

Theme 2...



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Support & Reinforce: The Management & Exploitation of IP in Universities, Research & Development Institutions and Polytechnics

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A place of quality,
a place to grow, from hope
to action through knowledge



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Presentation overview...



- Introduction**
 - University of the Western Cape
- South Africa's national Intellectual Property Rights Act**
 - National IP Management Office
- Obligations on Higher Education Institutions**
 - Institutional Offices for Technology Transfer
 - Obligations of recipients of public funds
- Conducive Environment**



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University of the Western Cape (UWC)...



Vision:

“A place of quality, a place to grow, from hope to action through knowledge”

Mission:

**“...a national University, alert to its African and international context...”
committed to being a place of....:**

- Quality & growth through knowledge
- Excellence in teaching, learning & research
- Nurturing the cultural diversity of SA
- Critical & creative response to the needs of a society in transition
- Drawing on its proud historic experience
- Contributing to building an equitable & dynamic society



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Role of UWC...



To continue to be a **relevant & engaged** institution...UWC must...

❑ strive for **EXCELLENCE** in:

Knowledge Generation...

- Study
- Research...

❑ matched with **EXCELLENCE** in:

Knowledge Dissemination...

- Teaching... (graduates with industry-relevant competencies)
- Publications/presentations... (high impact, peer-reviewed)
- Technology transfer... (products / services / processes)



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South Africa's IPR-PFRD Act...



Intellectual Property Rights for Publicly Financed Research &
Development (**IPR-PFRD**) Act

“IPR Act”

Act 51 of 2008

Published – 2008, In effect – Aug 2010

Objective:

Intellectual Property (**IP**) emanating from publicly funded research & development (**R&D**) must be identified, protected, utilised and commercialised for the benefit of the Republic of South Africa.



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Important definitions in the IPR Act...1



“Intellectual Property”

...any creation of the mind that is capable of being protected by law from use by any other person, whether in terms of South African law or foreign intellectual property law, and includes any rights in such creation...

NB: excludes copyrighted works... publications... ordinarily associated with conventional academic work.

“Publicly financed R&D”

...R&D undertaken using any funds allocated by a **funding agency**, or by a **private entity or organisation** at below **full cost**.

NB: excludes funds allocated for scholarships and bursaries

“Funding agency”

...the State or an organ of state or a state agency that funds R&D.

(Source: UCT RCIPS – IP Information Session Oct 2010)



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Important definitions in the IPR Act...2



“Private entity or organisation”

...a private sector company, a public entity, an international research organisation, an educational institution or an international funding or donor organisation.

“Commercialisation”

...the process by which any IP emanating from publicly financed R&D is or may be adapted/used for any purpose that may provide any **benefit to society** or **commercial use** on reasonable terms.

“Full cost”

...the full cost of undertaking R&D as determined in accordance with international financial reporting standards, and includes all applicable **direct and indirect cost** as may be prescribed.

(Source: UCT RCIPS – IP Information Session Oct 2010)



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Overview of South Africa's IPR Act...



- IP management obligation:** placed on Higher Education institutions (**HEIs**)
- Statutory protection obligation** (where applicable): re: IP from publicly-financed R&D
- IP commercialisation requirement:** re: IP from publicly-financed R&D
- State intervention allowable:** where commercialisation of IP from publicly-financed R&D is not done adequately or not at all
- IP rights recognised:** for HEIs and researchers (staff and students) – ownership and beneficiation rights
- Sole & co-ownership of IP options:** and pre-conditions thereto defined
- National IP Management Office (**NIPMO**):** establishment

(Source: Hobololo. V, Technology Transfer in the Higher Education sector: the IPR Act, 2012 Presentation)



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Government rights to publicly financed IP...



According to the IPR-Act:

- Non-exclusive, royalty-free, non-transferable, worldwide licence for use for health, security, strategic & emergency needs
- Non-commercialisation
- Walk-in rights: Failure to disclose – assignment of IP to NIPMO

"The intellectual property under this transaction was created with support from the South African Government; ([under the contract number where applicable] awarded by [identify the Funding Agency or relevant government department, where applicable]) and is subject to the requirements of the South African Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 and its regulations ("Act 51 of 2008"). The South African Government has certain rights to the intellectual property in terms of sections 11(1)(e), 11(2) and 14 of "Act 51 of 2008".



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International comparissons...



