



SCP 27th Informative Session

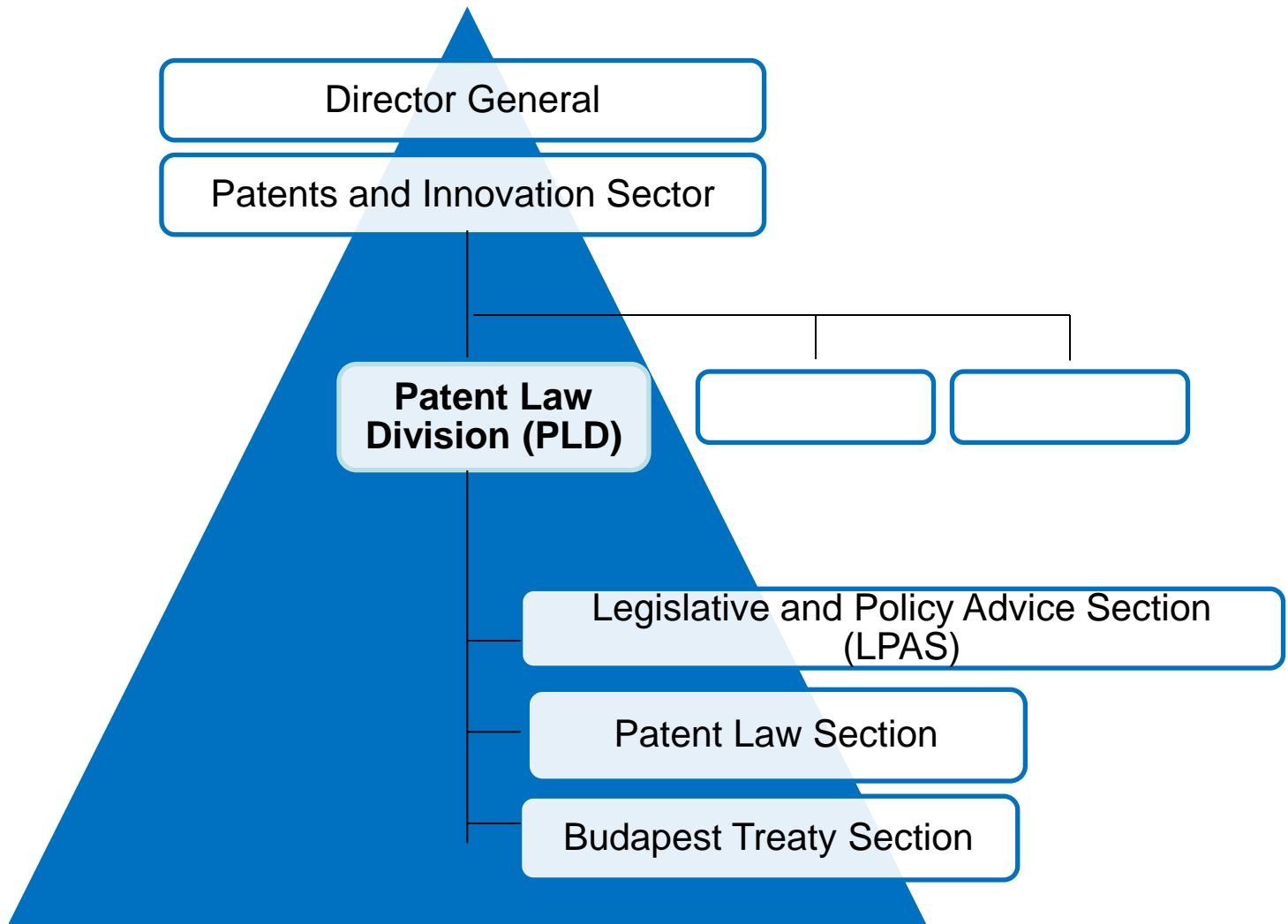
WIPO's Legislative Assistance in the field of Patents and Related Capacity Building

