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**The role of the Copyright
Agency in support of the
intellectual property and the
research activities at the
universities of the Republic of
Azerbaijan (the Innovation
development and the
commercialization of
technologies in universities
(research institutions))**

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Content

- I. Innovative development and commercialization of the technologies 5
- II. Work and tasks that we should to overcome . 10

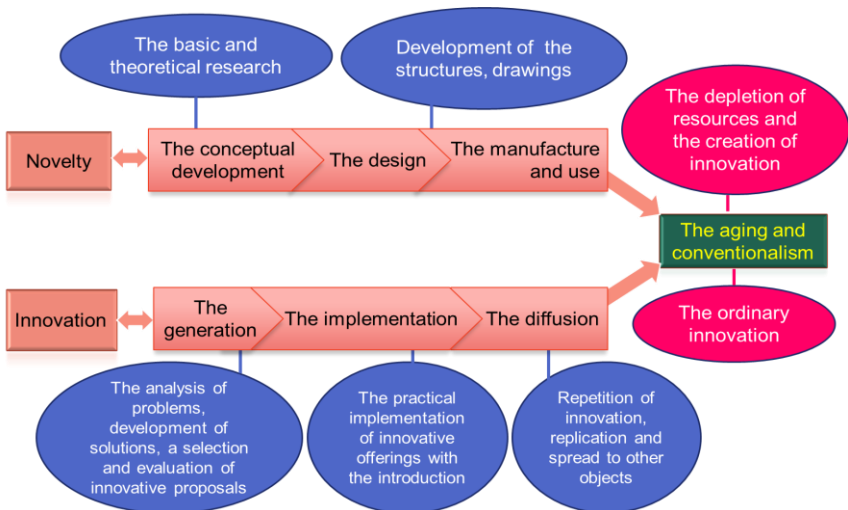
I. Innovative development and commercialization of the technologies

1. Well-designed "Azerbaijani model of development" by the President Ilham Aliyev, aimed at the future of the country forms the basis of reforms carried out in accordance with current challenges against the backdrop of the economic achievements of Azerbaijan's in the last 13 years.
2. What is the innovation and innovation activity?

Novelty – is the result of intellectual activity; its a new strategy, a new business model, a new organizational structure, a new marketing method, the new process, technology, product, or any of their combination.

Innovation – this is the practical implementation of innovations in order to obtain economic benefits.

A comparison of the life cycles of the novelty and innovation



The innovation process - The successive stages of the creation, development and dissemination of innovations.

The effect of innovation – represents a new or improved product or process on the market.

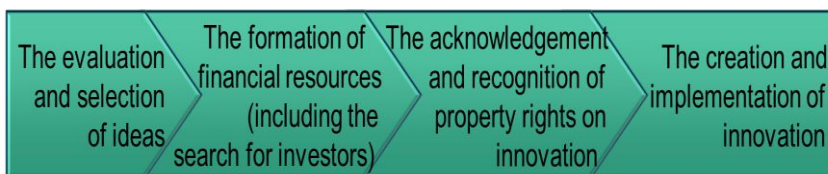
The intellectual property - are the results of innovative activities.

3. The priority of modern innovative development is to commercialize new technologies

It means: any activity that produce a profit came from the results of the staff research institutions: the creation of new technology - based on the contracts with private clients to perform the research projects: royalties from the use of intellectual property and etc.

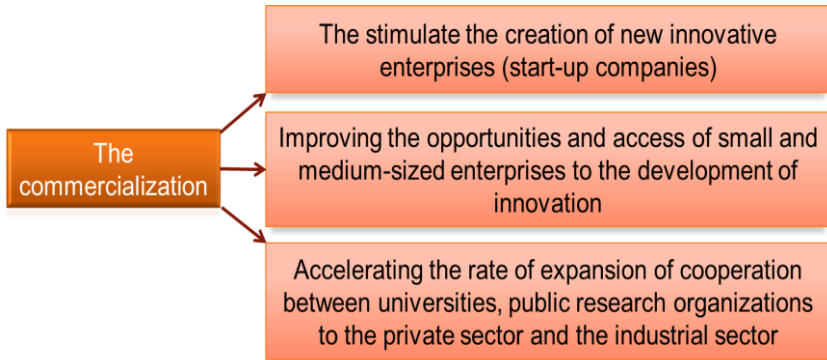
The commercialization of innovations – launch of innovative products on the market (marketing innovation), namely the introduction of new innovative products to consumers.

