



WIPO Sub-Regional Workshop on Patent Policy and its Legislative Implementation

Topic 2: The Patent system – Policy objectives of the patent system – Ways and means to reach them

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Outline

- The international patent system
- Objectives of the patent system
- Features to reach the objectives
- Patents filing and grant
- WIPO activities

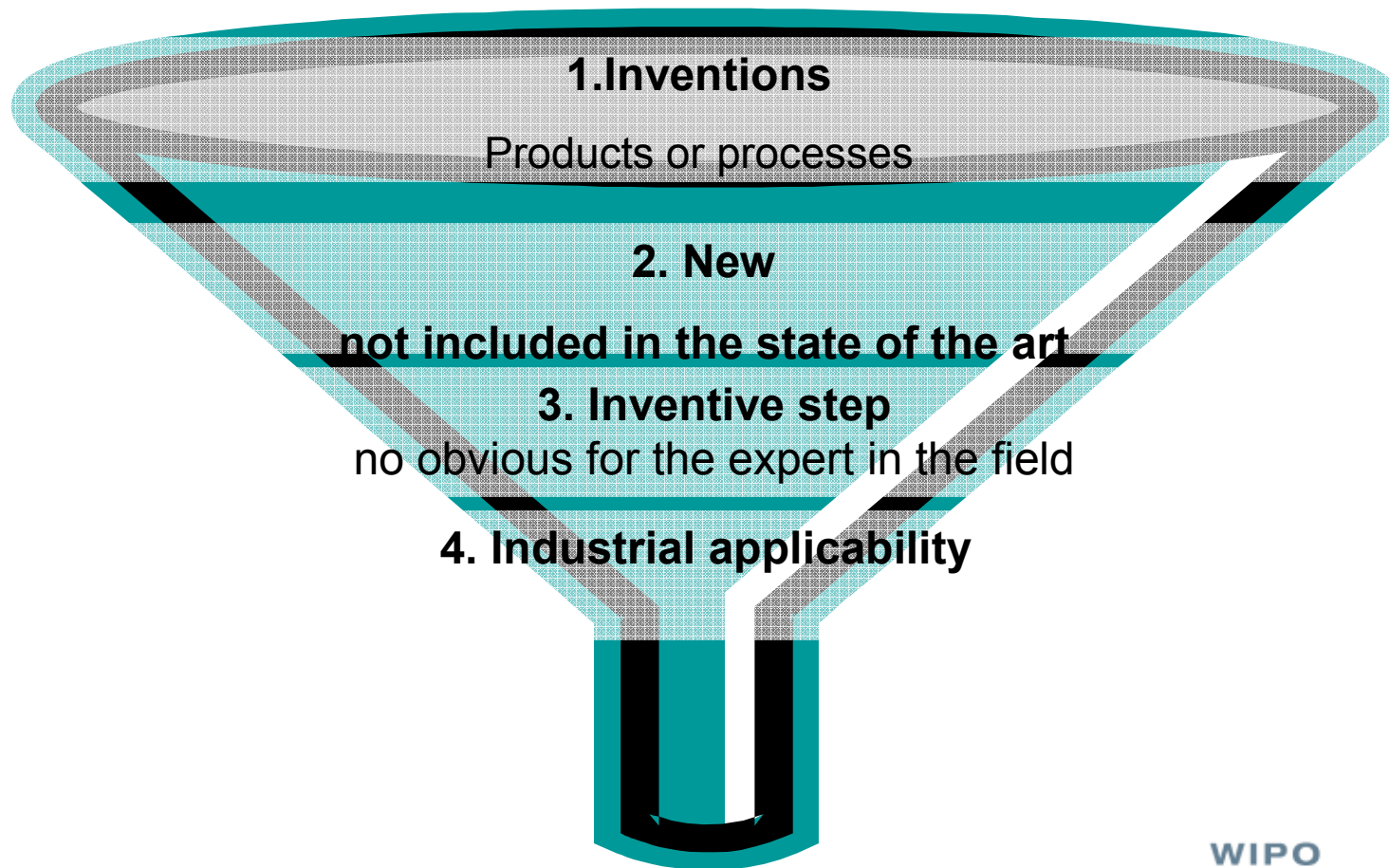
The international patent system

- Basic notions
- Multilateral legal framework
- constant search for balance

Basic notions

- Right to *stop others* from making or selling the invention without a patent owner's consent
 - NOT a right to make or sell the invention
- Only available for *new* inventions in a field of *technology*
 - Need to fulfill conditions of patentability
- Geographically limited under *national* patent laws
 - but there are *regional* and *international* treaties
- Limited duration, *20 years* from filing date
- Annual renewal or maintenance *fees* (increasing with time)
- Some *limitations* to the rights
- *Property rights in inventions*
 - may be sold or licensed

The Patent System



The international legal framework

WIPO

Paris Convention, 173 MS (few substantive obligations);
specialized agreements (Art. 19 Paris):

- PCT (1970, 142 CS); IPC (1971, 61 CS); Budapest Treaty (1977, 73 CS); PLT (2000, 27 CP)

