligation by law to patent what is patentable. It will also increase the flow of knowledge to industry. Scientists will no more be able to hold the Intellectual Property, thinking that he owns it and thus it will effectively obviate hoarding of knowledge. Companies will be benefited in the process through India's scientific innovation.

8.2 At present publication of research paper in reputed national and international magazines is associated with prestige for scientists working in majority of academic and scientific institutions. Such a publication sometimes results in unintended disclosure of valuable knowledge with potential of intellectual property. Sometimes, their leads may be developed further and patented by foreign scientists. Thus, the original researcher and the country lose invaluable intellectual property. This Bill, therefore, through clauses 3(3), 4 and 6 provide to protect the interests of scientists, the institutions they are working in and the country at large by sensitizing them, so that they can be major players in generation of innovation by being a bit more cautious and conscious.

8.3 At present in the absence of any protectionary measures and guidance for patents what is happening is that international companies are approaching academic and research institutions and buying their patents. Indian scientists are actually signing agreements with them for Intellectual Property Management. It means that India will pay for the science/innovation while the other countries reap the benefit. Foreign countries are plundering our scientific capabilities and we are helpless.

8.4 Technology transfer at the moment is being done by tender process without any skillful technology transfer officer. The Director of an institution who may also be a scientist and who does not know much about this business takes a decision on the basis of highest amount offered by a company. But this process of technology transfer does not prove to be effective and efficacious in successful product development. It sometimes leads to dumping of the intellectual property because the successful bidder for whatever reasons, are not able to develop a product or technology. Technology transfer office with people trained in technology transfer, contracting, legal services, etc. is therefore required. Today, India has a handful of people trained in technology transfer as a result of which India has to hire professionals from outside. The country therefore, badly needs professional and systems to make India a power in innovative technology. The country is almost 15 years behind on this front and even if India starts this process today, it will take some 10 years to put whole establishment and system in place. Clause 10 of the Bill thus seeks to address this issue by providing to constitute an intellectual property management committee within the organisation within one hundred and eighty days of the receipt of public fund.

8.5 Further, there are other government agencies, namely, Defence, Atomic Energy, Space, etc., which have never in the past used their Intellectual Property to build an industry for civilian applications. Even if their Intellectual Property had non-strategic value and had non-defence applications, it was never transferred to a company for civilian applications. But, now they are prepared to share their Intellectual Property for civilian application and such a development could immensely benefit the industry and the society.

8.6 It has also been felt that in this age of intense and cut-throat competition, there is a strong need to introduce and enthuse professionalism in innovation eco-system. Oxford and Cambridge Universities have created IP companies which visit each and every laboratory once in 2 to 3 weeks and talk to the scientists and find out what the scientists are doing. What have they recently found out? This is how they do Intellectual Property mapping. This stands in stark contrast to the situation prevailing in our country. Many of the times even the heads of the institution may not have full knowledge of their institutions whether they have something patentable because it requires talking to scientists at regular intervals. The country needs to create and develop such professionalism in our research and academic institutions.

8.7 Yet another issue that India needs to think over is that whether the country should continue to look at science in a traditional manner, i.e., science as a pure endeavour for pursuit of knowledge, for pleasure and for curiosity or we should, in the changed global scenario try to give something back to the society through invention and innovation. By writing papers we can draw solace and satisfaction but cannot provide affordable solutions for the people, can't expand our manufacturing and increase employment opportunities. So the country needs to consciously think in terms of using science as an

instrument of socio-economic transformation or else we are vulnerable to lag behind in the race of all-round development.

9. The expected benefits of the Bill, in brief, are as under:
- i) The legislation will provide a uniform legal framework within the country for protection and utilization of the Intellectual Property generated out of public funded research and development.
 - ii) Innovations in private sector as well as in universities, academic and research institutions that receive grants from Government will be encouraged.
 - iii) Collaboration between Government, non-governmental organizations and private sector will be promoted.
 - iv) The Bill provides for the utilization of public funded Intellectual Property and sharing of income or royalty earned between the Intellectual Property Creator and the recipient. Not less than 30% of the income or royalty has to be given to the intellectual property creator and this will promote the innovation culture in the country.
 - v) The legislation will facilitate commercialization of Intellectual Property generated out of Government funded research and development and will also promote innovation culture within the country.
 - vi) Dependence of universities, academic and research institutions and other recipient organizations for funding on the Government will be minimized as the Bill provides for utilization of a portion of royalties or income, generated out of the public funded Intellectual Property, for research and educational purposes.
 - vii) Employment generation in niche areas, with unique skills required for the Intellectual Property management, development and marketing, will be encouraged.
 - viii) Transfer of technologies from research laboratories to market place (nationally and internationally) will spur technological and financial growth of the country.

10. Clause-wise salient features of the Bill are as under :

10.1 The Bill seeks to provide for a funding agreement between the Government and the recipient, whereby any recipient interested to take a grant from the Government for the purpose of research and development shall enter into an agreement with the Government before release of grant.(clause 3)

10.2 Clause 4 of the Bill provides that the recipient shall within a period of sixty days of actual knowledge of the public funded intellectual property make a disclosure thereof to the Government in such form and manner as specified in the Bill.

