

Priorities for Development-oriented IPR Systems

In September 2003, the UNCTAD and ICTSD joint Project on Intellectual Property Rights (IPRs) and Sustainable Development convened the Second Bellagio (Italy) Dialogue. Entitled *Toward Development-oriented Intellectual Property Policy: Advancing the Reform Agenda*, the event brought together 25 policy-makers, negotiators, capital-based officials, and representatives from the private sector, academia and civil society organisations. Participants stressed that intellectual property policy was only one of a range of possible instruments to promote innovation, creativity and technological capacity in developing countries. They expressed concern over the continuing pressure on developing countries to adopt high standards of protection inappropriate to their different development needs and priorities.

Developments in TRIPS-plus Standards; Negotiations in Different Fora

Participants cautioned developing countries against any TRIPS-plus commitments – either at multilateral, regional or bilateral levels – unless the benefits could be unambiguously shown to outweigh the costs. A pro-competitive international IP regime that fosters domestic innovation and maintains a robust public domain would involve, *inter alia*:

- determining internationally agreed principles to guide discussion of IP standards at all levels;
- devising means for individual countries to effectively address unilateral actions and pressures;
- challenging the institutional framework in which IP policy is developed, including opposition to moves to harmonise the patent regime, including through WIPO's Patent Agenda;
- promoting development-friendly implementation of the 30 August Decision on paragraph 6, in the spirit of the Doha Ministerial Declaration on TRIPS and Public Health;
- supporting initiatives requiring disclosure of origin of genetic resources/traditional knowledge (TK) and exploring further the best means to address the specific challenges of protecting TK; and
- promoting innovation and affordable access to technologies in developing countries, including open source and other collaborative approaches, liability regimes and utility models.

Transfer of Technology, IPRs and Technological Capacity Building

Policies are needed to remove market impediments to the transfer of commercially viable technology and to lower the costs and risks of technology acquisition. The Group highlighted the following needs for action:

- monitoring actions taken by countries to implement the technology transfer commitments in the TRIPs Agreement (Articles 7 and 66.2);
- facilitating technology transfer through matching grants facilities, public-private partnerships, fiscal incentives, building scientific and technological capacity in developing countries, and best practice licensing models;
- adopting proactive national policies, including effective use of competition policy and better use of existing public tools including compulsory licences and government use provisions; and
- conducting sector- and industry specific research, and studies on the impact of co-operative patent regimes on technology transfer and local innovation, and international migration of technology transfer personnel.

Technical Assistance in IPR Policy and Development

Participants stressed the need to involve a broad range of stakeholders in developing countries in the design and implementation of technical assistance in order to ensure that it responds to the development needs of receiving countries. The following needs for action were highlighted:

- evaluation of current technical assistance on intellectual property;
- ensuring that technical assistance programs adopt a development perspective and that they expose recipients to a range of policy options and implications, including the use of flexibilities in intellectual property regimes and in particular in the TRIPS Agreement;
- developing a methodology for needs assessments and guidelines of good practice for development-oriented technical assistance in IP;
- promoting professional, pedagogically sound assistance by providers in consultations with users, and targeting technical assistance on the development of local capabilities and expertise in intellectual property and development; and
- considering ways (e.g. pro bono legal assistance schemes) to improve developing country access to developed country intellectual property systems.

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