



## GLASS HALF FULL? TECHNOLOGY TRANSFER IN A DOWNTURN

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protects its portfolio

**INPI**

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IP and climate  
change

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# URGENT SOLUTIONS TO CLIMATE CHANGE

In order to reduce the effects of climate change worldwide, several environmentally friendly measures have been discussed in recent decades. Gabriel Di Blasi and Gabriela Salerno look at the role of IP in tackling the problem.



The most recent United Nations Climate Change Conference (in Cancun, Mexico, in December 2010) is an example of attempts to minimise global warming. However, like the previous conference held in Copenhagen, the outcome in Cancun was a rather modest non-binding agreement. It includes the creation of a Green Climate Fund to assist emerging countries in implementing measures to deal with climate change by 2020, but it does not specify how the proposed fund will be raised. Deep cuts in global greenhouse gas emissions were also discussed in Cancun, but there was no progress regarding the extension of the Kyoto Protocol, whose first round expires in 2012.

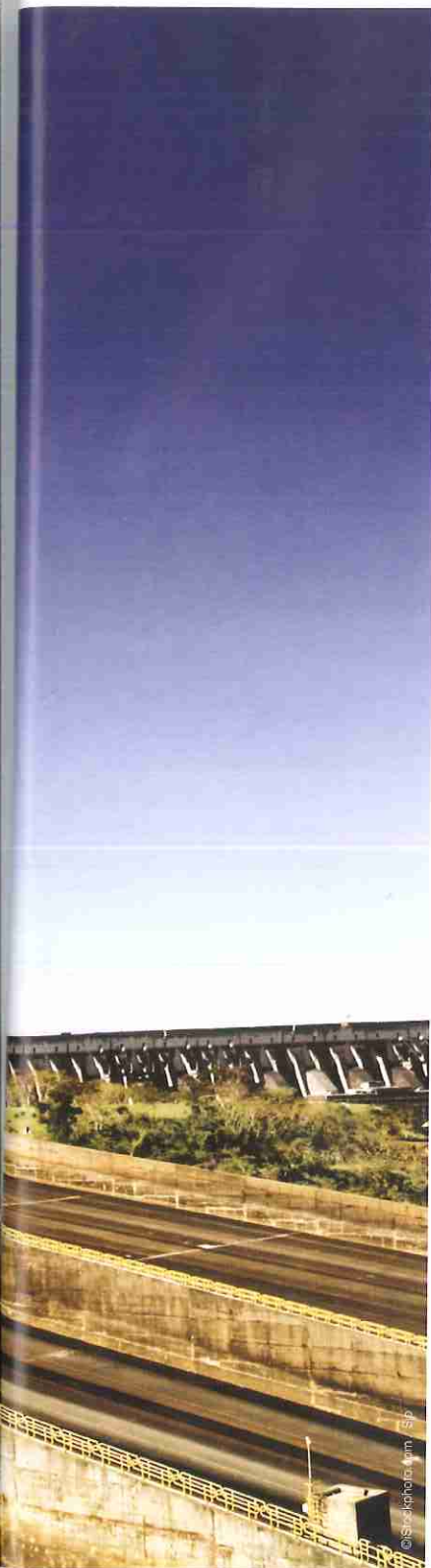
There is no consensus about whether developing countries should have compulsory emission reductions or whether rich countries would have to reduce their emissions first. Developing nations believe that rich countries should extend the agreement beyond 2012, before the poorer ones agree to implement measures to reduce their emissions. On the other hand, some of the biggest greenhouse gas emitters, such as Japan, Canada and Russia, state that they will not commit to a second round of the Kyoto Protocol unless all major emitters, including China, the United States and India have agreed, through a legally binding treaty, to reduce their emissions. In view of this dispute, the discussion to create a legal mechanism to force the biggest emitters to reduce their greenhouse gas emissions was postponed for another year.

In the scientific field, specialists are obtaining significant results in environmental research in order to improve the reduction of greenhouse gas emissions, such as in the development and continuous improvement of renewable and sustainable energy sources, e.g. solar power, wind energy and bioenergy. American scientists have demonstrated that cellulosic ethanol produces an energy yield that is several times higher than that of the ethanol obtained from corn grain, mainly because in the production of cellulosic ethanol, all parts of the plant are used to produce energy, including corn stalks, leaves and other residues. Moreover, they have found that cellulosic ethanol reduces greenhouse

gas emissions by 85 percent over reformulated gasoline and also reduces the emission of fine particulate matter, which is an extremely harmful component of air pollution. Another important example is the green polyethylene produced by a Brazilian company—the world's first internationally certified renewable polyethylene made from sugarcane ethanol. This is a signal that some developing countries such as Brazil are committed to improving such technologies and are considered world leaders in these issues. Brazil is regarded as a pioneer in the production and research of energy from biofuels, and is also a reliable and valuable partner of the United States in this field.