The process of commercialization of innovations



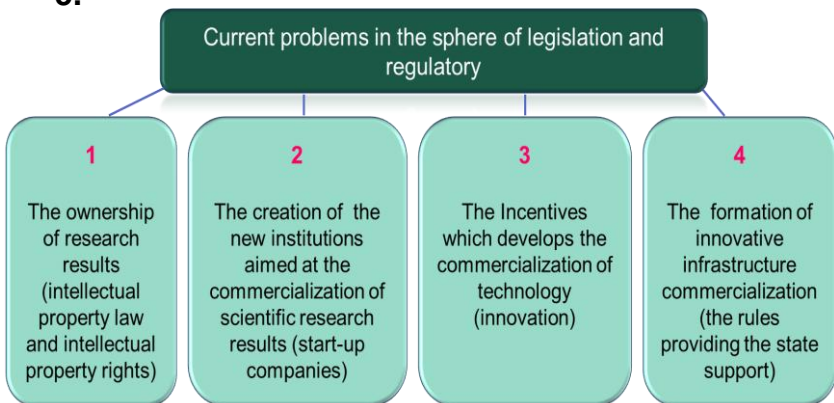
Therefore, the modern challenge facing universities and research institutes in the country, as well as specialists and managers of intellectual property sphere is to take measures corresponding to modern requirements that is aimed at making the innovative development in one of the active participants in the commercialization.

4. What are the general trends of commercialization?



- ✓ The above mentioned areas demand to improve the law and / or regulation of the legal framework in the field of scientific research, and based on the international experience should be pay attention to the following issues.

5.



The above mentioned four most important topical issues require the disclosure of the following key issues:

- a) Ownership for the results of research:

- Who exactly owns the results of research, which is funded from the public sources? (in term of commerce, not academic)
 - Who should be responsible for commercialization?
- b) Creating the campaigns, aimed at the commercialization of research results:
- May the University (research institution) to participate in the creation of separate research start-up companies or has the right to spread its stake in the capital of the company?
 - Which forms of participation exist?
 - May the investigator to work in start-up companies?
 - What are the ways (methods) to stimulate start-up companies?
- c) The incentives of commercialization:
- Distribution of the profits between the research organizations, between researcher and mediator.
 - What kind of tax incentives (tax breaks) are used?
 - What funds are generated the incentives?
 - What should be the financial mechanism of the state budge, which aimed at development of measures to support the commercialization?
 - Do customs regulations prevention measures for commercialization?
- d) The formation of innovative infrastructure commercialization:
- ❖ How formed and developed specialized state organizations (government agencies) which create enabling environment for commercialization?
 - ❖ Methods and techniques of stimulating the formation and development of commercialization centers?

- ❖ What kinds of incentives are considered to be the most favorable for the development of networks in the field of technology transfer and for scientific and research institutes with different areas of the industry?
- ❖ Co-financing aimed at the commercialization of budget funds and shapes, models and mechanisms of public-private partnership.
- ❖ Staff training and other issues.



II. Work and tasks that we should to overcome

Giving comments for separate directions, upcoming issues will be presented proposals for a national system in Azerbaijan.

1. The first direction: the right of property (IPR and IP owner) on the results of scientific research work (SRW).

- Ownership is an important issue, since only an absolute right holder may enter the property into a commercial space.
- Since the US law Bayh-Dole (Bayh-Dole Act, 1980) American and European research institutions have obtained rights for the intellectual property, those organization, which has taken on the work of a research scientist became the owner took place so-called "professorial superiority" Research results and thus was eliminated («professore privilege»).
- The way in which the scientists-researchers become the legal owner, by the employer (research organization), and also the works and organizations of work in this direction were reflected in two books in three languages (Azerbaijani, English, Russian), issued by the Copyright Agency of the Republic of Azerbaijan and WIPO.

Do not repeating, I would like to mention one important point: the fundamental factor "On Science" of the law - is the acquisition of university (Institute of the Academy of Sciences), the status of legal entity of public law; an agreement (contract) between the employer and all researchers and contractors, which states that IP objects are created in accordance with the "official

request" and on the basis of the law "On Copyright and Related Rights", "On Patent" intellectual property rights (property rights) belong to the employer.

- **But refinement of IP rights holder is a necessary but not sufficient condition. That's, mechanisms promote the transfer of technology (transfer) to be approved.**
- The European legislative practice the concept of responsibility (duty) and "stimulus" is always used as the norm, which is closely associated with each other and the duty to commercialization is usually borne by the owner.
- However, the "duty" ("responsibility") is not necessarily of commercialization and transfer of scientific results. Therefore, in most European and other Western countries, the budgetary funds allocated for research and development are highlighted ("DUTIES") only on the condition ("duty") dissemination of results. (For example, European Framework Programme)
- The main driving force behind the commercialization incentives are presented to all participants. For this reason, in most Western countries already on the legislative level approved by the distribution of profits (profit-sharing) between the researcher, institution and intermediary, and thus for all the parties to create a system of incentives.
- If the mediators (commercialization offices) in the past, is a division of the institutions, they are department-governmental currently independent structures in the form of government (figure is based on state subsidies), public-private (activities based on the share of the state / institution and the private sector) and private.

