



South – South Cooperation on IP and Development: Approaching IP Governance from a Development Perspective

**First WIPO Interregional Meeting on South-
South Cooperation on IP Governance**

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Introduction

- About the South Centre
- IP and Development
- South-South Cooperation on IP and Development
- Way Forward for South-South cooperation



What is South Centre?

- Inter-Governmental Organization and Think-Tank for Developing Countries
- Created in 1995. Has grown out of the work and experience of the South Commission.
- Main organs: Council of Representatives (representatives of the Members States), Board (eminent personalities of the South), Secretariat (headed by the Executive Director, Martin Khor, small core staff).
- Current membership: 51 Member States from Asia, Africa and Latin America:





Mission:

« Championing South – South solidarity for an equitable World Order »

South Centre works to:

- (1) Assist in formulating points of view of the South on major policy issues, and
- (2) Generate ideas and action-oriented proposals for consideration by the collectivity of South governments, institutions, inter-governmental organizations, NGOs and the community at large.



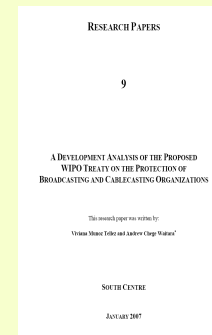
Activities and Audience

- **Research:** Finance, Trade, Innovation, Intellectual Property, Climate Change and Sustainable Development
- **Negotiation Support:** WTO, WIPO, WHO, ITU, Bretton Woods Institutions, EPAs/FTAs
- **Policy Advice:** to Member Countries of South Centre and G-77
- **Training and Capacity Building:** Missions to the UN in Geneva, Brussels and New York and Officials from the Capitals,
- **Events and Meetings:** Missions, NGOs, Delegations
- **Networking:** Regional Institutions, Media, NGOs, Researchers, Academics, Students



Multilingual Approach

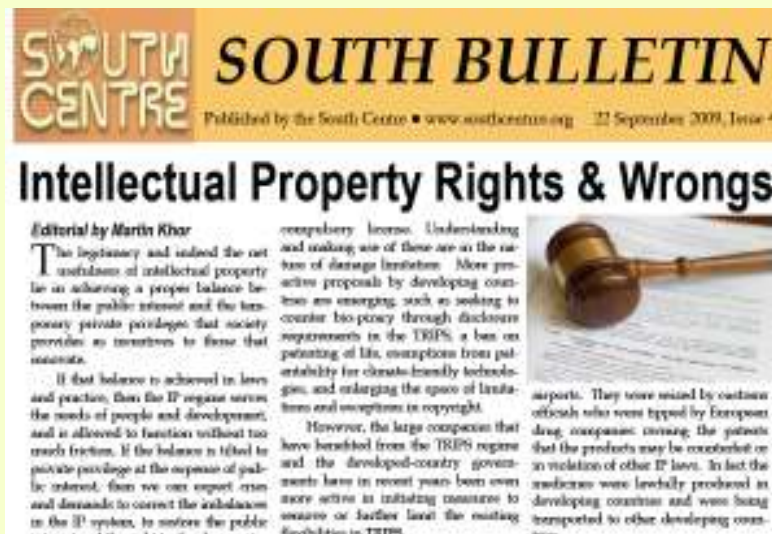
- Publications are produced in 3 languages: English, French and Spanish, some in Chinese
- The website is available in all 3 languages





Innovative Media and Outreach strategy

- South Centre Website, Blog & Digital TV
- Syndicated Columns with Inter Press Service
- South Bulletin and South FACE (immediate media coverage)





IP and Development

- **IP – an incentive to reward inventors and creators ...**
- ... **to benefit society** through the use of such inventions and creations and foster scientific and technological progress
- “... this court has consistently held that the primary purpose of our patent laws is not the creation of private fortunes for the owners of patents but is to promote the progress of science and useful arts ...” (US Supreme Court in *Motion Picture Patents Co., vs. Universal Film Mfg. Co.* (243 U.S. 502, p.511, 1917))



IP and Development

- History of IP is **full of examples** about the ways in which **developed countries adapted the IP rules to their changing needs** and **how the levels of protection increased as their industrial and technological capacities improved** over time
 - Citizens were allowed to patent imported inventions under lax originality requirements (Britain, Netherlands, Austria, France)
 - Switzerland had no patent law until 1888 and were imitating chemical and pharmaceutical technologies from Germany
 - The Netherlands abolished the patent law in 1869 enabling Phillips to produce light bulbs based on patents “borrowed” from Edison
 - As a net importer of copyright materials, till 1891 the US only allowed copyright protection to its citizens



IP and Development

- Three Stages of Technological Development
 - Initiation stage: Technology imported as capital goods
 - Internalization stage: Local firms learn through imitation under a flexible IPR regime
 - Generation stage: local firms and institutions innovate through their own R&D



IP and Development

- IP regimes moving away from stimulating genuine invention to a system for protection of investment in developing incremental innovations , whether truly inventive or not
- For example, patent regimes with a low patentability threshold result in grant of a large number of low-quality and over-broad patents
- European Commission has found that patents have been used as strategic tool by originator companies to delay or block the entry of generic competitors.