Geneva, December 11 to 15, 2017

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Outline

- Background (From the GRULAC's proposal to the Agreement on future work at the SCP/26)
- The Legislative and Policy Advice Section (LPAS)
 - Areas of work
 - Factors to take into consideration
 - DARCs regarding legislative assistance
 - Main drivers of the Legislative Assistance
- Related capacity building
- Some figures (by region)
- Challenges



Areas Covered by the LPAS' Legislative Assistance



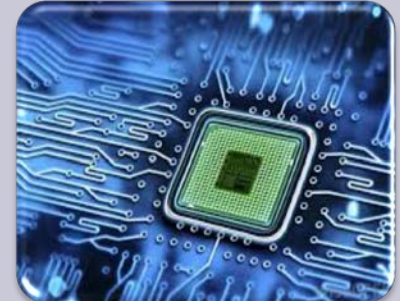
Patents



Utility
models

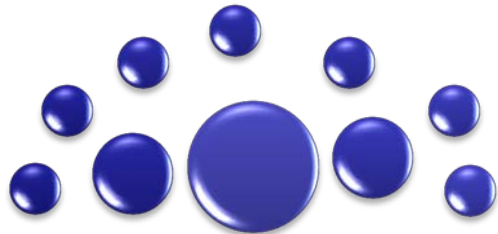


Trade
secrets



Layout
designs of
integrated
circuits

Factors to Take into Consideration when Drafting Patent Laws

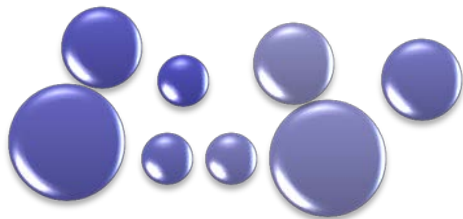


International obligations

Patent policy objectives

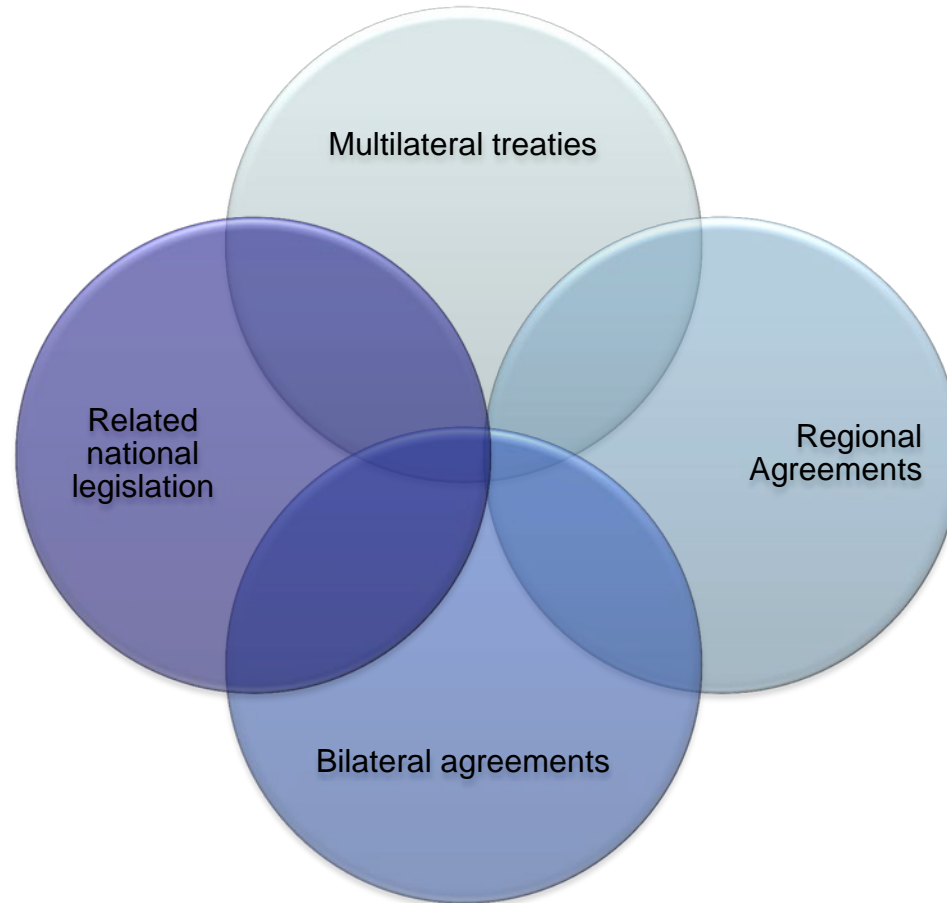
Level of economic
development

Level of development of
different industry sectors



National
Patent
Law

The Legal Framework



Legislative Assistance: One Size Does Not Fit All



Development Agenda Recommendations

Cluster B

- 13. WIPO's legislative assistance shall be, *inter alia*, development oriented and demand-driven, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion.
- 14. Within the framework of the agreement between WIPO and the WTO, WIPO shall make available advice to developing countries and LDCs, on the implementation and operation of the rights and obligations and the understanding and use of flexibilities contained in the TRIPS Agreement.

Concept of Flexibility

Carolyn Deere: “a range of rights, safeguards and options that WTO Members can exploit in their implementation of the TRIPS Agreement” *The Implementation Game*, Oxford University Press (2009), p.68.

Elena Ghanotakis: “ There were several flexibilities inherent in the TRIPS Agreement. All of those measures, consistent with the TRIPS Agreement, reduce prices and increase the affordability of medicines, without negatively affecting future R&D” ‘Access to Medicines for Developing Countries’, *Journal of World IP* (2004), vol . 7, issue 14.

The term “TRIPS flexibilities” means that there are different options through which treaty commitments can be transposed into national law, thus, national interests are accommodated and yet TRIPS provisions and principles are complied with.