- The activities carried out within the intermediaries legislative is not allowing the assignment of values created by the sovereign-government budget, at the same time, intermediaries market participants, have the opportunity to make their own solution.

2. The proposals for Azerbaijan to ensure the first direction.

2.1. State waived the right to intellectual property and transmits the right to organize employer researcher - so the real legal owner appears on the market. At the same time, to accelerate the commercialization stimulates the transfer of rights to the intellectual property from universities (research institutes) in the industrial sector.

It seems that the training materials prepared by us should be widely used. Given that now the universities (research institutions) are persons of public law, should be effectively utilized possibility of submitted by the Law of Azerbaijan Republic "On Public Individual legal entities."

2.2. Here are a number of provisions of the Law of Azerbaijan Republic "On public legal persons" (from December 29, 2015, number 97-VQ; published 03.02.2016 years).

Article 2. Definitions used in this Law

2.1. **Public law** - common law rules governing the relations connected with ensuring national and public interests.

2.2. **Public entity** - an organization which is not a state or municipal authority, engaged in activities of a national and social significance, created on behalf of the state and the municipality or public entity.

Article 3. The activities of the public legal entity

3.1. Public entities may be engaged entrepreneurial activity only in cases where the activity is achieving the

goals set at their creation and in their charters, and meets these objectives.

3.2. In the case provided for in its articles of association, a public entity can create economic companies or participate in them.

3.3. Profit public legal person may be transferred to the state and local budgets for purposes not provided for in the statute, only the decision of the founder.

Article 6. Charter of a public legal entity

6.1. Exemplary charter public legal entity by various areas can set the appropriate executive authority power.

6.2. The charter of a public legal entity is indicated as follows:

6.2.1. name, location, and that is a public entity;

6.2.2. procedure for the adoption of the statute and changes;

6.2.3. objectives and activities;

6.2.4. order management;

6.2.5. sphere of influence and shape control of the public entity;

6.2.6. authorized capital;

6.2.7. Sources of formation of property, the basis of financial performance;

6.2.8. creation of business entities or the right to participate in them (if any);

6.2.9. order to inform the public about the activities of a public entity;

6.2.10. the procedure of liquidation and reorganization.

6.3. Charter public legal entity, created on behalf of the state, and the charter of its subsidiary a public legal entity approved by the relevant executive authority, and the charter of the public legal entity,

created on behalf of the municipality, and its charter subsidiary of the public legal entity approved by the compliance of the municipality.

According to the Decree of the President of the Republic of Azerbaijan № 759 of February 3, 2016 "On application of the Law of the Azerbaijan Republic, the faces of December 29, 2015 number 97-the VQ" On public legal entities "indicated that model statutes, public entities (Article 6.1.Zakona) in 3 months agreed with the President of the Republic of Azerbaijan and approved by the Cabinet of Ministers, charter of a public legal entity, created on behalf of the state and its charter subsidiary of the public legal entity approved by the President of the Azerbaijan Republic, Cabinet of Ministers and the State Committee on Property Issues.

❖ Thus,

- Following the approval of a specific charter of higher education and research institutions, the relevant body of executive power and decision on their academic councils of these organizations lights in the commercialization the "green light";

- Especially it should be emphasized that a specific charter reflected should find the relevant articles of the Act.

❖ However, there is another proposal - to make the Law "About the Science" Law provision that "commercialization is one of the main activities of universities and research institutes."

3. The second trend - the creation of start-up companies.

- New high-technology companies are the most profitable for the economy channel technology

commercialization: job creation, tax revenues, the image of the territory, and so on.

- There are several ways to create start-up companies, but in response to the questions, it should be noted that in case of non-participation of the Institute and a researcher in the creation of a start-up company or non-participation of researchers in the start-up companies, and so on. None of the existing ways of creating could be applied.
- The international experience shows that in developed countries widely applied equity (share-holding) Institute and a researcher involved in the creation of start-up companies. The mechanisms reception investigators on a second job (secondary employment) are also widespread.
- At the same time, scientific organizations manage incubators of innovative companies and research organizations and explore contributing to the capital of start-up companies converting, are (there are some limitations however, on the investment of capital - «capital cap») to shareholders.