WTO,

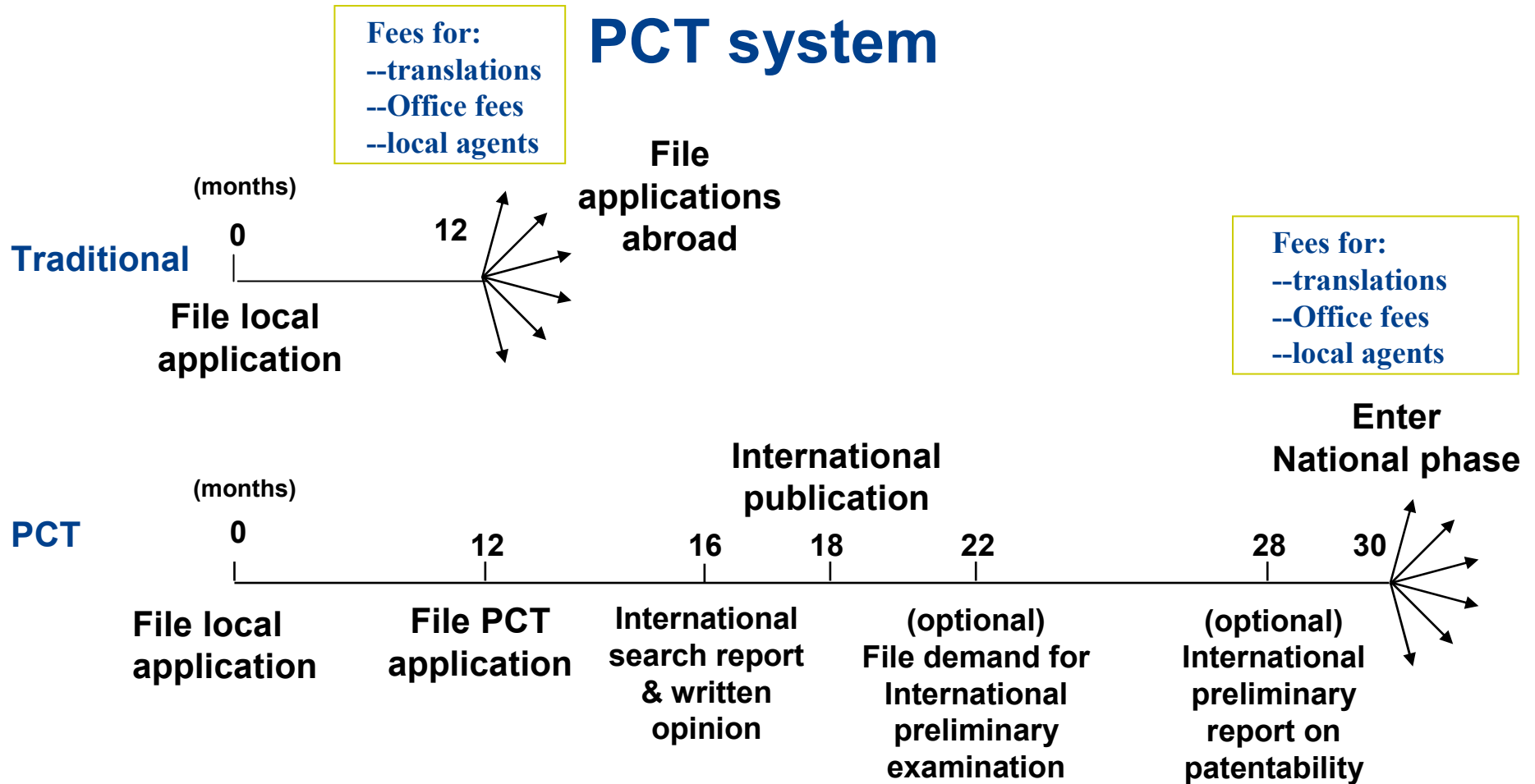
TRIPS Agreement

- Minimum standards; enforcement of IPRs; WTO dispute settlement procedures

Regional agreements (e.g. EPO, EAPO, ARIPO, OAPI, GCC)

Preferential Trade Agreements (FTAs, EPAs)