Use of Patent Flexibilities

Countries exercise their right to choose options made available in international treaties to meet their domestic policy objectives

Once the government transposes options in the international agreements to the national level, various individual stakeholders use the national legal framework

- a government makes choices from the various options and
- implements those choices under the national legislation

- there is public expectation that adequate use of the national legal framework by each stakeholder would lead to the attainment of the public policy goals, such as public health and access to medicines

Work and Discussions (CDIP)

■ Patent-Related Flexibilities Documents in the framework of the CDIP

1) CDIP/5/4Rev

http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_5/cdip_5_4-main1.pdf

2) CDIP/7/3 and Add

http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_7/cdip_7_3-main1.pdf

3) CDIP 13

http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_13/cdip_13_10.pdf

4) CDIP/15/6 and its annexes:

http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_15/cdip_15_6-main1.pdf

■ Regional meetings

WIPO Seminar for certain Asian countries on the effective implementation and use of several patent-related flexibilities, Bangkok, Thailand, February 15 to 17, 2011

http://www.wipo.int/meetings/en/details.jsp?meeting_id=22602

WIPO Regional Seminar on the Implementation and Use of Several Patent-Related Flexibilities, February 6 to 8, 2012, Bogota, Colombia

http://www.wipo.int/meetings/en/details.jsp?meeting_id=24982

Seminar for Certain African Countries on the Implementation and Use of Several Patent-related Flexibilities, January 29 to January 31, 2013, Durban, South Africa

http://www.wipo.int/meetings/en/details.jsp?meeting_id=27882

Main Drivers of the Legislative Assistance

Features

- Upon request
- Bilateral and confidential
- Neutral and not binding

Types

- Legislative Assistance in the implementation of a national patent system
- Drafting or revising patent laws/regulations/manuals
- Policy advice in the field of patents or related matters

How

- Written advice via comments on draft prepared by authorities or in the elaboration of laws and/or implementing regulations
- Consultations in capitals or Geneva