10.3 Clause 5 seeks to provide for vesting of the title of public funded intellectual property with the recipient or the Government, as the case may be. The recipient shall within ninety days of the disclosure under Clause 4, intimate to the Government, his intention to retain the title of the public funded intellectual property with respect to the designated countries. In case the recipient fails to disclose or give such intimation within the specified time, the title of the intellectual property, shall vest in the Government.

10.4 Clause 9 of the Bill provides that the recipient shall not publically disclose, publish or exhibit the public funded intellectual property till an application for the protection of the same in the designated countries is made.

10.5 Clause 10 of the Bill provides that every recipient shall, within one hundred and eighty days of the receipt of the funds under section 3, constitute an intellectual property management committee within its organisation. The said Committee shall *inter-alia* identify, assess, document and protect public funded intellectual property having commercial potential; perform market research and market such public funded intellectual property; create an intellectual property management fund.

10.6 Clause 11 of the Bill provides that not less than thirty per cent of income or royalties out of the income or royalties arising out of the public funded intellectual property, after deducting the expenses incurred in protection and utilisation, shall be given to the creator of intellectual property. Out of the remainder, thirty per cent shall be paid into the fund created by the 'Intellectual Property Management Committee'. Rest of the income or royalties shall be retained by the recipient for their utilisation in any further research and to meet other expenses for the protection and maintenance of public funded intellectual property.

10.7 Clause 12 provides for the preference to the domestic industry in manufacturing products using the public funded intellectual property by restraining the recipient who has retained title to any public funded intellectual property from granting to any person, the exclusive right to use or sell any public funded intellectual property in India, unless such person manufactures products using the public funded intellectual property substantially in India.

10.8 Under Clause 14 of the Bill provisions have been made for the preparation of accounts and other relevant records by the recipient for its audit by the Comptroller and Auditor-General of India.

10.9 Clause 18 *inter-alia* seeks to grant non-exclusive, exclusive, or partially exclusive licences for Government owned public funded intellectual property.

10.10 Clauses 20, 21 and 22 seek to provide for stoppage of grant and its recovery in case of contravention of the provisions of the Bill; penalty for failure to discharge the duties of intellectual property creator and penalty for the failure to discharge duties of recipient respectively.

11. In order to have a better understanding and also to have an objective assessment of the Bill, the Committee interacted with the experts from academic institutions, scientists and representatives of non-government organisations. During its interaction with various experts, the Committee garnered a mixed response on the Bill. While some of the experts wholeheartedly supported the Bill, some expressed their views against it. Some of the viewpoints expressed against this Bill are as follows: -

- Some of the experts were of the view that there is nothing in the Bill which is going to help, specifically to the scientists in the country. This is so because what the Bill intends to do is already possible and is in practice. Scientists hold patents, do technology transfer and get royalty incentives and as such the Bill does not provide any more facilitation to the scientists than they are already getting. The current Bill, on the contrary imposes restrictions on the scientists. The Committee was further informed that the current executive process allows for a great deal of flexibility that scientists look for. The

purpose of the Bill could, therefore, be achieved through executive orders which are flexible rather than through legislative process, which is prescriptive and rigid in nature.

- When the Secretary, Department of Biotechnology was asked to give his opinion on this issue it was stated that the Bill may not help the elite institutions which have gradually developed the system what the Bill intends to achieve because they already have an understanding of how to handle the flow of knowledge to industry. He further stated that some of the institutes like Indian Institute of Technology (IITs), Indian Institute of Immunology, Indian Institute of Science, etc. have developed this system and have put it into practice. When a student or a faculty develops a new knowledge which can be translated into a product or device and it is bought by a company for some price, some part of the money is reinvested in research facility and a portion of it goes to the scientist as royalty. But this is happening only in a few elite institutes which needs to be replicated in all the academic and research institutes. The Committee was further informed that as regards these elite institutes even they need to improve upon their system as some of the technologies that were transferred to industries from them did not lead to any socially useful products because of lack of professional expertise in handling those technology transfers. Even these elite institutions don't have any accepted common guidelines and consistent institutional framework. In such a situation no institution is going by a collective wisdom and everyone is going the way it likes to, thinking that they have only rights and no obligations. This is the situation which the Bill intends to address and in the process help the society. Secondly, India is not a club of only 5 or so big institutes. It has a large number of academic and scientific research institutions working under various Ministries like Chemicals and Fertilizers, Health, Industry, Human Resource Development, Atomic Energy, Defence, Deptt. of Biotechnology, etc. So, to bring some amount of standardization, capacity improvement and institutional framework in such a large number of institutions functioning under different Ministries, it was felt that it is very difficult to do this by executive orders. That's why an enabling legislation was considered as a preferred option. The Committee agrees with the view of the Government and feels that an enabling legislation is a better option to bring fundamental changes in such a vast number of institutes. The Committee is, therefore, of the opinion that Bill is really useful and is going to help the country.
- The Committee was further informed that the Bill seems to pose a practical problem to the scientists by prescribing that all 'Intellectual Property' created with Government funding is to be subjected to intellectual property protection, i.e., patenting that too within a specific and strict time frame of sixty days as provided in clause 4 of the Bill. Scientists make experiments everyday, and may be that everyday or every couple of days, they have a small new finding. It may not, in the judgment of scientists, be such a finding that needs to be protected because it may or may not lead to creation of intellectual property but according to the Bill the scientist is bound to report to the Intellectual