Traditional patent system vs. PCT system



Objectives of the Patent System

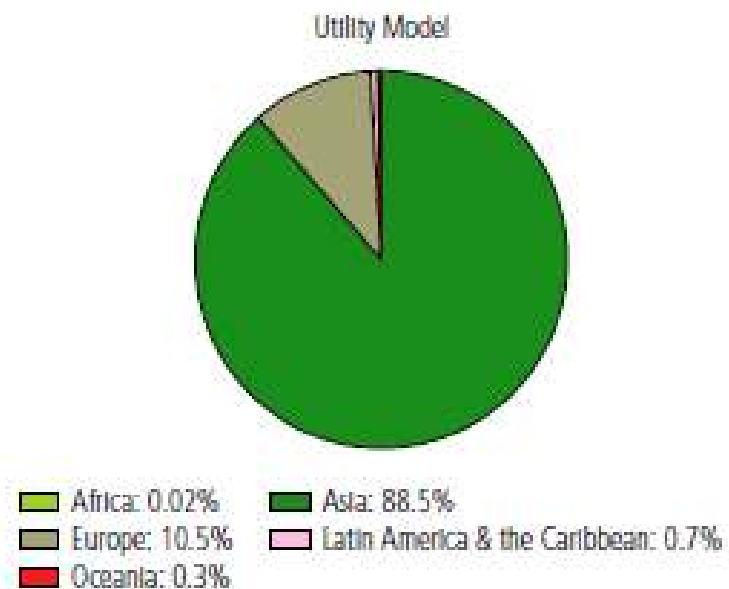
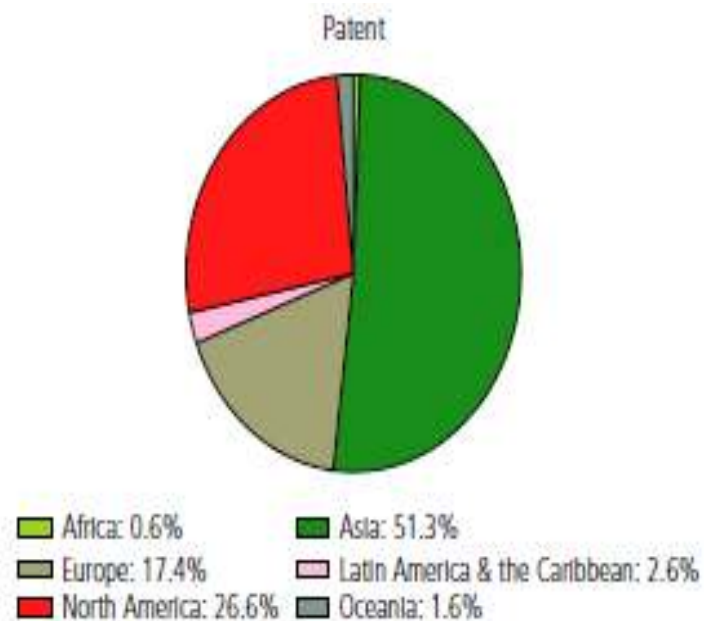
- Promote innovation via the reward granted to the inventor
- Promote technology diffusion via publication and access to patents documents
- Promote international transfer of technology via international filings
- Promote transfer of technology via contractual mechanisms
- Promote wealth creation via the economic value of exclusive rights
- Promote competition via innovations behaviors
- Promote access to technology via public domain

Objectives of the patent system

- The system, based on private rights, should effectively serve the public interest (both right holders and society) by contributing to innovation and diffusion of knowledge
- Features of the system to achieve these objectives
 - Granting **exclusives rights** to the inventor to promote innovation
 - Granting **valid patents** after the invention has pass the test of objective standards (patentability criteria)
 - Disclosure of the invention to allow **diffusion of knowledge**