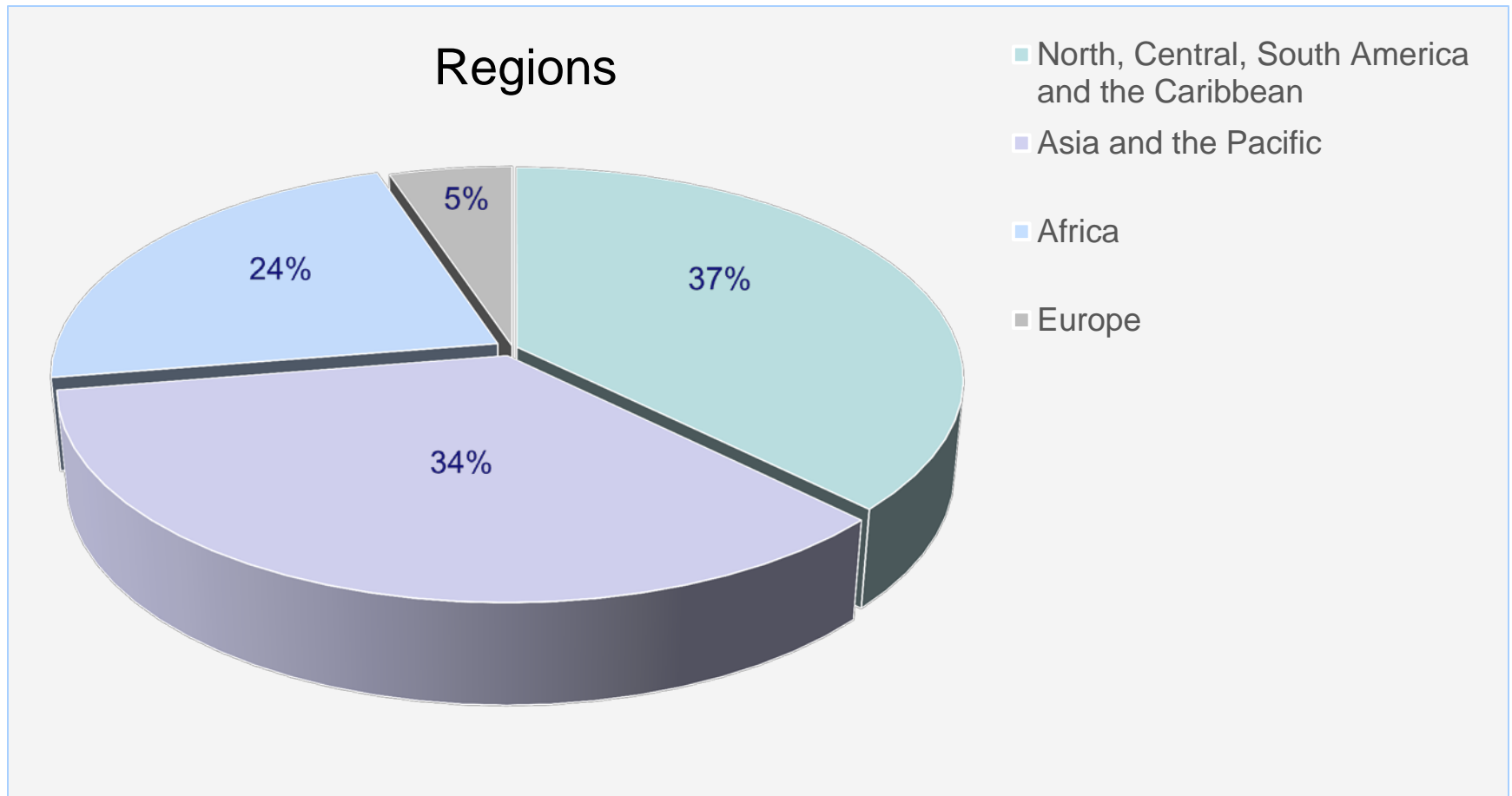
Capacity Building and Cooperation with Member States, IGOs and NGOs