4. Proposals for Azerbaijan to ensure the second direction.

- At present, the research institutions, by reason of the legal uncertainties have the opportunity to participate in the creation of the start-up companies. To use the opportunity that was mentioned in Article 3 of the Law "On public legal entities" is necessary approval of the Charter of the scientific establishment. In the European and American universities created such a legal framework.

5. The third direction: incentives for the development of commercialization.

- In accordance with international practices incentive system applies to all participants and includes the following provisions:

5.1. In terms of the specifics of incentive tools:

- Tax benefits (preferences), including simplified taxation;

- Financial incentives, including co-financing of the program, subsidies for services, the provision of seed capital for the creation of start-up companies, etc.;

- Health benefits (preferences), including "services instead of money", training of personnel, assistance in patenting of products and services, the idea of places to incubators and technology parks.

5.2. In terms of stimulating the object:

- Small and medium-sized enterprises to stimulate start-up companies;

- Promote research on a contractual basis;

- The stimulating research (distribution license and royalty payments).

6. Suggestions on Azerbaijan to ensure the third direction.

- ✓ Establish the tax incentives at the tax legislation;
- ✓ Creating a legal framework for the preparation of programs and projects supporting actors Commerce realizations;
- ✓ Establishment of the legal status of the state agencies;
- ✓ Establishment of funds allocated for the promotion of the law on the state budget;
- ✓ Formation of the legal basis of the right of joint Financing for budgetary organizations and the private sector;
- ✓ The most important priority: creating incentives for start-up companies (tax and non-tax).



7. The fourth pillar: the formation of infrastructure commercialization.

- Infrastructure development commercialization is carried out not by special laws, and to a greater extent due to the special programs and projects, and on the basis of international practice can be represented as follows:

- Supporting the commercialization of special organizations - government agencies (in France - Agence Nationale de Valorisation de la Recherche, in the UK - British Technology Group, in Finland - TEKES, etc.)

- Promote the creation and development of commercialization centers (on-example, US law "On the technological innovation" (1980) - "Stevenson-Wydler law" according to which every year from federal laboratories need to "establish commercially significant technologies and their commercialization".

In addition, the Law "On Trade and Competition" (1988) provides for the establishment of centers for the transfer of industrial technologies).

Stimulating networking organizations for technology transfer and cooperation of research institutions with industrial (for example, in France, there are dozens of network-governmental organizations - research network and technological innovation faced by the goal - to organize interaction budget research and industrial structures in priority investigation directions).

Networks bring together key actors of technological and industrial spheres, the Universe, including universities, research structure, tours, large industrial groups and small and medium-sized enterprises, engineering, organization of universities and higher education institutions, professional associations and community technology centers. The state directs the development of their considerable investment.



- On the basis of the joint budget financing and possibility - of the private sector in terms of technology commercialization, to development forms of private-public partnerships (for example, in the United States since 1986 for those interested in the scientific and technical resources of companies 'doors' cost of federal laboratories to "open -You 'and the legal basis of this agreement, "joint scientific work» - cooperative research and Development Agreement - CRADA.

Public-private partnership provides financing start-up companies, bringing the government research to industrial innovation, joint network organizations. For this was set up the legal and institutional arrangements).

8. Proposals for Azerbaijan to ensure the fourth direction.

- The formation of the infrastructure serving for the development of the commercialization, it's a complex and requires significant time process. To move it to the active stage, first of all, the above questions should be solved - identified the owner

of the rights to intellectual property, the legal conditions for the creation of start-up companies and the development of a system of incentives.

- It should be noted that in accordance with the Decree of the President Ilham Aliyev dated November 8, 2016 the Academy of Sciences of the country's system, the new structure will be set up - High-Tech Park.
- Nevertheless, based on international experience, at the present time, the following priority issues need further consideration:

- Grant mechanism design.

In Azerbaijan, there is a similar experience, so as to effectively operate the Science Development Fund under the President of Azerbaijan Republic. From the viewpoint of accelerating the commercialization, it is important to discuss the affiliation of intellectual property rights obtained as a result of scientific activity.

- The return financing.

In this case, it is necessary to create a legal framework for the financing of the return of an important commercial value of projects.

- The mechanism of co-financing.

Here the experience of the CRADA Agreement may be applied, provided that created jointly by research organizations and industrial firms, including small business enterprises, joint ownership of IP rights objects to be secured.

- The public-private partnership.

The technology commercialization should not be associated only with the state budget, as the need for research and engineering development defines non-state (private) sector.

The strengthening of this partnership are wide-ranging economic reforms (Laws, Decrees and Orders) carried out by the President of the Republic of Azerbaijan Ilham Aliyev and forming this legal basis.

Prepared in the Intellectual Property Agency
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