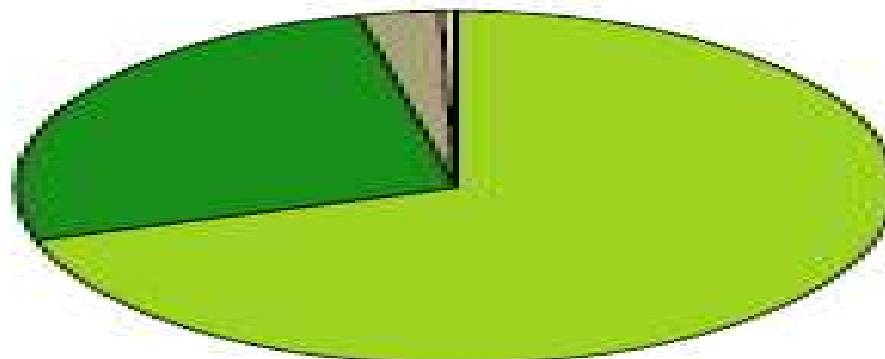
■ Patents filing and grant

APPLICATIONS BY GEOGRAPHICAL REGION, 2010



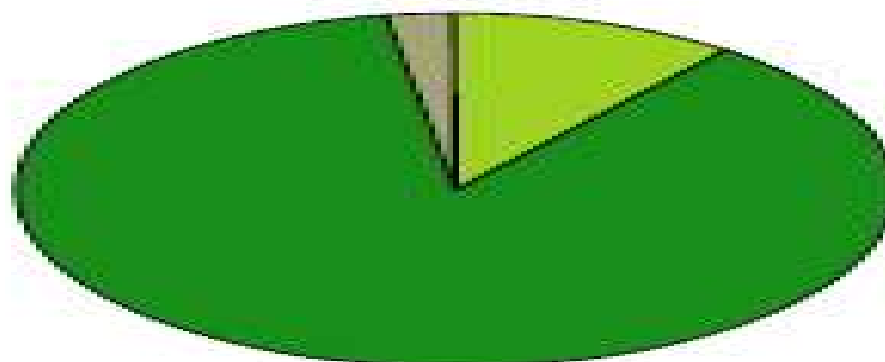
APPLICATIONS BY INCOME GROUP, 2010

Patent



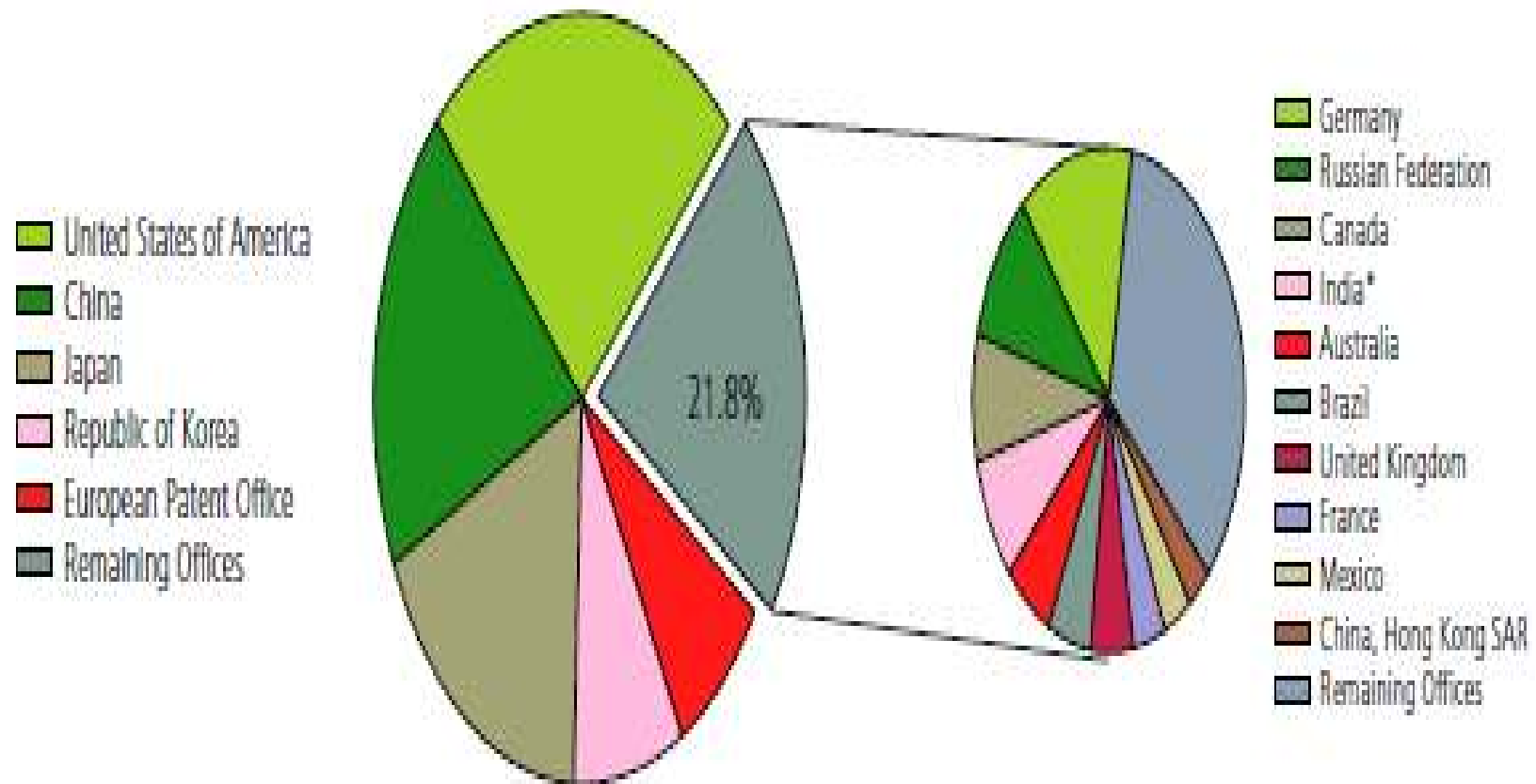
High: 70.2% Upper-middle: 26.3%
Lower-middle: 3.0% Low: 0.5%