1. Seminars and Workshops

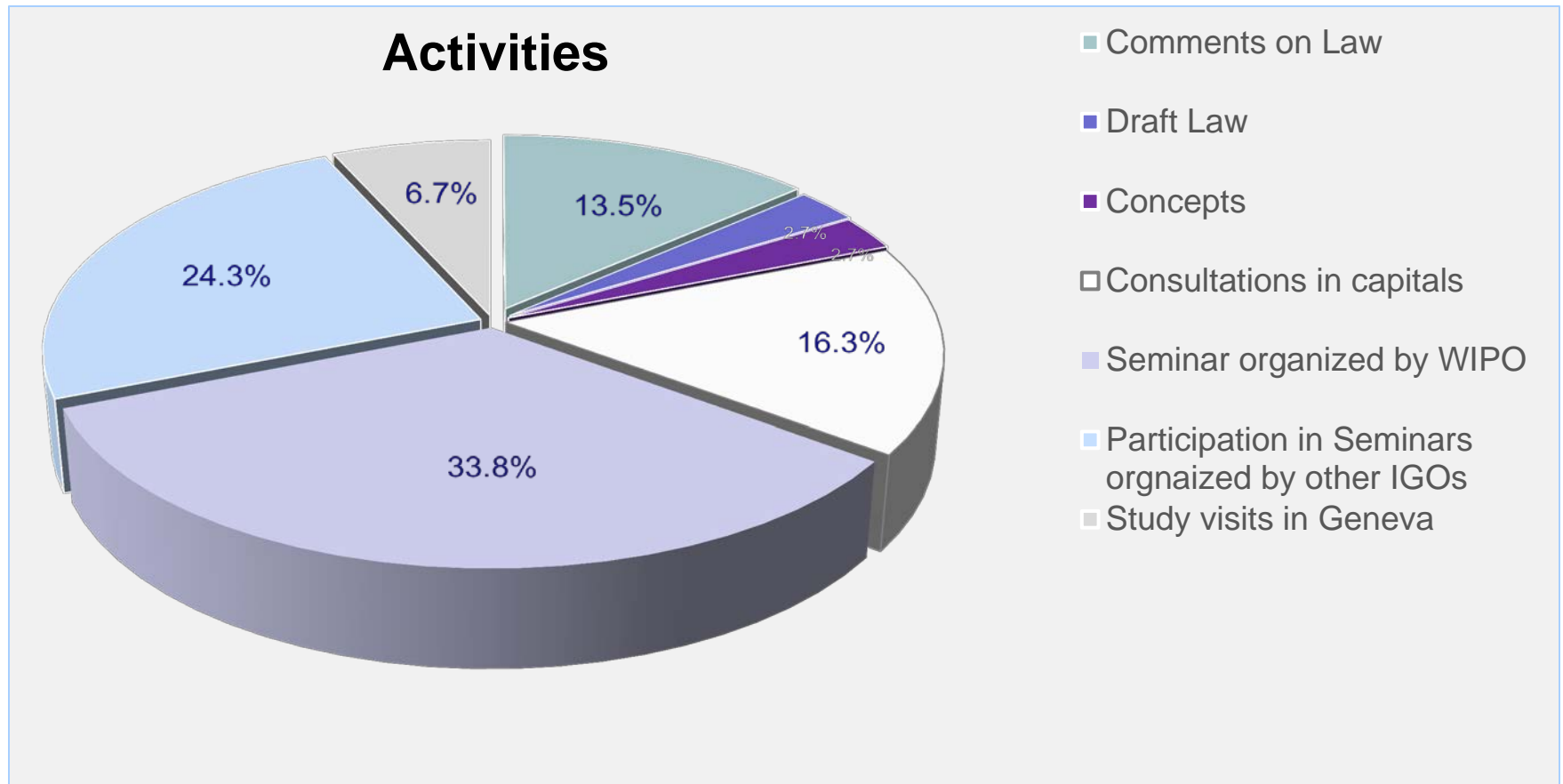
2. Consultations in capitals/Geneva in the framework of legislative and policy advice

