

Group of Fifteen
Working Group on Sectoral Cooperation
Concept Note on Intellectual Property

Presentation and General background

1. Systems to govern intellectual property and promote social welfare through innovation and knowledge creation are not new. Despite their existence through the past decades and centuries, intellectual property was relatively absent from the public debate. Recent changes in international legal and trade structures altered this situation. The emerging of the “knowledge economy”, where knowledge and innovation are key drivers of growth and prosperity, acted as a catalyst to bring discussions of intellectual property (IP) to the forefront of policy debates

Debates have ensued about the influence of such rights in diverse areas such as trade and industrial policy, public health, food and agriculture and biodiversity and biotechnology... These debates have become increasingly complex, involving arguments from the perspectives of international law, human rights and social and economic development. This complexity is coupled with controversy, as critics challenge the existing intellectual property regimes based on their implications for developing countries, in particular their impact on a development agenda, whether positive or negative. Critics have contended that the current system lacks inclusiveness and is failing to advance an IP agenda that responds to the needs of the 21st century.

An important angle in recent debates has been the broad implications for development, as a public policy, and the role of developing countries in the evolution of the international system. Indeed, Developing Countries are calling for a balanced international intellectual Property system that takes into account the interest of the IP right’s holders as well as the public interest of the larger society.

During the past decade, the relationship between intellectual property and public policy objectives—in areas such as public health and access to medicines, biodiversity and climate change—has been at the forefront of the globalisation debates. However, there has been a growing recognition, particularly at the level of the policy discourse in recent years, that the international intellectual property system should not shy away from policy debates relating to these objectives. Instead, the system should actively "engage" with these debates and consider possible means of making a "positive" contribution to broader efforts and solutions to address them.

2. Fora where there is a relevant discussion on intellectual property (IP) in Geneva:
 - World Intellectual Property Organization (WIPO) – the United Nations agency dedicated to the use of intellectual property as a mean of stimulating innovation and creativity

- World Trade Organization (WTO) – the Organization where the negotiations on IP and trade are going on, especially in the TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) Council.
- World Health Organization (WHO)/ Commission on Intellectual Property Rights, Innovation and Public Health - which is a technical working group that deals with access to medicines and counterfeiting, providing inputs to the intergovernmental debate.

Interest and possible actions of G15Members:

Regarding the importance of the debate on IP and its implications on Developing countries, G15 should get involved in the international negotiations on this matter in order to support the developing countries in their efforts to make the IP system more inclusive. There are some major processes in the field of IP which could be of interest of the G-15:

- WIPO's Committee on IP and Development (CDIP). This Committee is one of the most important body in WIPO where discussions on WIPO Development Agenda are going on.
- Patent Cooperation Treaty Working Group (PCT) in WIPO: long standing negotiations where differences between developed and developing countries have not allowed advancing in the process. Developing countries demand for more flexibility under the Patent international system to allow transfert of technology.
- WIPO Standing Committee on Copyright: Developing Countries are being active in this committee through the launching of the negotiations on exceptions and limitations to Copyright system for the benefit of libraries and educational and research institutions in order to better disseminate knowledge.
- WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. In these discussions, developing countries are demandeurs for a *sui generis* IP system that protect their genetic ressources, their traditional knowledge and folkolre from mis-use and mis-appropriation.

➤ General areas or themes where there is potential for common views among G-15 member states:

There could be communalities when dealing with political-institutional matters, as fallows, but some difficulties may arise when focusing on technical issues:

- Institutional issues related to the activities and work of WIPO (budget, technical assistance, involvement of Developing countries in the norm-setting processes)
- Development dimension of IP: reduction of existing barriers in the IP system to increase access for developing countries; Making IP an effective public policy tool for development
- Technical assistance and capacity building related issues

- Contribution of IP to the MDGs
 - A more flexible framework for developing countries in the existing agreements and/or in the on-going norm setting processes.
- Some relevant meetings in the field of IP where the G-15 could envisage some kind of coordination and consultation to present joint statements:
- WIPO General Assemblies: takes place once a year (23 septembre – 2 octobre 2013)
 - Committee on IP and Development: meets twice a year in May and November.
- Ways how G-15 could enhance its consultation and coordination process in the field of IP:
- *Joint statements* in more political and visible WIPO bodies, i.e. WIPO Assemblies, Committee on IP and Development. Such statements would be more feasible in the general debate part of the agenda.
 - *Briefing sessions* among G-15 IP delegates (Geneva based and in particular within capital based delegates) during Committees 'sessions, in order to: networking, exchange information-positions-experiences, seek common support on relevant matters, and if there is room, consider joint action (i.e., through statements).
 - *Platform to exchange information and disseminate documents* that could be of interest of G-15 members. That is, if a member considers that a particular material on IP matters, i.e. study, information document, background note or proposal (prepared by a think tank, NGO, IGO, national delegation) is worth sharing, the existing G-15 platform could be used for its dissemination among members.

As a first step, these three means of consultation and coordination among the G-15 are suggested. They could help the Group for improved awareness, to better understand where our positions stand and further identify areas where there could be larger room for enhanced common action and/or a more proactive role for the Group.

- IP in the post-2015 framework: IP is not seen as a standalone issue under the post-2015 process, but rather like an overarching one, that needs to be considered when discussing health matters, ICT, environment, education, access to knowledge, among others. Taking into account the impact of IP on Development and the need for an international cooperation to allow developing countries to benefit from the IP system, G15 Members may envisage to raise this issue as a theme/area where the international community can move forward as part of the post-2015 framework.
- Possible institutions (agencies, think tank, NGO, IGO) that could support G-15 on IP related issues: South Centre, Third World Network (TWN); International Knowledge Ecology (IKE).