UK Patent No 2438091





Development Oriented IP Policy - Challenges

- IP policy has to be integrated into different aspects of national development policies
- IP regimes must be in accordance with the realities of developing countries
 - innovation systems are fragmented and weak, and depend overwhelmingly on foreign innovations
 - very limited public sector investment in scientific activities
 - domestic firms generate «minor» or «incremental» innovations derived from the routine exploitation of existing technologies



Development Oriented IP Policy - Challenges

- Lack of local expertise
- Technical assistance - appropriate development orientation
- Greater coordination on IP issues between related government departments
- Coercion exerted by developed countries to deter use of flexibilities and inappropriately raise standards of IP protection and enforcement
- Different components of IP (patents, trademarks, designs, copyright) may warrant different approaches



South-South Cooperation

Some degree of political unity at the multilateral level but limited success in advancing a common agenda

- Developing countries are learning from each other
 - The strict definition of patentability standards in the Indian patent law has inspired other countries to emulate the same – The Philippines, Argentina, China
 - Many developing countries are increasingly exercising the legal option of issuing compulsory licenses – predominantly for antiretroviral medicines, but also in some cases for anti-cancer drugs
 - Argentina adopted WHO-UNCTAD guidelines on examination of pharmaceutical patents
 - Egypt is using the WHO-UNCTAD Guidelines on examination of pharmaceutical patents



South-South Cooperation

- Examples of coordination among developing countries at the international level on IP
 - Coordination among the Friends of Development Group in WIPO – adoption of WIPO Development Agenda
 - Coordination among a cross-regional group of like minded developing countries - the Development Agenda Group (DAG) – in the CDIP and other WIPO committees
 - Group of Like Minded Countries (LMC) in text based negotiations on TCE, TK and GRs in IGC
 - Coordination among IBSA countries – Tshwane Declaration 2012
 - MERCOSUR Ministers of Health (2009) stressed the importance of establishing common objectives for public policies and the IP system in the region, and promote the adoption of criteria for the protection of public health through patentability guidelines
 - EAC Draft Regional Pharmaceutical Manufacturing Plan of Action stresses on adoption and full utilisation of TRIPS flexibilities



Way Forward for South-South Cooperation

- Developing countries should focus on developing and improving a proper framework for WIPO technical assistance in the area of cooperation for development
- Report on An External Review of WIPO Technical Assistance in the Area of Cooperation for Development – CDIP/8/INF/1
http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_8/cdip_8_inf_1-main1.pdf
- DAG and Africa Group proposal on WIPO's Technical Assistance in the Area of Cooperation for Development – CDIP/9/16
http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_9/cdip_9_16.pdf
- Mainstreaming the experiences of developing countries in technical assistance
- Future implementation of South-South cooperation programmes beyond the current CDIP project.
 - IP and Public Health: Improving examination of pharmaceutical patents
 - Exchange of information on the use of compulsory licenses and other IP flexibilities
 - Access to knowledge: exchange of information on copyright exceptions and limitations, and various copyright issues in the digital environment
 - Climate change and transfer of technology
 - Use of policies and structures to regulate competition abuse through IP
 - Open source innovation, experiences from developing countries e.g, Open Source Drug Discovery Project (India)



How Can South Centre Assist

- Facilitate involvement of think tanks, research institutions, academics and civil society from the South on issues of IP and development
- Participation in meetings on South-South Cooperation
- Involvement of SC experts in technical assistance programmes
- SC assistance on national IP issues



South Centre – Some Recent Activities

- Regional Training Course for Latin American Judges on Intellectual Property and Public Health, Cartagena, Colombia, 6-9 March 2012
 - Participation of judges from Argentina, Brazil, Colombia, Ecuador, Peru
- Regional Course on Intellectual Property and International Trade, Buenos Aires, 23-25 July 2012
- South Centre-UNITAR online course on IP and Development
- Workshop on Examination of Pharmaceutical Patents, New Delhi, May 2011
 - Participation of patent examiners from all 4 patent offices in India



South Centre – Some Recent Publications

- Velasquez German, Carlos M. Correa and Xavier Seuba, eds. (2012). **Intellectual Property Rights, Research & Development, Human Rights and Access to Medicines. An Annotated and Selected Bibliography**
- Carlos M. Correa, ed. (2012). **A Guide to Pharmaceutical Patents. Second Edition**
- Carlos Correa, **Mechanisms for International Cooperation in Research and Development: Lessons for the Context of Climate Change** (Research Paper 43, March 2012)
- Martin Khor, **Climate Change, Technology And Intellectual Property Rights: Context And Recent Negotiations** (Research Paper 45, June 2012)
- Carlos Correa, **Pharmaceutical Innovation, Incremental Patenting and Compulsory Licensing** (Research Paper 41, September 2011)



South Centre Innovation and Access to Knowledge Programme

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An Intergovernmental Organization of Developing Countries



Thank You

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