Property Management Committee about his finding. Now the problem before the scientists lies in the fact that how much of finding should a scientist make before he or she reports and a scientist has to do this with every new finding by filing paper work with the IP Management Committee and the Committee reports to the Government. Thus, the Bill effectively builds up a whole flow of paper work in bureaucracy – scientists representing to IP Management Committee and Committee reporting to Government and if this starts happening with every new finding, one can imagine the volume of paperwork that will be generated in around 300 plus Universities/Institutions all over the country. With this sort of prescriptive nature of the Bill, possibilities of abuse and harassment may not be ruled out because some scientists may be doing all the paper work, while others may not be. This will create a very piquant situation. It is this nitty-gritty and the actual/practical implementation aspect of the Bill which bothers scientists and not the broader policy issues of the Bill as illustrated by the Secretary, DBT. For this practical problem, the Bill needs to be improved from being prescriptive to genuinely facilitatory.

- When the Committee sought Government's reaction to this reservation, the Secretary, Department of Biotechnology was very forthright in broadly agreeing to make suitable changes in the Bill. The Committee is of the opinion that the provision of mandatory patenting in all cases as provided in the Bill has its other fall-outs too. Blind patenting of all IP created, may prove to be counter productive because all of them, may not be potent enough to be converted into a product or technology.
- The Committee also feels that the creator of the intellectual property knows better as to whether his innovation will lead to a product and since he has the vision to take it further to the process of technology, he or she must be associated in the Intellectual Property Management Committee to take a decision on patenting and its technology transfer to the company.
- The Committee finds that one of the objectives of this Bill is likely to commercialize knowledge which goes against the tenets of our tradition of imparting knowledge and wisdom to the world. The Bill is, therefore, likely to promote crass competitiveness away from creativity in universities and research institutes.
- When the Committee desired to know the reaction of experts from academia on this issue, it was informed that today we are living in a different world where the whole country has become a small village as information is disseminated immediately. Knowledge today is looked at from two ways – one as something like writing philosophy to understand human relations and the other as can be used in day to day life for the good of the humanity. Now, knowledge has become such a powerful component that if we do not use somebody else will use it and reap the benefit. The creator of the knowledge will be deprived of that. So, now it is understood that money can be made out of new knowledge – “*Arthkari Vidya*” advocated in the ancient text as one of the comforts of the mortal world. On the more, money today has become the source of creation of knowledge. Moreover, whatever little is proposed to be generated out of it certain portion of that is ploughed back into research. The

Bill aims at developing a system which helps everybody. The scientists gets royalty, industry gets a product to develop and the society gets a new technology. The Committee is convinced with the contention of the experts and is of the view that India can't live in isolation and continue to do science for knowledge sake only. The country must use science for the societal benefit and for seeking solutions for food, environment and other technology related problems which the country is confronting today.

- The Committee was given to understand that the original intent of the Bill was to cover inventions and patents and this was the recommendation of the Knowledge Commission. But the Bill in its current form expands itself to include copyrights; trademark, designs, etc. thus, taking the scope of the Bill far beyond inventions. The Committee was further informed that with bringing copyright into the ambit of the Bill, IT Sector would be adversely affected because free and open source software activities can't take place.
- The Committee is of the opinion that copyrights come into play with creation of work and does not need registration for validity.
- The Statement of Objects and Reasons, though not an integral part of the Bill, plays the role of a prism through which the purpose behind the Bill could be perceived. The Committee notes that para 3 of the Statement forcefully asserts that resources generated out of intellectual property will prompt self-reliance and will minimize dependence of public funded universities, academic and research institutions and other recipient organisations for Govt. funding. The natural corollary to this assertion leads one to the inference that Govt. gradually but certainly wants to withdraw itself as far as finances are concerned by aiming at making universities self-reliant. The Secretary, DBT vehemently denied any such attempt being made by the Govt. through this Bill. Some experts also tried to allay the apprehension by saying that monetary part of it is, in fact, insignificant. It was stated that even under the best situation academic and research institutions will be able to generate five per cent of the grant received from the Govt. in ten years time from now. **The Committee, however, is of the opinion that such a forceful yet unfounded assertion on making universities financially self-reliant creates a wrong impression. At the same time, Govt. cannot absolve itself of the responsibility to provide adequate fund that it owes towards universities and research institutions. The Committee, therefore, recommends that the relevant paragraph should be suitably amended.**
- Yet another objective of the Bill as provided in the Statement of Objects and Reasons and forcefully made out and asserted by Secretary, DBT is promotion of transfer of technology from lab to companies or industry and to ensure access to innovation by all stakeholders for public good. A large number of witnesses/ experts who appeared before the Committee expressed their serious reservations on the Bill. They strongly apprehended that the mandatory patenting of public funded intellectual property and the technology transfer, as provided in the Bill will not promote public good as commercialization of intellectual property will lead to rise in prices of drugs and it would hit the

poor really hard. Essential drugs will go out of the reach of the common man who can not afford to pay market prices.