- USA:** Bayh-Dole Act (1980)
- Japan:** Technology Licensing Organisations (1998-2004)
- Germany:** Law on University Employees' Inventions (2002)
- Taiwan:** Science & Technology Basic Law (1999)
- UK:** IP Ownership Decentralisation Efforts (1980's)
- Korea:** Technology Transfer Promotion Act (2000)
- Brazil:** Innovation Law (2005)
- Switzerland:** Technology Transfer Law (1991/9)
- Phillipines:** Technology Transfer Act 2010
- RSA:** IPR-PFRD Act (2010)

(Source: Hobololo. V, Technology Transfer in the Higher Education sector: the IPR Act, 2012 Presentation)



“**NIPMO**” ... agency under Dept. of Science & Technology (**DST**)

- Minister appoint Head of NIPMO
- Advisory Board (5-9 members)
- Independent dispute resolution re: IPR Act

Enabling/Supporting Role

- Capacity building
- Guidelines
- IP Transactions
- IP Rebate Fund
- IP Incentive Fund
- OTT Support Fund

Regulatory/Enforcement Role

- Reporting
 - Disclosures
 - Commercialisation
- Offshore IP Transactions
- Government Rights
- Full-costing



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Obligations on all HEIs...



IPR Act obligations on all Higher Education Institutions (HEIs)...

- Develop** an IP Policy in line with the IPR Act – NIPMO approved
- establish** & maintain an Office for Technology Transfer (**OTT**), or
- designate OTT responsibilities** to existing persons/structure, or
- establish joint OTT function** amongst HEIs e.g. regional OTT



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Obligations on recipients of public funds...



Establish mechanisms for...

- **IP Management:** identification, protection, development, management of IP, IP transactions, IP **commercialisation** and **capacity-building**;
- **IP Disclosure:** effective and practical **measures and procedures** for **IP disclosure** and ensure **appropriate protection** before public disclosure (e.g. publications);
- **Timely Disclosure:** before public disclosure - **within 90 days** (or longer period as may be prescribed) from time of identification of possible IP;
- **IP Assessment:** establish if IP warrants statutory protection, apply for and use best efforts to **obtain statutory protection** as appropriate in recipient's name;
- **IP Referral to NIPMO:** **within 30 days** (or longer period as may be prescribed) where recipient elects not to obtain statutory protection or retain ownership of IP
- **IP Revenue Management:** from IP transactions, includes managing the **benefit-sharing arrangements** with IP creators/enablers at the institution.



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Conducive Environment...



- National policy/frameworks alignment**
- Southern African Research & Innovation Management Association**
- Innovation & entrepreneurial culture**
- Innovation support elements: incubation, hubs, clusters, IP Firms...**
- Funding landscape**

