Filing applications under the World Trade Organization (WTO) has been seen as an alternative. Product patent can no doubt be sought under the WTO, yet biotechnological issues are, in effect, sidestepped. The ordinance does away with Section 39*, which made it mandatory for an Indian inventor to first seek an Indian patent before applying anywhere in the world! Under the new regime, an identical application must first be accepted in a convention country after 1 January 1995 against which the inventor can seek exclusive marketing rights in India. If the invention was made in India, and a process patent for producing that particular 'substance' had been granted, with the approval of the Controller, the inventor can enjoy exclusive marketing rights for five years or till a patent is granted or the application rejected. In all other cases, the Controller would not be calling for a patent examiner's report till 31 December 2004. Thus, even filing under the WTO in India means a long cold storage, a not too satisfactory proposition when one knows the short life-span of biotechnology products. Though product patents can be obtained for drugs, medicines and agrochemicals, the amendment does not affect the existing restrictions on the grant of patent protection in respect of *substances produced by chemical reaction*, alloys, optical glass, semiconductors and intermetallic compounds.

Indian inventors seeking patents abroad are very often stymied by the substantive examination of the US PTO. In determining prior art, the US PTO scans the available literature, which is apparently disjointed with no obvious interconnections, and then mosaics them, to state that from the emerging cited literature the idea is a logical extension and, therefore, obvious. The other stumbling block is the protection of patents and their 'alternatives'. Any substance substantively made by a similar process having substantively similar properties and giving substantively similar results is deemed as an 'alternative'. The cost of clarifying and/or modifying claims in response to the examiner's report is also too costly to discourage further action.

There are several Indian laboratories doing good work with genetic probes. Since patenting gene sequences is not allowed and any diagnostic process is deemed unpatentable, many Indian researchers are losing out in the international race.

The new use of a known drug has again become patentable in the US. With the expertise available in the West to isolate, characterize and synthesize plant alkaloids and other natural products with therapeutic properties faster, there is a potential threat that soon our wisdom of traditional medicine will be rendered impotent.

So what corrective measures do we take? Primarily, the ambiguity of the new Act must be resolved. Scientists and legislators should come together to propose distinctions between microbial entities and higher life forms on a legal perspective. The cost of patenting abroad is discouragingly exorbitant. Having gone for patent harmonization, would it not be logical to offer Indian scientists a levelled playing field to commercialize their inventions? Can we not make it possible for them to patent their inventions in India speedily so as to obtain a priority date to beat their competitors? It is not enough that we impel our scientists to patent. It remains with our planners to make the patenting environment conducive. We tend to make our laws not by anticipating trends but by following footsteps, even when they do not lead in our direction. It is time that our law makers took cognizance of Indian research capabilities in the biotechnology, pharmaceuticals and agrochemical sectors and legislate to favour them in the troubled years of international competition. We have been for far too long, as a nation, walking forward with our eyes over our shoulders!

SURESH CHANDRAN

National Institute of Immunology,
Aruna Asaf Ali Marg,
New Delhi 110 067, India

*Section 39 is back, with the lapse of the Presidential Ordinance

Why not platinum?

This note is intended to draw the attention of geoscientists to the need of looking at the platinum content of continental sulphide deposits.

The discovery of attractive quantities of gold and silver in oceanic sulphide deposits prompted a renewed interest in the continental sulphide deposits. Several important and interesting papers on this aspect were presented during the Annual General Meeting of the Geological Society of India in December 1994. Surprisingly, none dealt with the platinum content. In fact, one of the first publications on ocean floor massive sulphide deposits by Hekinian *et al.*[1] did report on the platinum content of the East Pacific Rise (21°N) deposits Electron microprobe analysis revealed that platinum is present as a dispersed constituent in most sulphide phases that contain gold and silver. Its concentration ranges between 0.1 and 1.4% by weight. Further details of platinum in different sulphide phases can be found in Hekinian *et al.*[1].

Studies of oceanic sulphide deposits have been important in providing insights into the genesis of continental sulphide deposits which themselves formed in an oceanic setting once upon a time. So, when oceanic sulphides contain attractive quantities of platinum, why not look at the platinum content of continental sulphides, in addition to gold and silver?

If good amounts of platinum are indeed present in land deposits, it can change the scenario tremendously. One may also wish to have a fresh look at the platinum content of tailings from different sulphide deposits in the country.

1. Hekinian, R., Fevrier, M., Bischoff, J L., Picot, P. and Shanks, W. C., *Science*, 1980, **207**, 1433–1444

R. SHANKAR

Department of Marine Geology,
Mangalore University,
Mangalagangotri 574 199, India