Utility Model



High: 10.5% Upper-middle: 87.0%
Lower-middle: 2.5% Low: 0.05%

PATENT APPLICATIONS FOR THE TOP 15 OFFICES, 2010

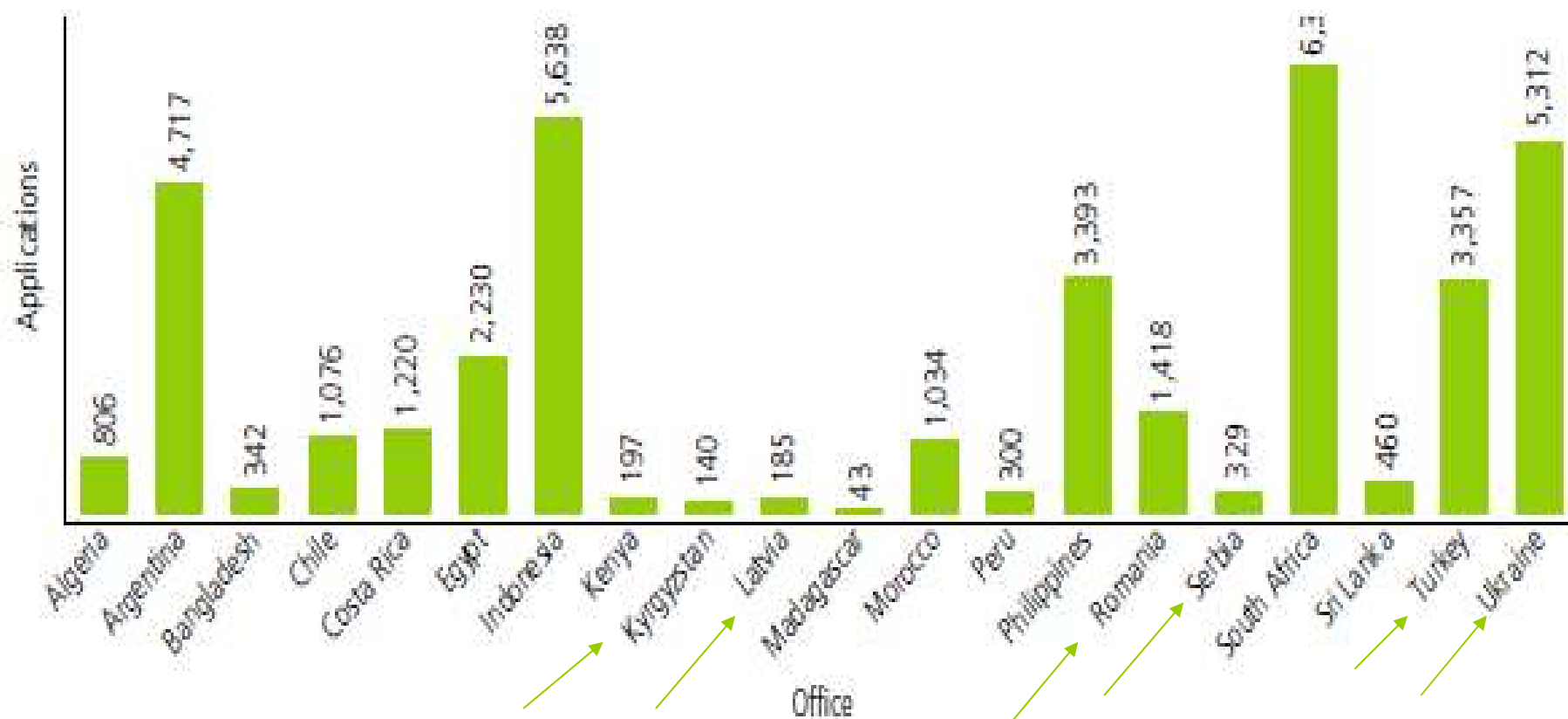


Office	Application Year			Share of total (%) 2010	Growth (%): 2009-10
	2008	2009	2010		
Total	1,915,000	1,846,000	1,979,000	100.0	7.2
United States of America	456,321	456,106	490,226	24.8	7.5
China	289,838	314,604	391,177	19.8	24.3
Japan	391,002	348,596	344,598	17.4	-1.1
Republic of Korea	170,632	163,523	170,101	8.6	4.0
European Patent Office	146,150	134,580	150,961	7.6	12.2
Germany	62,417	59,583	59,245	3.0	-0.6
Russian Federation	41,849	38,564	42,500	2.1	10.2
Canada	42,089	37,477	35,449	1.8	-5.4
India*	36,812	34,287	-	1.9	-6.9
Australia	26,346	23,681	24,887	1.3	5.1
Brazil	22,917	21,944	22,686	1.1	3.4
United Kingdom	23,379	22,465	21,929	1.1	-2.4
France	16,419	15,693	16,580	0.8	5.7
Mexico	16,581	14,281	14,576	0.7	2.1
China, Hong Kong SAR	13,662	11,857	11,702	0.6	-1.3
Others	158,586	148,759	182,383	9.2	22.6