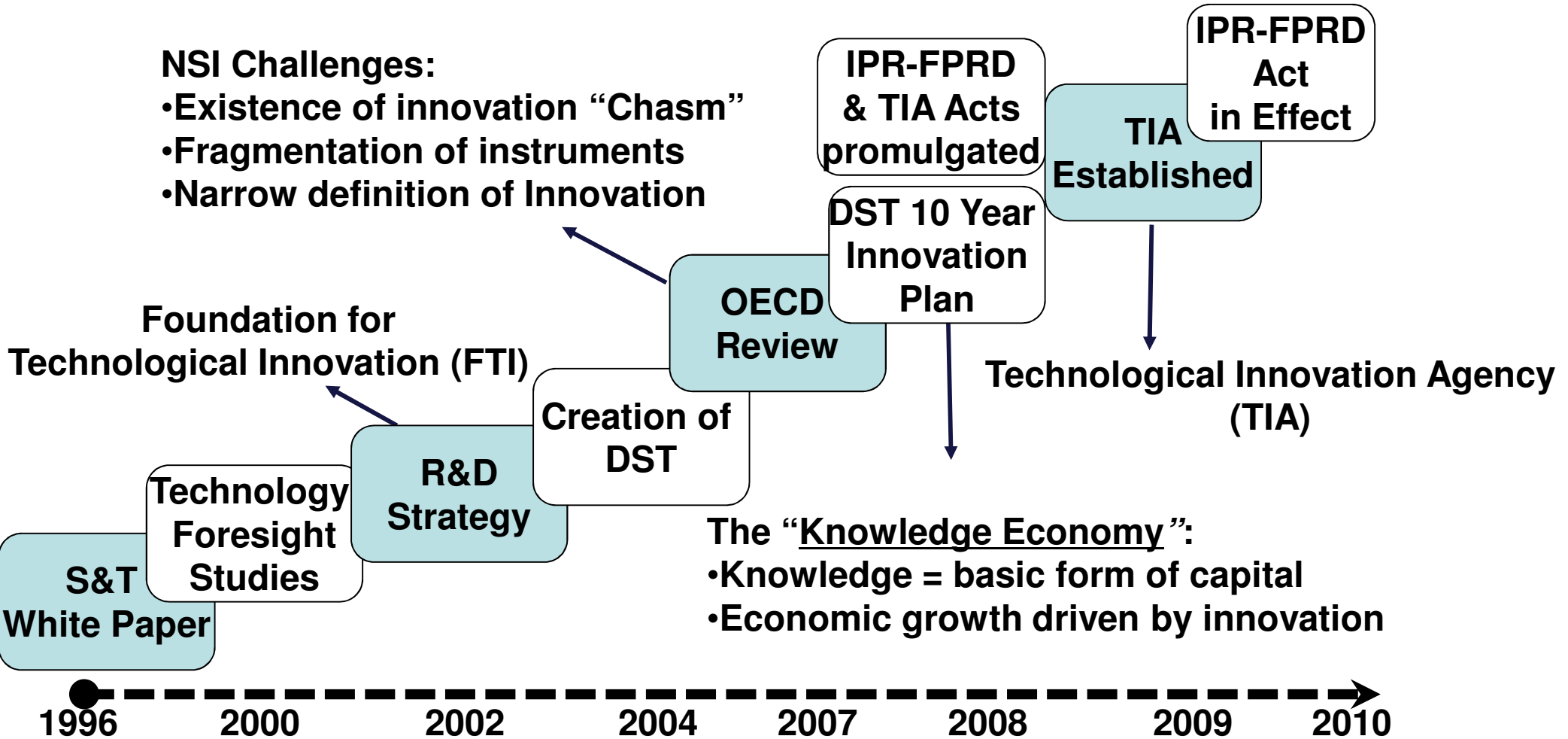


National policy/frameworks alignment...



NSI Challenges:

- Existence of innovation “Chasm”
- Fragmentation of instruments
- Narrow definition of Innovation





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SARIMA...



Southern African Research & Innovation Management Association (**SARIMA**)

- Stakeholder organisation - established 2002
- Key stakeholders - Research and Innovation (**R&I**) managers in the public/private sectors.
- Overall objectives:
 - develop the discipline of R&I management (incl. professional dev.)
 - develop and promote best practices in R&I management
 - Foster & co-ordinate R&I management activities locally/internationally
 - create a climate conducive to R&I at institute/organisation & national level
 - Identify and establish mutually beneficial links with similar associations



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Innovation & Entrepreneurial Culture...



- International experience (advanced economies): level of investment in R&D and innovation linked to economic growth and development.
- Emerging economies, e.g. China, India, Brazil's innovation driven policies and investments (10-15 yrs back) - reaping the benefits now
- SA National Industrial Policy Framework and Industrial Policy Action Plan (IPAP) envisages a competitive, faster growing economy – diversified, large-scale employment creation
- IPAP highlights specific industries and interventions that need scientific, R&D innovation inputs.



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OLD paradigm @ HEIs...



Ivory Tower



No, no...**WE** study and write about the world. **YOU** go and save it...



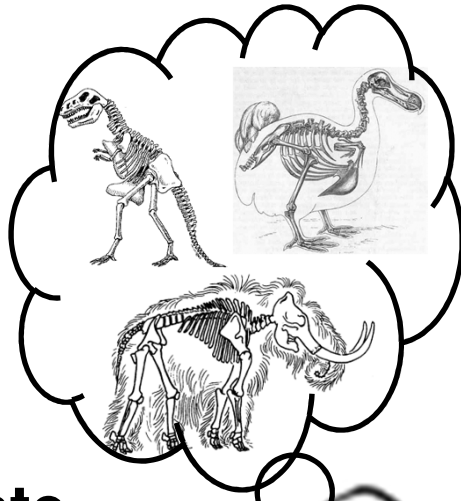
Really? I thought if was Publish or PARIS

<http://hikingartist.files.wordpress.com/2011/09/book-tower-experts-by-hikingartist.jpg>



