

MAIN PROGRAM 11

Global Intellectual Property Issues

11.1 Intellectual Property Rights for New Beneficiaries

11.2 Biological Diversity and Biotechnology

11.3 Protection of Expressions of Folklore

11.4 Intellectual Property Rights Beyond Territoriality

Main objectives:

- ◆ To identify and explore emerging global issues at the frontiers of the intellectual property system in the context of their social, cultural and economic impact, at the national, regional and global levels.
- ◆ To promote understanding of the relationship between intellectual property rights (IPRs) and multilateral instruments on other global issues.
- ◆ To identify and explore new approaches to the use of the intellectual property system by new beneficiaries such as holders of indigenous knowledge and innovations.
- ◆ To examine the role of intellectual property in the preservation, conservation and dissemination of biological diversity.
- ◆ To investigate the need for, and possible nature and scope of, new or adapted forms of protection for expressions of folklore, including a possible new international treaty.
- ◆ To examine policy options for the use and management of IPRs in relation to evolving notions of territoriality.

Current Situation

This Main Program responds to three challenges facing the intellectual property system in a rapidly changing world: accelerating technological advancement has created new global issues impacting on the intellectual property system; integration of the world economical, ecological, cultural, trading and information systems requires more active exploration of intellectual property issues at a global level complementing WIPO's national and regional activities; and the pervasiveness of intellectual property in the fabric of human activity and aspiration, and the universal character of IPRs, call for exploration of new ways in which the intellectual property system can serve as an engine for social, cultural and economic progress for the world's diverse populations.

To remain at the forefront of global intellectual property developments and to maintain its capacity to serve the interests of its Member States, WIPO needs to offer creative and rapid responses to these pressing challenges. The issues to be tackled transcend national, regional and hemispheric conditions, as well as varying levels of economic, social or cultural development. The early identification and conceptual groundwork required for such policy formulation is distinct from the activities of progressive development of

international intellectual property law exercises on the one hand and cooperation for development on the other, although these activities will be carefully coordinated within the Secretariat. The results of this Main Program will be drawn upon as inputs and resources for other WIPO activities, particularly in the field of cooperation for development and training, such as in responding to national requests for assistance or training in relation to specific target groups or on specific issues.

**Strategy
for
the future**

This program will identify key points where rapid technological and social changes are exerting stress on the existing intellectual property system, and consider how they should be explored and addressed, in order to ease pressures and to advance the system. For the 1998-99 biennium four such stress points have been identified for examination in the respective sub-programs. This will entail considering new global issues involving intellectual property, and formulating action plans for promoting innovation, creativity and economic and social development through better use, understanding and, where needed, evolution of the global intellectual property system. Pilot projects will serve as testbeds for future WIPO responses to new issues and for preparing for larger scale implementation in WIPO's cooperation for development, or in the progressive development of international intellectual property law.

**Expected
results**

- ◆ A sound conceptual basis for extending and updating WIPO programs in response to specific emerging issues, and consolidated groundwork and information resources for new directions in relation to these issues in progressive development of international intellectual property law, cooperation for development or market-oriented services, employing pilot projects to test new approaches to the use and management of the intellectual property system for the benefit of specific groups.
- ◆ Greater understanding of the relationship between intellectual property and other global issues, and enhanced support for the intellectual property system.
- ◆ Identification of the intellectual property needs and expectations of new beneficiaries, such as holders of indigenous knowledge and innovations and local communities, and the formulation of appropriate plans of action.
- ◆ Better understanding of the role of intellectual property in the preservation, conservation and dissemination of global biological diversity.
- ◆ Assessment of needs for improved protection of expressions of folklore, and, if needed, appropriate action, including consideration of a diplomatic conference to adopt a new treaty.
- ◆ Conceptual groundwork for developing proposals to improve the use and management of IPRs in commercial and other exchanges not structured on a territorial basis.
- ◆ Information resources, studies and pilot projects under this Main Program will be coordinated with and provide input to related activities on such issues in the context of cooperation for development (Main Program 06), training (Main Program 08), and progressive development of intellectual property law (Main Programs 09 and 10).

Sub-program 11.1

Intellectual Property Rights for New Beneficiaries

Objectives:

- ◆ To promote understanding in other international forums of the universal aspects of intellectual property rights.
- ◆ To identify and explore the intellectual property needs and expectations of new beneficiaries, including the holders of indigenous knowledge and innovations, in order to promote the contribution of the intellectual property system to their social, cultural and economic development.
- ◆ To institute pilot projects for new approaches to the creation, protection, use and management of intellectual property rights (IPRs) for new beneficiaries.