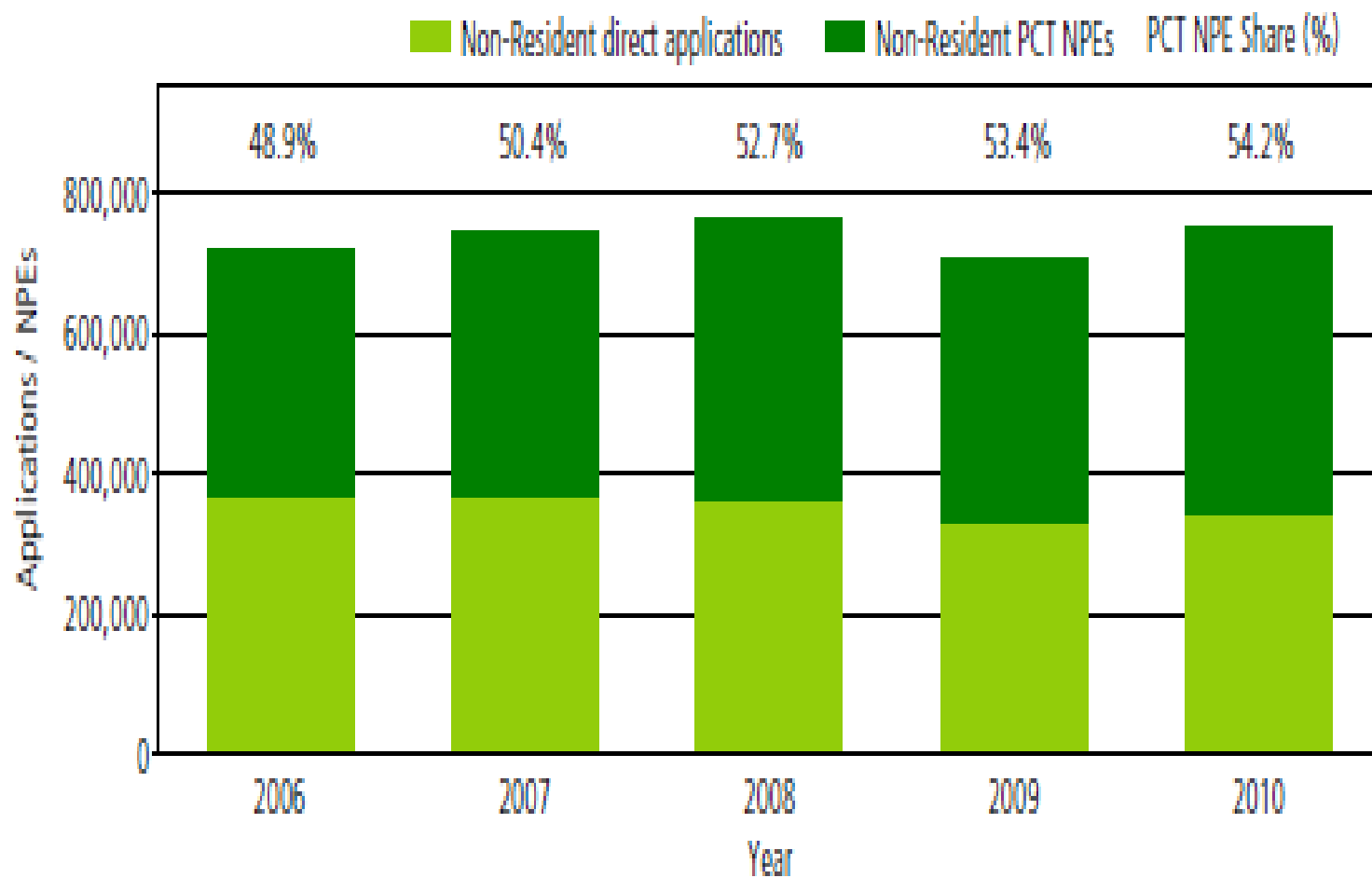
PATENT APPLICATIONS FOR THE TOP 15 OFFICES, 2010

The top 15 offices received, in 2010, over 90 percent of the estimated 1.98 million total patent applications filed worldwide. The top three offices alone – the United States of America (US), China and Japan – received about 62% of the total, representing a 2% increase over their 2009 combined share. The top five offices, three of which are located in Asia, each received between 150,000 and 500,000 applications.

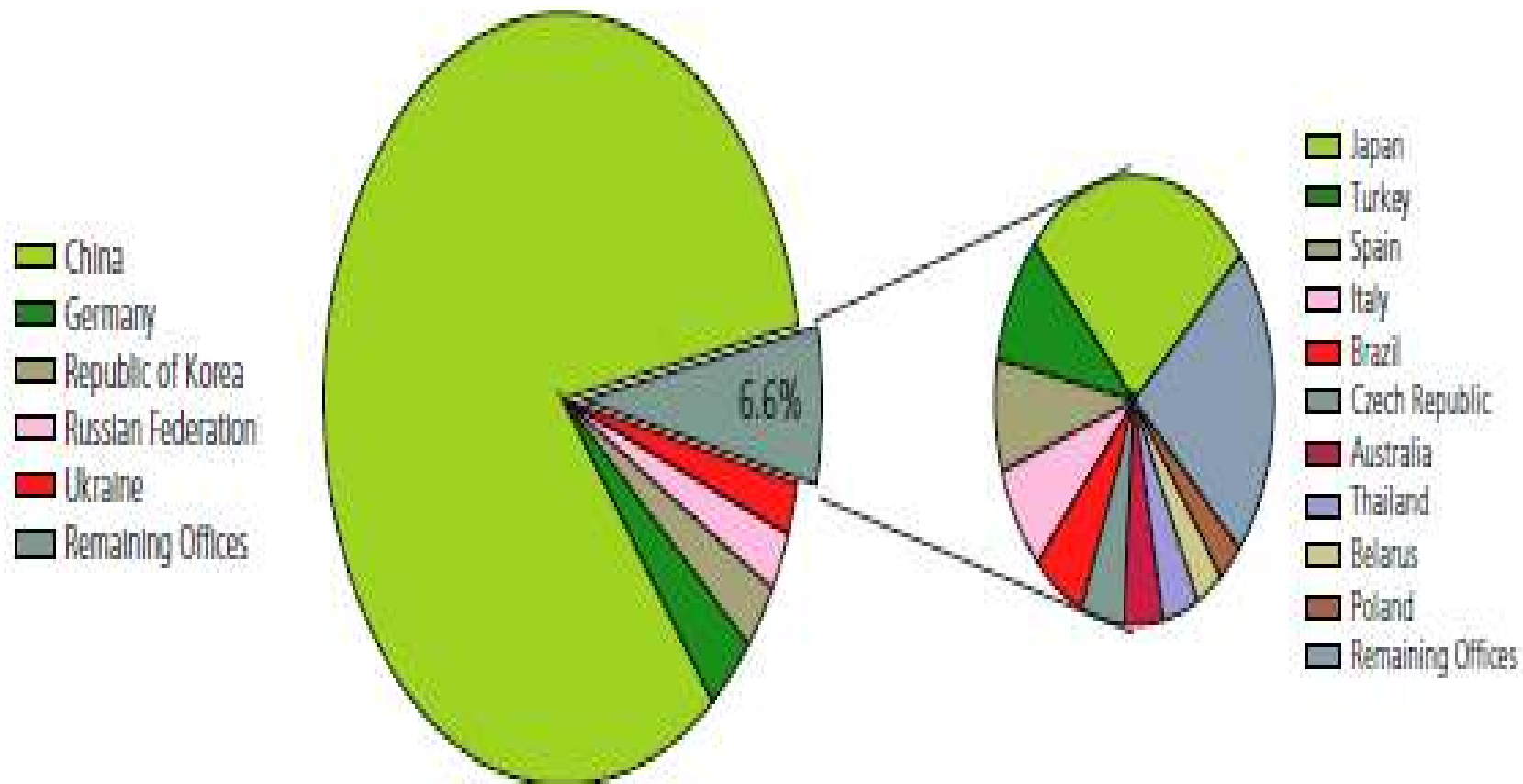
PATENT APPLICATIONS FOR SELECTED OFFICES OF MIDDLE- AND LOW-INCOME ECONOMIES, 2010