- Yet another risk that the Bill is fraught with is that, with such objectives as – ‘Commercialization of intellectual property created out of public funded research, utilization of innovations for raising resources through royalties or income’, the area and focus of research may tilt in favour of market driven model rather than the social sector model because the former guarantees more financial gain to the inventor and the recipient from the successful manufacture and marketing of technologies than the latter. Now, the inventor will aim at technologies in areas that would be expected to fetch market place profits rather than the social sector good, the driving force being the profit and profit alone. Promoting such a profit oriented motif would give fillip to the tendency to focus on applied research or to develop technologies rather than to concentrate on basic science/academic or other fundamental research to develop models of understanding.
- When the Committee inquired from the Secretary, Department of Science & Technology(DST) as to whether some modifications could be made in the bill without compromising on the original concept of the Bill, it was informed that this issue needs to be seen in a larger perspective and it would not be appropriate nor advisable to incorporate any such clauses in the present legislation which falls outside the scope of the Bill. **In the same meeting the representatives of some NGOs also brought to the notice of the Secretary, DST the need for a separate legislation for regulation of Research and Development. The Secretary, accepted the fact and stated that a separate Bill will be brought out to cater to the requirement of Research & Development so that research on diseases such as Malaria, Cholera, Diabetes, Tuberculosis, etc. could be encouraged and promoted. The Committee agrees to the contention of the Department and recommends that government should bring out a separate legislation on Research and Development relating to the interest of the common man after holding wider consultation with various stake holders.**
- **The Committee feels that this Bill is likely to shape the direction and set the destination of research and innovation in the country, Govt. must give due thoughts on this issue and weigh all the pros and cons before taking a final decision on this matter. The Committee is of the opinion that while formulating a policy for promoting utilization of inventions arising out of public funded research, Govt. must strive to strike a fine balance between social sector and market driven model so as to serve public interest in the best possible way. The Committee feels that the objective of the Bill is how to utilize the public funded money to maximize the benefit for the nation. Intellectual Property creation is an important component. In doing so, one needs to create wealth, to create public good. Non-exclusive licensing benefits the public but the revenue earning is low. Exclusive licensing increases the revenue earning but the private good is higher than the public good. So it needs to be judiciously decided as to when does one need to prefer public good and when one should opt for private**

good. So if there is a case for licensing a drug where customer in our country is quite less, we can go for private good because it will take global market and hence this Intellectual Property should be exclusively licensed. But if we have to license a drug for say Malaria or Tuberculosis which afflicts larger populace of our country, we should go for non-exclusive licensing. The Committee feels that there cannot be any uniform policy for licensing as it needs a sort of strategy.

The Committee is of the opinion that the overall welfare of the society should take precedence over mere commercial interests to decide whether exclusive or non-exclusive license needs to be granted. Therefore, grant of exclusive or non-exclusive license should be decided on case-to-case basis depending upon its merit and keeping in view the interests of the poor people so as to ensure that the benefits of the public-funded research percolate down to the lowest strata of the society. To avoid misuse of the exclusivity of the license, a provision for reviewing the operation of license at regular intervals should be provided for in the Bill. The Committee also recommends that in the extreme case where there is non-compliance by the recipient and the patented invention that has been assigned exclusive license to a private entity is not available to the public at a reasonable and affordable price, Government should revoke the license and acquire the patent to ensure overall societal benefit.

- Another area of concern as expressed by experts, lies in provisions of harsh punishment provided in clauses 20, 21 and 22 of the Bill. The Committee understands that these provisions are aimed at ensuring accountability of those doing research with public money to societal needs. At the same time, however, the Committee feels that such harsh provisions may deter some genuine researcher or scientists from taking the challenges of innovation and hence may prove to be counterproductive. **The Committee, therefore, recommends that Govt. should try to make penal provisions as far as possible, moderate without compromising on the point of accountability.**
- **The Committee is quite happy to note that Secretary, Department of Biotechnology had been immensely receptive, appreciative and open to suggestions/comments of the experts drawn from various fields and had agreed to incorporate their viewpoints, as far as possible, in the Bill without compromising on the original scope of the Bill. The Committee is happy to note that the Department has taking note of the concerns expressed by various stake holders and the views of the Committee, revisited the Bill and proposed 52 amendments.**

12. General Observations

12.1 As regards clause 7 pertaining to the duties of the recipient organization, some of the experts were of the view that to ensure greater transparency, it should be made obligatory for the recipient/creator to publish in their website the details of the public funded intellectual property acquired, assigned or licensed and such other information as may be prescribed. Further, in order to strengthen this aspect, an obligation should be imposed on the recipient to mention in its Intellectual Property application, that the application has stemmed from the use of public

funds which will make it very easy to track the public funded IP from the patent and plant variety database, without members of the public having to scour each individual website of recipients of government grants.

12.2 The Committee also feels that there should be more transparency in public funded Intellectual Property so that people could easily come to know about a public funded intellectual Property. This will also ensure full utilization of the public funds invested in the research for the technology. The aforesaid suggestion of the experts was well taken by the Secretary, Department of Science & Technology and it was assured that due consideration would be given to this issue. The Committee therefore, recommends that the Bill may be suitably amended in this direction.