3. Inventor Assistance Program (IAP)
(pro-bono project)

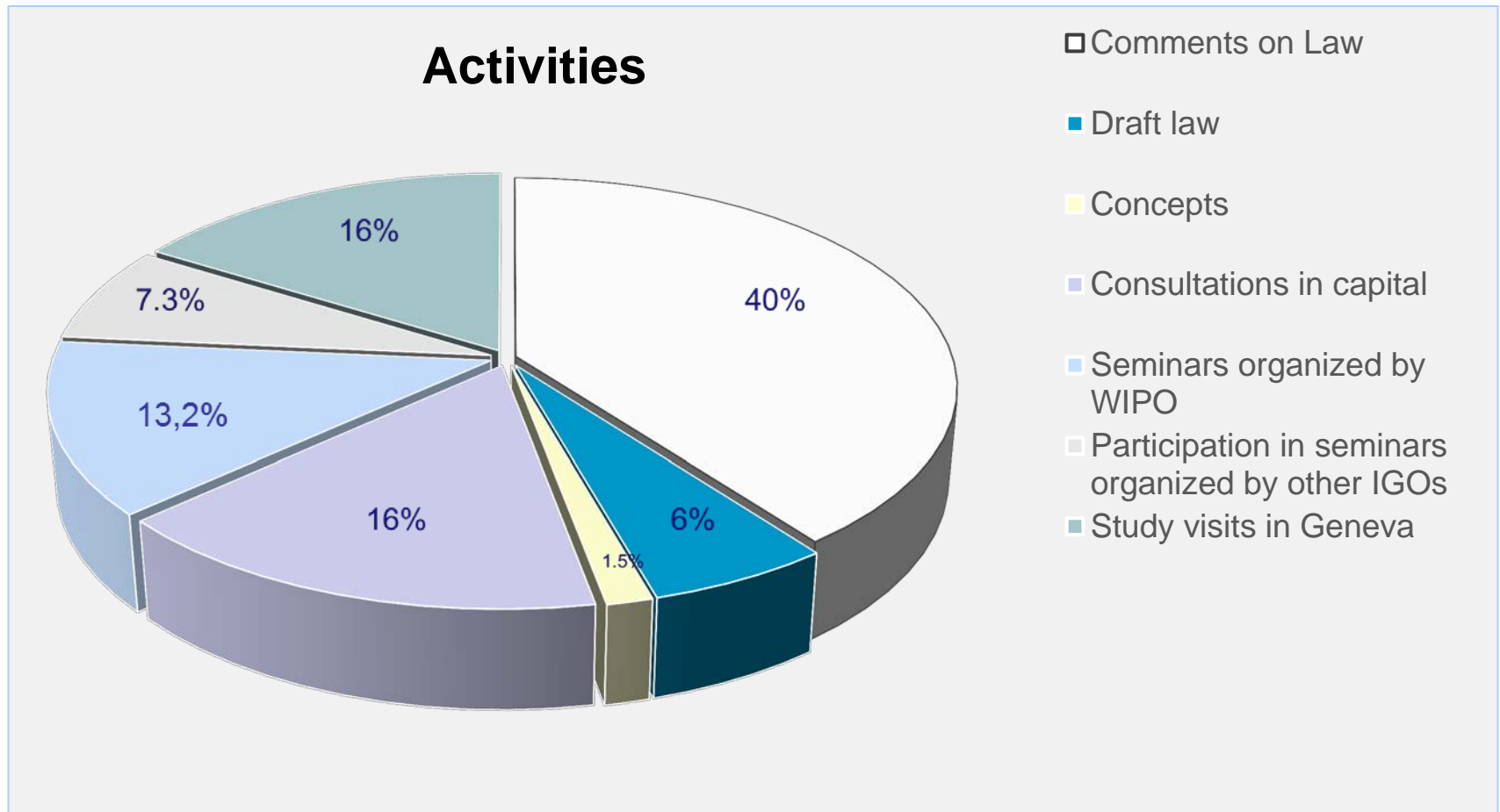
LPAS's Activities per Region (2010 - 2017)