These initiatives come from the innovation promoted by research and development departments of companies, universities and all institutes concerned with climate change worldwide. However, in order to promote them, legal security and tools are required to speed up the granting of patents in this area. One important initiative in the intellectual property field is represented by so-called 'green patent' projects, which prioritise the prosecution of patent applications related to clean technologies.

Recently, highly respected patent offices have started discussing green patent policies in order to grant preferential treatment for patent applications related to nature-friendly technologies. For example, the United Kingdom Intellectual Property Office (IPO) created a 'Green Channel' for applications filed after May 12, 2009, which enables the applicant to make a written request to expedite the prosecution of green patent applications concerning not only the examination, but also their search and publication. Following the same pattern, the United States Patent and Trademark Office (USPTO) announced in December 2009 a pilot project to accelerate the examination of green technology patent applications. The objective of this project is to speed up the granting of these patents, and the first 3,000 eligible patent applications will probably have a one-year time reduction in their examination. Similar projects were launched by South Korea and Australia, while China has also committed to provide a green policy.



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In Brazil, the National Institute of Industrial Property (INPI) is currently showing special interest in this respect as per recent events concerning green patent and sustainable innovation issues. Such interest is probably due to the increasing number of patent applications for green technologies. Besides being considered an emerging economy and therefore an attractive market to foreign investors, Brazil has several national companies strongly focused on clean technologies in several technical fields, e.g. biopolymers, cosmetics, food and biofuels. Furthermore, Brazil has always been concerned about environmental issues and ranks highly among 163 nations in the 2010 Yale Environmental Performance Index. Also, Brazil was one of the first countries to sign the Kyoto Protocol in 1998. That said, INPI has not announced an official green patent project for Brazilian applications yet, although it seems likely at any time. According to the president of INPI, one important challenge is to define which patents will be classified as green patents, since the countries that have already started a green patent project have established different criteria to define it.

The World Intellectual Property Organization (WIPO) organised a debate on these issue during the 17th season of the Meeting of International Authorities under the Patent Cooperation Treaty (PCT), which took place in February 2010, in Rio de Janeiro, Brazil. The international bureau aimed to listen to the opinion of PCT members on measures that should be taken to bring the PCT system in line with the worldwide green initiatives, e.g. implementing reduced fees. WIPO recently launched the 'IPC Green Inventory', which proves that the international bureau is really committed to green technology. This brand-new online tool makes the search for patent information about green technologies easier by dividing technical fields into various topics, e.g. waste management, nuclear power generation, alternative energy production and others, which in turn are linked to the International Patent Classification (IPC) they refer to. Also, there are links to Patentscope®—a free search service offered by WIPO comprising more than 5 million patent documents from PCT and national/regional collections—in order to display all PCT applications classified in the relevant IPC.

A further improvement in the patent field is the Patent Prosecution Highway (PPH), which corresponds to a set of initiatives for providing fast-track examination procedures by sharing information between participating patent offices. Under PPH, the office of second filing can benefit from the work done by the office of first filing

upon the applicant's request. This can reduce some current problems in the patent offices as a whole, such as examination backlog and patent quality. The USPTO has already started PPH agreements with other important patent offices, including the Australian Patent Office, Japanese Patent Office, Canadian Patent Office and the European Patent Office. Therefore, it seems that the effective use of PPH will directly benefit green patent projects.

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Based on this scenario, it is evident that the role of intellectual property offices is essential to grant the legal security and, at the same time, show the advantages of developing new and inventive green technologies by providing sufficient information to the target audience. It is also important to bear in mind that the expedited examination is only the first link in a chain, since after having the patents granted, the applicant should be stimulated to negotiate its clean technologies worldwide.

Although great efforts are notably being made to implement a solid green patent policy, some issues should be carefully observed. For example, some problems could arise from the fact that

each country has its own environmental rules, thus making it difficult to create a harmonised green policy. Nevertheless, the most important issue is time: countries cannot wait anymore for a consensus between their leaders and need to act, because the longer we delay, the worse the consequences to the planet will be.

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