Background The universal dimension of intellectual property rights has been recognized in international instruments, notably the Universal Declaration of Human Rights (proclaimed by the General Assembly of the United Nations on December 10, 1948), which identifies certain IPRs as human rights (in its Article 27(2)) and proclaims other human rights which are relevant from the viewpoint of intellectual property, notably those concerning education, and cultural and scientific advancement (Articles 26(1) and 27(1)). The 50th anniversary of the Universal Declaration provides a timely opportunity to recall the fundamental and universal character of IPRs and to promote greater awareness about their status in the international legal system.

In particular, the universal character of the Declaration suggests the need for a more inclusive approach to relevant IPRs, and for widespread access to the benefits of the intellectual property system. WIPO has also been called upon by various international agencies and forums to provide technical advice and information on intellectual property matters where these arise in relation to certain groups which have had little or no effective access to the intellectual property system, for instance the United Nations Commission on Human Rights (Sub-Commission on Prevention of Discrimination and Protection of Minorities), and the Conference of the Parties to the Convention of Biological Diversity (Workshop on Traditional Knowledge and Biological Diversity). In accordance with its fundamental objective, of promoting “the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization,” WIPO is well equipped to provide clear technical information and greater understanding of the existing intellectual property system, and to promote its effective protection through cooperation. Other international undertakings require enhanced international cooperation to promote intellectual property protection in relation to such groups, notably in the Rio Earth Summit (Chapter 26 of Agenda 21) and the Convention on Biological Diversity (Article 8(j)).

Universality of access to IPRs, and more specific requirements of international instruments, may be addressed by considering the interests of groups which have, hitherto, had little or incomplete exposure to the intellectual property system, with an initial focus on holders of indigenous and traditional knowledge and culture, reflecting specific international requirements in this field. Other target groups could be identified for similar activities in future biennia. Preparatory work will involve fact-finding and the

making available of information on the needs, rights and expectations of the target groups.

Pilot projects will also be instituted to test new approaches to the use of the intellectual property system. In this biennium, a feasibility study for creation of a regional system of collective management of copyright in the Caribbean Basin will be carried out, for possible application in other regions.

Main activities

- ◆ Expert studies on the international legal character of IPRs arising in particular from references to intellectual property in multilateral instruments in other fields, to be published and to be supplemented by video and other information products to form a multimedia package to be launched at a public panel discussion in December 1998, the 50th anniversary of the Universal Declaration of Human Rights.
- ◆ Study of current approaches to, and future possibilities for, the protection of intellectual property rights of holders of indigenous knowledge, innovations and culture, through fact-finding missions to North America, South and Central America, the South Pacific, West and Southern Africa, and South Asia, and publication and dissemination of information compiled from these missions.
- ◆ Provision of technical advice and information on the operations of the intellectual property system where requested by other organizations or specialized UN agencies which are dealing with IPRs in relation to new beneficiaries, and through participation in conferences and seminars where relevant issues are under consideration.
- ◆ Once in each year of the biennium, a Roundtable on Indigenous Intellectual Property near the time of the annual Working Group on Indigenous People at the United Nations in late July, to facilitate an exchange of views among policymakers and indigenous people concerning more effective application and possible improvements of the intellectual property system to protect traditional knowledge.
- ◆ Commissioning, publishing and disseminating a feasibility study on a regional system of collective management of copyright in the Caribbean region, using state-of-the-art rights management technology, and on its possible application to other regions.
- ◆ A feasibility study on the establishment of databases of traditional knowledge.

Expected results

- ◆ Greater practical understanding of the relationship between IPRs and multilateral instruments covering other global issues.
- ◆ Identification of the needs of holders of indigenous knowledge and cultures for intellectual property protection, including areas where evolution may be called for, in particular the feasibility of a regional system for collective management of rights in the Caribbean and in other regions.

Intellectual Property Rights for New Beneficiaries (in thousands of Swiss francs)												
Sub-program 11.1	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies		
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm. & Other	Supplies & Materials	Furniture & Equipment	
Total	608	201	190	-	31	140	17	5	11	-	-	13

Sub-program 11.2

Biological Diversity and Biotechnology

Objectives:

- ◆ To examine the role of intellectual property in the preservation, conservation and dissemination of global biological diversity.
- ◆ To examine the potential of new technologies in the management of intellectual property for the documentation, conservation and dissemination of global biological diversity.