ANNEXURE-II

List of experts whose oral evidence was heard on the Protection and Utilisation of Public Funded Intellectual Property Bill, 2008

Sl. No.	List of expert	Date of hearing
1.	Dr. Alok Ray, Head, Centre for Biomedical Engineering, Indian Institute of Technology, New Delhi	24 th December, 2009
2.	Prof. Avadhesh Surolia, Director, National Institute of Immunology, New Delhi	24 th December, 2009
3.	Prof. Paramjit Khurana, Department of Plant Molecular Biology, University of Delhi, New Delhi	24 th December, 2009
4.	Shri Anjan Das, Senior Director, Dr.S.Sengupta, Senior Advisor & Ms. Shilpi Jha, Executive Officer. Confederation of Indian Industry, (CII), New Delhi	5 th January, 2010
5.	Shri Jyotirmoy Jain, Advisor, Associated Chambers of Commerce and Industry of India (ASSOCHAM), New Delhi	5 th January, 2010
6.	Dr. Amit Mitra, Secretary-General Federation of Indian Chambers of Commerce & Industry, (FICCI), New Delhi	5 th January, 2010

7.	Dr. Satyajit Rath, Scientist National Institute of Immunology, New Delhi	5 th January, 2010 & 2 nd June, 2010
8.	Shri Prabir Purkayastha, Vice-President, Delhi Science Forum, New Delhi	5 th January, 2010
9.	Ms. Leena Menghaney, Project Manager, Medicines Sans Frontiers, New Delhi	5 th January, 2010, 8 th February, 2010 & 2 nd June, 2010
10.	Shri Anand Grover, Director & Ms. Pratibha S., Legal Advisor, Lawyers Collective HIV/Aids Unit, New Delhi.	5 th January, 2010, 8 th February, 2010 & 2 nd June, 2010
11.	Shri K.M. Gopakumar, Member Third world Network (TWN) New Delhi	5 th January, 2010 & 2 nd June, 2010
12.	Prof. Shammad Basheer, WB National University of Juridical Sciences, Kolkata	8 th February, 2010 & 2 nd June, 2010
13.	Prof. S. A. Shivashankar, Chairperson, Intellectual Property Cell, Indian Institute of Science, Bangalore	8 th February, 2010

**Short title and commencement.
Definitions.**

**THE PROTECTION AND UTILISATION OF PUBLIC FUNDED
INTELLECTUAL PROPERTY BILL, 2008**

**A
BILL**

to provide for the protection and utilisation of intellectual property originating from public funded research and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection and Utilisation of Public Funded Intellectual Property Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “designated countries” means countries in respect of which the recipient opts to retain the title under section 5;

(b) “Government” means the Central Government and includes local authorities and statutory authorities under the control of the Central Government;

TO BE INTRODUCED IN THE RAJYA SABHA.

Bill No. LXVI of 2008

2

(c) “intellectual property” means any right to intangible property, including trade mark, patent, design, and plant variety as defined under the Copyright Act, 1957, the Patents Act, 1970, the Designs Act, 2000, the Semiconductor Integrated Circuits Layout-Design Act, 2000, and the Protection of Plant Varieties and Farmers’ Rights Act, 2001;

(d) “intellectual property creator” means the person employed or engaged by the recipient for research and development and who created the public funded intellectual property;

(e) “recipient” includes a university or institution of higher education established for research purposes which has entered into an agreement with the Government under section 3, and includes an organisation established by an Act of Parliament or a non-profit scientific or educational organisation registered under the Societies Registration Act, 1860;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “public funded intellectual property” means intellectual property which is the outcome of research and development for which the Government has provided grant under section 3;

(h) “utilisation” means the manufacture of a composition or product, the practice of a process or method, operation of a machine or system, or commercialisation thereof.

3. (1) Any recipient interested to take a grant from the Government for the purpose of research and development shall enter into an agreement with the Government before receipt of such grant.

(2) The agreement entered into under sub-section (1) shall be in such form and manner as may be prescribed.

(3) The recipient shall,—

(a) make disclosure of public funded intellectual property to the Government within the time specified under section 4;

(b) perform the duties under section 7;

(c) constitute an intellectual property management committee in the manner specified under section 10;

(d) abide by such other conditions as may be prescribed.

(4) The Government shall not release any grant to any recipient until an agreement under sub-section (1) is entered into.

4. The recipient shall within a period of sixty days of actual knowledge of the public funded intellectual property make a disclosure thereof to the Government in such form and manner as may be prescribed.

5. (1) The recipient shall within ninety days of the disclosure under section 4, but within the period specified by any law for the time being in force for receipt of application in the designated countries for protection of public funded intellectual property, intimate, in such form as may be prescribed, to the Government, his intention to retain the title of the public funded intellectual property with respect to the designated countries and the

Government shall allow the title of such public funded intellectual property with respect to such countries to vest in the recipient:

Provided that where the recipient fails to disclose the public funded intellectual property under section 4 or give such intimation within the specified time, the title of the public funded

intellectual property, shall vest in the Government:

14 of 1957.

39 of 1970.

16 of 2000.

37 of 2000.

53 of 2001.

21 of 1860.

Funding

Agreement.