TREND IN FILING ROUTES: DIRECT VS. PCT SYSTEM



UTILITY MODEL APPLICATIONS FOR THE TOP 15 OFFICES, 2010

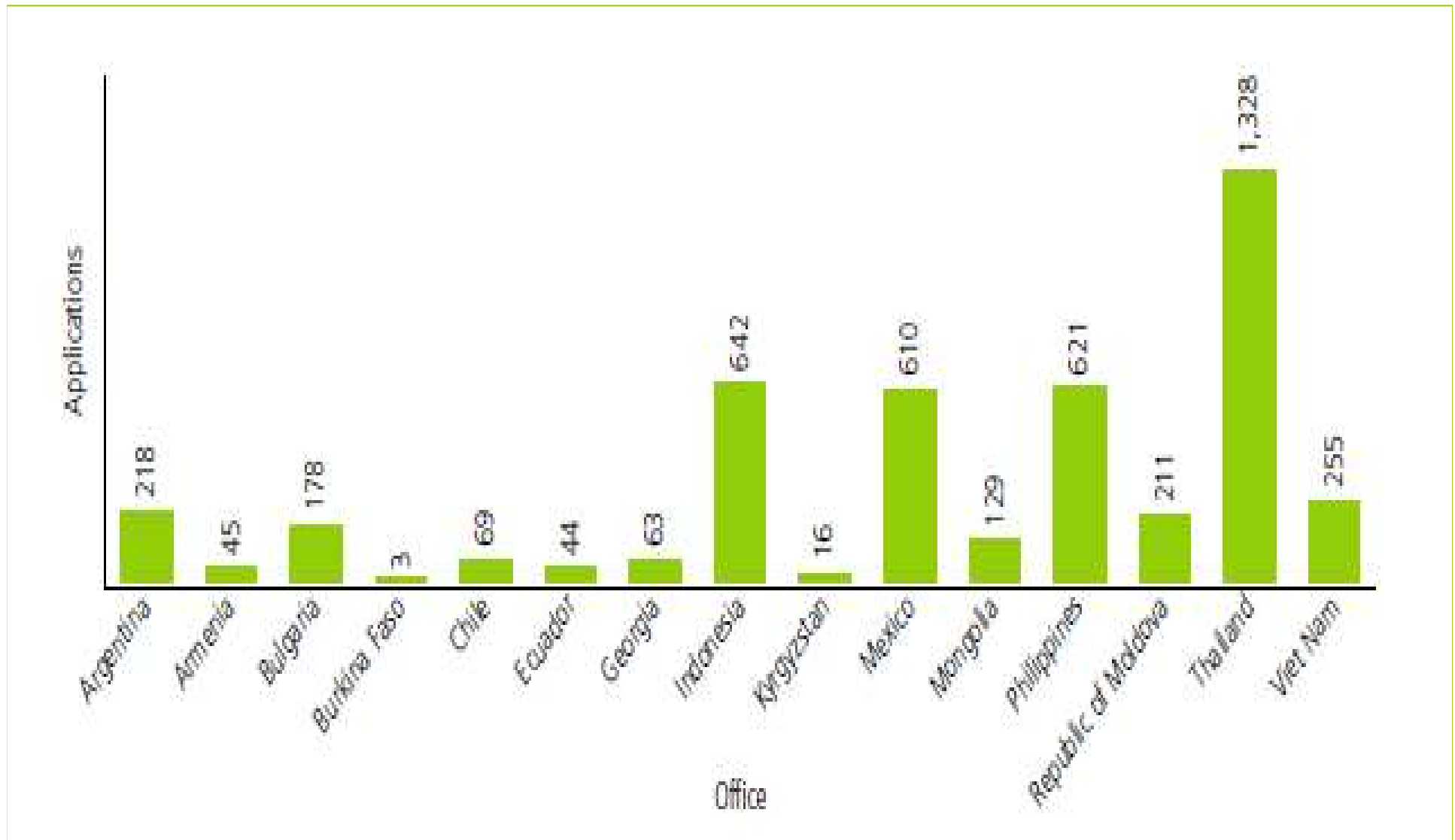


Office	Application Year			Share of total (%) 2010	Growth (%): 2009-10
	2008	2009	2010		
Total	313,000	399,000	496,000	100.0	24.3
China	225,586	310,771	409,836	82.6	31.9
Germany	17,067	17,306	17,005	3.4	-1.7
Republic of Korea	17,405	17,144	13,661	2.8	-20.3
Russian Federation	10,995	11,153	12,262	2.5	9.9
Ukraine	9,600	9,205	10,685	2.2	16.1
Japan	9,452	9,507	8,679	1.7	-8.7
Turkey	2,992	2,882	3,033	0.6	5.2
Spain	2,682	2,560	2,640	0.5	3.1
Italy	2,200	2,307	2,456	0.6	6.5
Brazil	3,218	3,122	1,988	0.4	-36.3
Czech Republic	1,183	1,382	1,608	0.3	16.4
Australia	1,255	1,320	1,465	0.3	11.0
Thailand	1,515	1,467	1,328	0.3	-9.5
Belarus	967	1,119	1,089	0.2	-2.7
Poland	719	780	945	0.2	21.2
Others	6,164	6,975	7,320	1.5	4.9

UTILITY MODEL APPLICATIONS FOR THE TOP 15 OFFICES, 2010

Of the nearly half a million utility model applications filed around the world in 2010, 83% were received by the IP office of China. This high share shapes the distribution of applications according to geographical region and income group but shows, nonetheless, the importance placed on this IP right by applicants seeking to protect their inventions in China. It should be noted that 99% of all utility model applications in China are filed by domestic applicants.

UTILITY MODEL APPLICATIONS FOR SELECTED OFFICES OF MIDDLE- AND LOW-INCOME ECONOMIES, 2010



■ WIPO activities

Main developments at WIPO

- Legal framework

 - Reform of the Patent Cooperation Treaty (PCT)

 - Patent Law Treaty (PLT)

 - Standing Committee on the Law of Patents (SCP)

- Practical projects

 - Infrastructure

 - Technology diffusion

- Policy issues

 - Global challenges

 - Development Agenda

Patent Law Treaty (PLT)

- Concluded June 1, 2000
- Harmonizes and simplifies formal requirements for national and regional patent applications and patents. Excludes expressly substantive requirements of patentability
- Advantages: predictable, uniform and simple procedures for applications, reduction of costs
- Entered into force April 28, 2005, 32 Contracting Parties as of July 2012

SCP: history

No agreement on the SCP work program; deadlock from 2006 - 2008

Proposal I (Developed countries)

- definition of prior art
- grace period
- novelty and inventive step