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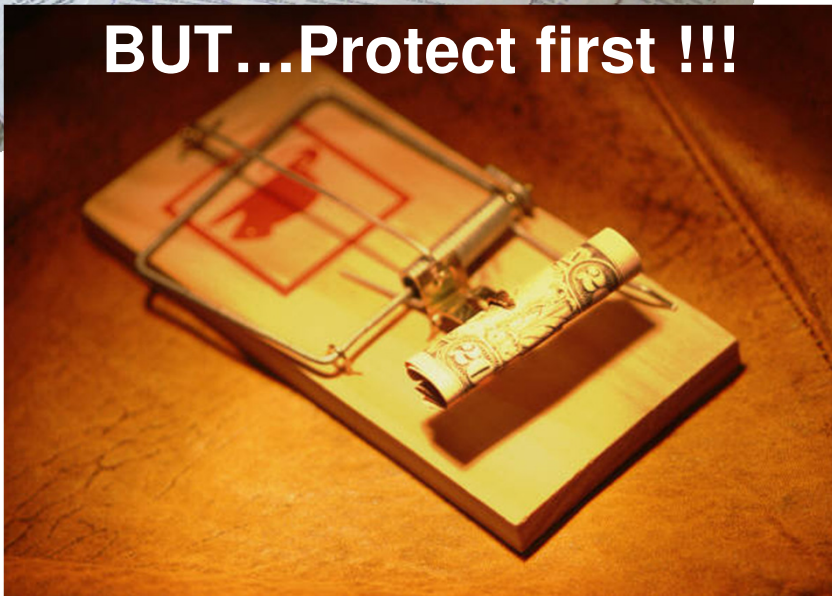
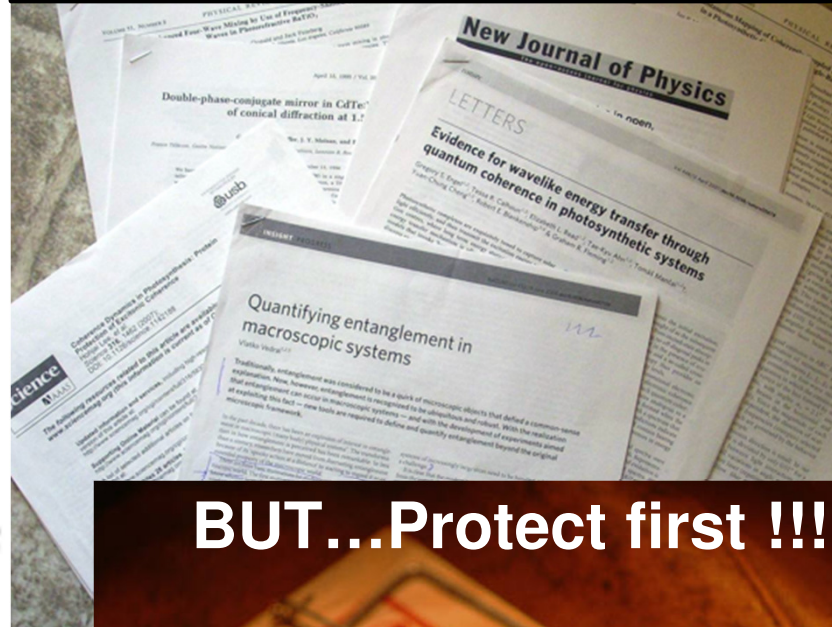
NEW paradigm @ HEIs...



Innovate...
or perish



Publish, publish publish...



BUT...Protect first !!!

[http://www.arthursclipart.org](http://www.arthursclipart.org;); chestofbooks.com; school.discoveryeducation.com



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Innovation Support Elements...



THE INNOVATION HUB®

NIPMO

NATIONAL INTELLECTUAL PROPERTY
MANAGEMENT OFFICE
An initiative of the Department of Science and Technology



science
& technology

Department:
Science and Technology
REPUBLIC OF SOUTH AFRICA

technology innovation
A G E N C Y



NRF



SARIMA



MINTeK



Companies and Intellectual
Property Commission

a member of the dti group



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

IDC
Industrial Development Corporation
Your partner in development finance

CSIR
our future through science



LAUNCHLAB



ARC • LNR
Excellence in Research and Development

VON SEIDELS
INTELLECTUAL PROPERTY ATTORNEYS
PATENTS, TRADE MARKS, DESIGNS, COPYRIGHT

HESA
HIGHER EDUCATION
SOUTH AFRICA

spoor • fisher
patents • trade marks • copyright



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Funding Landscape...