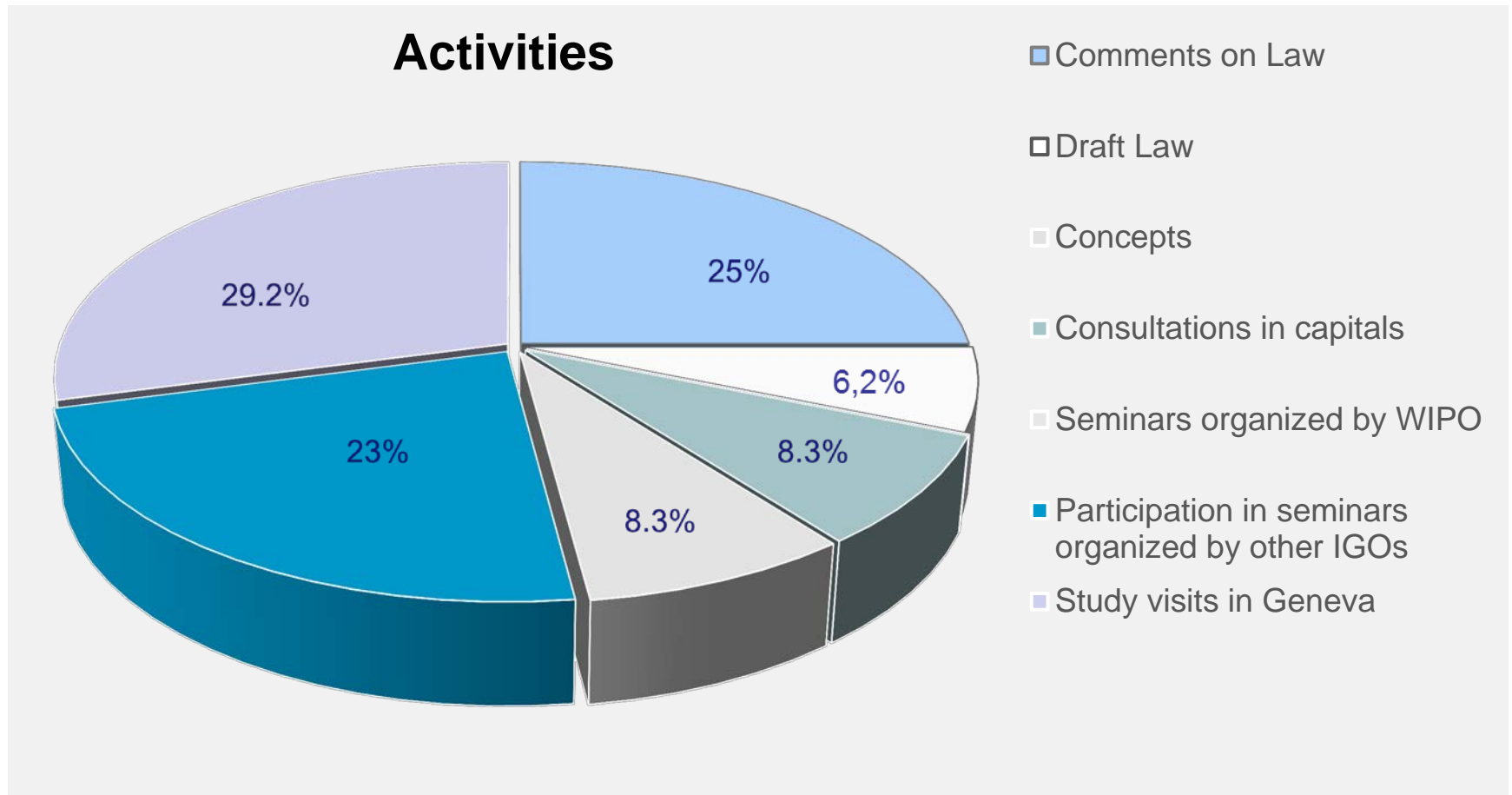
LPAS's Activities in North, Central, South America and the Caribbean (2010 - 2017)