Disclosure of

public funded

intellectual

property.

Vesting of

title of public

funded

intellectual

property.

3

Provided further that the Government may, by an Order published in the Official Gazette, refuse the title to the recipient within ninety days of the receipt of the intimation on any of the

following grounds,—

(a) that the recipient is not located in India or does not have a place of business located in India or is subject to the control of a foreign Government;

(b) that in the public interest and in exceptional circumstances the Government deems it expedient so to do;

(c) that it is necessary so to do in the interest of the security of the nation;

(d) that the public funded intellectual property is related to atomic energy as defined under section 20 of the Atomic Energy Act, 1962 or under section 4 of the Patents Act, 1970:

Provided also that where the Government is satisfied that the recipient has, for reasons beyond his control failed to give intimation within the time specified under this sub-section,

it may, for reasons to be recorded in writing, extend the said period to such limit as may be

prescribed.

(2) The title of the public funded intellectual property in respect of the countries other than the designated countries shall vest in the Government.

(3) Where the recipient fails to apply for protection of public funded intellectual property

within the period specified under section 7, the title of same, shall vest in the Government.

(4) Where the recipient does not make a written submission to retain the title to the intellectual property or is refused the retention of title to the intellectual property by the Government, and where more than one Government authorities are party to the funding agreement, the intellectual property shall be jointly owned by the Government authorities on

terms agreed upon by such Government authorities:

Provided that the share of costs and responsibility for intellectual property protection, maintenance, litigation and its utilisation shall be mutually agreed to by the Government authorities within such time as may be prescribed.

6. The recipient shall not publically disclose, publish or exhibit the public funded intellectual property till an application for the protection of the same in the designated countries is made:

Provided that the recipient shall give intimation regarding public disclosure, publication or exhibition at least fifteen days before such disclosure, publication and exhibition to enable

the Government to file application in countries other than the designated countries.

7. A recipient who retains the title to a public funded intellectual property shall,—

(a) apply for the protection of public funded intellectual property in designated countries within the period specified by any law for the time being in force;

(b) having regard to its financial capability, bear all the expenses for its protection and enforcement;

(c) initiate the process for utilisation of the public funded intellectual property immediately after the application for protection of public funded intellectual property is filed and submit a written report within six months and biannually thereafter to the Government, specifying the steps taken for utilisation of the public funded intellectual property, details of licensees and any other information as may be prescribed.

(d) share the royalties or income received from the public funded intellectual property with the intellectual property creator under section 11;

(e) cause to maintain the accounts of the intellectual property management committee constituted under section 10;

33 of 1962.

39 of 1970.

Bar to public disclosure, publication and exhibition.

Duties of recipient who retains title to intellectual property.

4

(f) cause the funds of the intellectual property management committee to be

audited under section 14.

8. The recipient shall not assign its right to public funded intellectual property to any person or body of persons without the prior written permission of the Government obtained

sixty days in advance to such assignment:

Provided that the Government shall within a period of forty-five days convey its decision to grant or refuse such permission to the recipient:

Provided further that where no such decision is conveyed within the said period of forty-five days, permission shall be deemed to have been granted.

9. (1) The intellectual property creator shall, immediately after the creation of public funded intellectual property, make a disclosure to the recipient to enable it to make a disclosure

to Government under section 4.

(2) The intellectual property creator shall co-operate in all respects with the recipient or the Government, as the case may be, in the process of protection and utilisation of the public funded intellectual property so created.

(3) The intellectual property creator shall not publish, exhibit or publicly disclose the public funded intellectual property without prior intimation, of at least thirty days, to the recipient or the Government, as the case may be.

10. (1) Every recipient shall, within one hundred and eighty days of the receipt of the funds under section 3, constitute an intellectual property management committee within its

organisation.

(2) The intellectual property management committee constituted under sub-section

(1) shall,—

(a) identify, assess, document and protect public funded intellectual property having commercial potential;

(b) perform market research and market such public funded intellectual property;

(c) create an intellectual property management fund;

(d) monitor the process of licensing and assignment;

(e) manage revenues from licensed public funded intellectual properties for the organisation;

(f) within one hundred and eighty days of its constitution, establish mechanism to promote the culture of innovation and public funded intellectual property generation within the organisation;

(g) create mechanisms to govern the relations between the recipient and the creator of public funded intellectual property.

11. (1) The income or royalties arising out of the public funded intellectual property shall be shared as under:—

(a) subject to the provisions of any agreement which may be entered into between the intellectual property creator and the recipient, not less than thirty per cent. of such income or royalties, after deducting the expenses incurred in protection and utilisation, shall be given to the creator of intellectual property:

Provided that where such agreement has a provision for a lesser amount than thirty per cent. of the net income, the provisions of this section shall prevail;

(b) out of the remainder, thirty per cent. shall be paid into the fund created by the

intellectual property management committee;

Assignment.

Duties of
intellectual
property
creator.

Constitution
of intellectual
property
management
committee
and its
functions.

Sharing of
royalties or
income.

5

(c) rest of the income or royalties shall be retained by the recipient for their utilisation in any further research and to meet other expenses for the protection and maintenance of public funded intellectual property.