Proposal II (Group of Friends of Development)

- patentable subject matter
- exclusions from patentable subject matter
- exceptions to patent rights
- anti-competitive practices
- disclosure of origin, prior informed consent and benefit sharing
- effective mechanisms to challenge validity of patents
- sufficiency of disclosure of the invention
- transfer of technology
- safeguarding of public interest flexibility
- alternative models to promote innovation

SCP: current status

Decisions of SCP/16:

1. issues: exceptions and limitations to patent rights; quality of patents, including opposition systems; patents and health; client-patent advisor privilege; and transfer of technology
2. four topics will be included in the non-exhaustive list: impact of the patent system on developing countries and LDCs, patents and food security, strategic use of patents in business and enhancing IT infrastructure for patent processing

Decision of SCP/18:

1. To carry on discussions based on the same agenda (except two items)
2. Next session November 26 to 30, 2012

IP Infrastructure

- Infrastructure Modernization
- International Classifications and the WIPO IP Standards.
- The Global Information Services
 - This area aims to provide services on IP information search and retrieval from databases created within the global IP infrastructure and supporting services to IP Offices and the public including:
 - Access to Specialized Patent Databases;
 - Innovation Technology Support Centers (“TISCs” project);
 - Patent Landscaping project;
 - Digitization of national IP documents for dissemination through IP databases;
 - Patent Register Databases for Identifying patents in the public domain.

Outlook

- Today's economic growth is being led to a large extent by innovation and knowledge creation.
- There is no indication that patenting activity will decrease in the future.
- Have to come back to consider patent system as a mechanism for innovation and dissemination of knowledge
- Patents can be part of a more global growth and development strategy, but in different ways in various countries
 - Harmonization at the multilateral level is a true challenge nowadays
 - New forms of cooperation (networked innovation; regional cooperation; harmonization)
 - Patent policy and its connection with other policies

Thank you

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