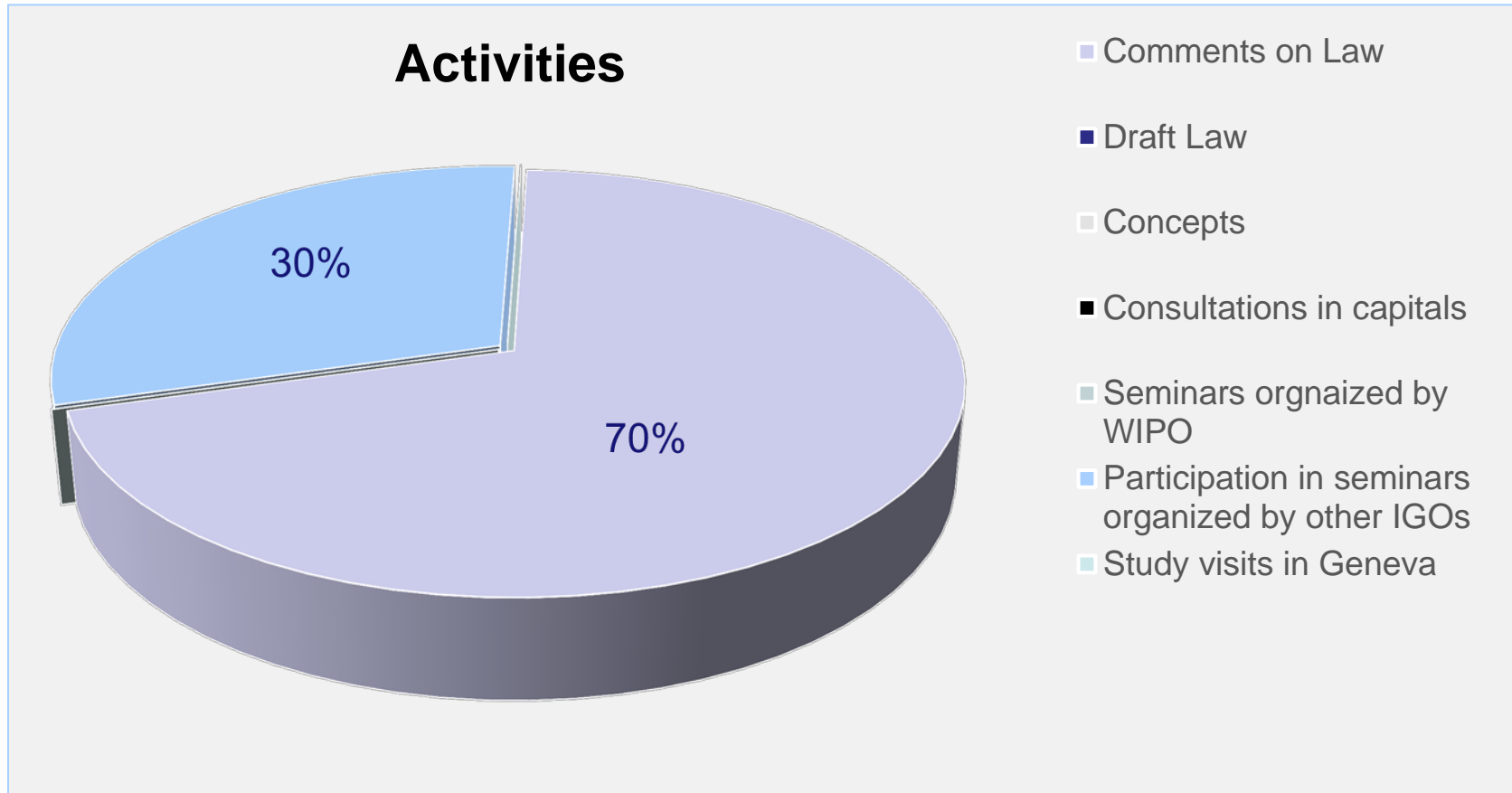
LPAS's Activities in Asia and the Pacific (2010 - 2017)



LPAS's Activities in Africa (2010 - 2017)



LPAS's Activities in Europe (2010 - 2017)



The Inventor Assistance Program (IAP)



The Steering Committee



Membership shall comprise:
Governments, Pro bono
patent attorneys
and supporters



WIPO
WORLD INTELLECTUAL
PROPERTY
ORGANIZATION

The clearing house

Sponsors



Corporate sponsors



Federal Circuit Bar Association
BENCH & BAR

Associations
Attorneys/Agents



International Federation of
Inventors' Associations

IAP: How it Works

WIPO



Challenges

- Increased complexity due to the different layers of international legal framework.
- Increased complexity in getting the right balance among different policies.
- Increased complexity in certain technology fields.
- Increase in the number of MSs legislative assistance and policy advice requests.
- Increased complexity in the assistance requested (more requests for comments than for draft laws).

Thank you
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