(2) The recipient shall give a written report regarding the distribution of the royalties or income to the Government along with report under clause (c) of section 7.

12. Notwithstanding anything contained in this Act, no recipient who has retained title to any public funded intellectual property and no assignee of any such recipient shall grant, to any person, the exclusive right to use or sell any public funded intellectual property in India, unless such person manufactures products using such public funded intellectual property substantially in India:

Provided that the Government may, for reasons to be recorded in writing, allow such sale or use for manufacture in countries other than India.

13. Notwithstanding anything contained in this Act, the Government shall have a right to practice and to assign any public funded intellectual property to carry out its obligations under any international treaty or agreement.

14. (1) The recipient shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be, in consultation with the Comptroller and Auditor-General of India, prescribed.

(2) The accounts of the recipient shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the recipient to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India shall have the same rights and privileges and authority as he has in connection with the audit of the Government accounts and, in

particular, shall have the right to demand the production of books, accounts, connected vouchers, other documents and papers and inspection of offices of the recipient.

(4) The accounts of the recipient, as certified by the Comptroller and Auditor-General of India together with the audit report thereon, shall be forwarded to the Government at such time as may be prescribed.

15. The recipient, shall prepare in such form and at such time as may be prescribed, an annual report giving a summary of its activities including information relating to the proceedings and policies during the previous years and such report shall also contain statements of annual accounts of the recipient.

16. All disputes arising as a result of the provisions of this Act shall be settled in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

17. Nothing in this Act shall apply to any intellectual property generated out of scholarship, fellowship and grant given by the Government, primarily, for educational purposes:

Provided that this section shall not apply to any public funded intellectual property falling within sub-section (1) of section 20 of the Atomic Energy Act, 1962.

18. The Government shall,—

- (a) apply for protection and maintain the public funded intellectual property for which the title vests with it under section 5 in any country as deemed necessary;
- (b) grant non-exclusive, exclusive, or partially exclusive licences for Government owned public funded intellectual property, royalty free or for royalties or other consideration and on such terms and conditions as may be prescribed;
- (c) transfer custody and administration, in whole or in part, to any other entity, the right, title or interest in any Government owned public funded intellectual property under section 5;

Preference
for national
industry.
Government's
right to
public funded
intellectual
property.
Audit and
Accounts.
Annual
Report.
Dispute
settlement.
Disposition
of rights in
educational
Awards.
Duties of
Government.

26 of 1996.

33 of 1962.

6

(d) give directions for prohibiting or restricting the publication of information with respect to any public funded intellectual property or communication of such information to any person or entity which it considers prejudicial to the interest of the security of India.

Explanation.— For the purposes of this section, the expression “interest of security of India” means any action for the security of India that relates to the use of public funded intellectual property for making a product which —

(i) relates to fissionable materials or the materials from which they are derived; or

(ii) relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying to a defence establishment; or

(iii) is taken in time of war or other emergency in international relations;

(e) acquire title to any public funded intellectual property which it considers necessary in the interest of the security of India.

19. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

20. Where a recipient fails to fulfil the conditions of the agreement entered into under section 3 and contravenes any of the provisions of sections 3, 4, 5, 6, 7, 8, 10, 11, 12, 14 and

15 the Government shall,—

(a) recover the amount of grant already released with interest at the rate of ten per cent. per annum thereon in such manner as may be prescribed; and

(b) bar such recipient for future grants for those purposes which were subjects of initial funding agreement.

21. Whoever, being creator of intellectual property, fails to discharge his duties under section 9 shall,—

(a) not be given his share of income or royalty; and

(b) be punishable with fine which may extend to twenty-five per cent. of the amount of grant received by the recipient for research and development.

22. Whoever being recipient, contravenes the provisions of sections 3, 4, 5, 6, 7, 8, 10, 11, 12, 14 and 15 shall be punishable with fine which may extend to fifty per cent. of the amount of the grant received by him for research and development under section 3.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

24 (1) The Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide

for all or any of the following matters, namely:—

(a) the form and manner in which agreement shall be entered into under subsection (2) of section 3;

Protection of
action taken
in good faith.

Stoppage of
grant and
recovery of
grant
released.

Penalties for
failure to
discharge
duties of
intellectual
property
creator.

Penalty for
failure to
discharge
duties of
recipient.

Power to
remove
difficulties.

Power to
make rules.

7

(b) the conditions under clause (d) of sub-section (3) of section 3;

(c) form and manner in which the disclosure shall be made under section 4;

(d) form in which the recipient shall intimate his intention and the limit of time extended under sub-section (1) of section 5;

(e) the time for the Government authorities to mutually agree to share costs and responsibilities under sub-section (4) of section 5;

(f) information under clause (c) of section 7;

(g) form in which the annual statement of accounts shall be made under subsection (1) of section 14;

(h) the time at which the accounts together with the audit report shall be forwarded to the Government under sub-section (4) of section 14;

(i) the form and time in which the annual report shall be prepared under section 15;

(j) the terms and conditions for grant of licences under clause (b) of section 18;

(k) the manner of recovery of grant under section 20.