Overview... SAFunding Landscape

Govt. Venture Capital Funds



Govt. Grants



Support Programme
for Industrial Innovation
an initiative of **the dti**

Private Sector Venture Capital Funds



Angel Investors



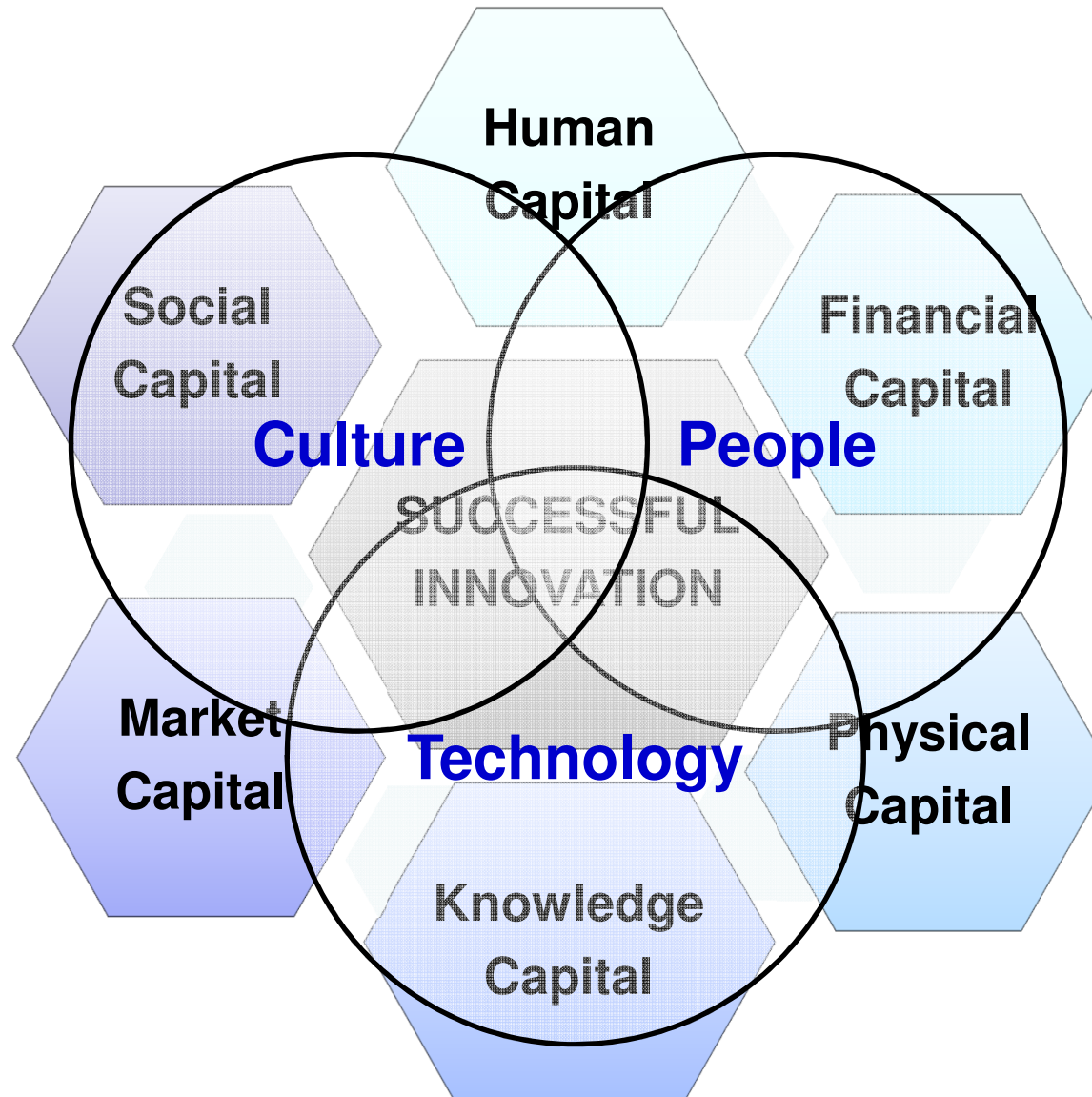
Corporate South Africa



(Source: IDC Presentation – EDP Workshop WC)



Environment for successful innovation...



Source: Fadl Hendricks Presentation (adapted)



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Thank You...



QUESTIONS



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