(3) Every rule made under this Act shall be laid, as soon as, may be after it is made,

before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

To compete in a global environment, it is necessary for India to innovate and promote creativity. For promoting creativity and innovation, India needs to protect and utilise the intellectual property created out of public funded research and development. Over the years, the Government has invested large funds in research and development. To provide incentives for creativity and innovation, it is necessary to develop a framework in which the

protection and utilisation of intellectual property is put in place. The ultimate objective, however, is to ensure access to such innovation by all stakeholders for public good.

2. The proposed legislation imposes obligations and creates rights to optimise the potential of public funded research and development, provides incentive to create intellectual property and the mechanism for its protection and utilisation, encourages innovation in small and medium enterprises, promotes collaboration between Government, private enterprises and non-Government organisations, commercialisation of intellectual property created out of public funded research and development and the culture of innovation in the country.

3. The proposed legislation will enhance awareness about intellectual property issues, especially in universities, academic and research institutions. It will also increase the responsibility of universities, academic and research institutions to encourage students, faculty and scientists to innovate. Such innovations can be utilised for raising financial resources of these establishments, through royalties or income. The income from intellectual property will promote self-reliance and will minimise dependence of universities, academic and research institutions and other recipient organisations for Government funding.

4. The proposed legislation seeks to achieve the above objects.

NEW DELHI; KAPIL SIBAL.

The 3rd December, 2008.

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Notes on clauses

Clause 2 seeks to define various words and expressions used in the Bill.

Clause 3 seeks to provide for a funding agreement between the Government and the recipient before release of grant for research and development.

Clause 4 provides for disclosure of public funded intellectual property within a period specified therein.

Clause 5 seeks to provide for vesting of the title of public funded intellectual property with the recipient or the Government, as the case may be.

Clause 6 seeks to bar public disclosure, publication and exhibition of the public funded intellectual property.

Clause 7 provides for duties of the recipient who retains title to the public funded intellectual property.

Clause 8 provides for the conditions for assignment of the public funded intellectual property by the recipient.

Clause 9 provides for the duties of intellectual property creator.

Clause 10 provides for the constitution of intellectual property management committee and its functions.

Clause 11 provides for sharing of royalties or income arising out of public funded intellectual property between the recipient and the intellectual property creator.

Clause 12 provides for the preference to the domestic industry in manufacturing products using the public funded intellectual property.

Clause 13 seeks to empower the Government to practice or assign any public funded intellectual property to carry out its obligations under International treaty or agreement.

Clause 14 seeks to provide for preparation of accounts and other relevant records by the recipient for its audit by the Comptroller and Auditor-General of India.

Clause 15 provides for preparation of an annual report by the recipient.

Clause 16 provides for dispute settlement in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

Clause 17 seeks to provide exemption to certain intellectual property generated for educational purposes from the purview of this Bill.

Clause 18 provides for duties of the Government in respect of the countries for which intellectual property title vests with it.

Clause 19 provides for protection of action taken in good faith.

Clause 20 seeks to provide for stoppage of grant and its recovery in case of contravention of the provisions of the Bill.

Clause 21 provides for penalties for failure to discharge the duties of intellectual property creator.

Clause 22 provides for penalty for failures to discharge the duties of the recipient.

Clause 23 seeks to empower the Government to remove difficulties in implementation of the Bill.

Clause 24 seeks to empower the Government to make rules to carry out the provisions of the Bill.

9

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 3 of the Bill empowers the Central Government to make rules to provide for the form and manner in which agreement shall be entered into.

Item (d) of sub-clause (3) of clause 3 empowers the Central Government to lay down conditions to be complied by the recipient.

Clause 4 empowers the Central Government to make rules to provide for the form and manner in which the disclosure shall be made.

Sub-clause (1) of clause 5 empowers the Central Government to make rules to provide for the form in which the recipient shall intimate its intention to retain title of the public funded intellectual property with respect to designated countries and the extended limit of time for such intimation.

Sub-clause (4) of clause 5 empowers the Central Government to make rules specifying time to mutually agree to share costs and responsibilities with regard to jointly owned public funded intellectual property.

Sub-clause (c) of clause 7 empowers the Central Government to make rules specifying the information to be furnished, in the report, by the recipient who retains the title to a public funded intellectual property.

Sub-clause (1) of clause 14 empowers the Central Government to make rules to provide for the form for maintenance of accounts and records and preparation of annual statement of accounts.

Sub-clause (4) of clause 14 empowers the Central Government to make rules specifying the time frame for submission of accounts together with audit report to the Government.

Clause 15 empowers the Central Government to make rules to provide for the form and time in which the annual report shall be prepared by the recipient.

Sub-clause (b) of clause 18 empowers the Central Government to make rules with regard to the terms and conditions for grant of licences.

Clause 20 empowers the Central Government to make rules specifying the manner of recovery of grant from the recipient for contravention of the provisions of the Bill.

The matters, for which the rules are to be made, pertain to matters of procedure or administrative detail, and it is not possible to provide for them in the Bill. The delegation of

legislative power is, therefore, of normal character.

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to provide for the protection and utilisation of intellectual property originating from public funded research and for matters connected therewith or incidental thereto.

—
(*Shri Kapil Sibal, Minister of Science & Technology and Earth Sciences*)

GMGIPMRND—4262RS(S-1)—10.12.2008.