Background In the past, WIPO has dealt with biotechnology as an issue primarily related to the transfer of technology, and has published a licensing guide on biotechnology. The increasing economic and technological importance of biotechnology requires a continued focus on this aspect, as well as other industrial property aspects, particularly patenting of biotechnology, which have become issues of immediate interest and general attention. Since the conclusion of the Convention on Biological Diversity (CBD) in 1992, increasing interest has been shown in possible links between intellectual property aspects of biotechnology and the conservation, use, and benefit-sharing of biological resources. Under the present sub-program these links will be examined as a separate item for the first time.

Main activities

- ◆ Convening of a Working Group to study intellectual property aspects of biotechnology and of the implementation of the CBD, including the potential role of the industrial property system in facilitating access to and transfer of related technology.
- ◆ Two regional awareness-raising seminars on patenting of biotechnology.
- ◆ Participation in meetings of a working group on indigenous knowledge established under the CBD, in work on a biosafety protocol to the CBD, the WTO Committee on Trade and the Environment, and other relevant international bodies.
- ◆ Consultations, through a Steering Committee composed of representatives of WIPO, the United Nations Environment Programme (UNEP) and the World Conservation Union (IUCN), to identify, evaluate and agree upon three projects for on-site documentation of traditional knowledge relevant to the preservation, conservation and sustainable use of biological diversity, with an eye to sharing the benefits of such knowledge.
- ◆ A study on the use of IPRs in the transfer of technology under multilateral environmental agreements (MEAs), and on the IPR-related needs of holders of indigenous knowledge, innovations and genetic resources, such as in agriculture and medicine.

- Expected results**
- ◆ Greater practical understanding of issues in relation to the patenting of biotechnology and intellectual property aspects of the Convention on Biological Diversity.
 - ◆ Enhanced awareness on the role of intellectual property in implementing MEAs, and projects for documentation of traditional knowledge, laying the groundwork for benefit-sharing from use of such knowledge.

Biological Diversity and Biotechnology (in thousands of Swiss francs)												
Sub-program 11.2	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies		
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm. & Other	Supplies & Materials	Furniture & Equipment	
Total	516	54	197	-	36	66	-	150	-	-	-	13

Sub-program 11.3

Protection of Expressions of Folklore

Objectives:

- ◆ To study the role of intellectual property in the documentation, conservation and dissemination of expressions of folklore.
- ◆ To study possible systems for the collective management of expressions of folklore.
- ◆ To study means for the sustainable use and beneficial commercialization of expressions of folklore using the existing intellectual property system and to conduct pilot projects towards this end.

Background WIPO and UNESCO have worked jointly to develop mechanisms for the legal protection of expressions of folklore since the 1970s. In fora such as the recent UNESCO/WIPO World Forum on the Protection of Folklore, WIPO Member States have renewed their calls for the intellectual property system to provide protection for expressions of folklore. Since such protection under national, regional and international legal instruments is unclear, issues related to the protection of expressions of folklore need further exploration.

Main activities

- ◆ Regional consultation meetings on the protection of expressions of folklore.
- ◆ A pilot project on employing the existing intellectual property system for the sustainable use and beneficial commercialization of expressions of folklore, aimed at producing a Multimedia Encyclopedia of Folklore on CD-ROM for commercial distribution, entailing a fact finding and advisory mission, provision of equipment (documentation and scanning equipment), and staff training.

- ◆ A study on collective management of expressions of folklore as presently carried out by national collecting societies, requiring a fact finding mission.
- ◆ Participation in and provision of technical information to selected conferences and seminars where relevant issues are presented.

Expected results

- ◆ Significant progress in identifying and clarifying needs for new or adapted forms of protection for expressions of folklore.
- ◆ Greater experience in the documentation standards necessary for the conservation and possible protection of expressions of folklore through intellectual property, in the methods of commercialization and benefit-sharing for expressions of folklore and in the use of new technologies in the documentation, conservation and dissemination and possible intellectual property protection of expressions of folklore.

Protection of Expressions of Folklore (in thousands of Swiss francs)											
Sub-program 11.3	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm. & Other	Supplies & Materials	Furniture & Equipment
Total	595	88	469	-	25	-	-	-	-	-	13

Sub-program 11.4

Intellectual Property Rights Beyond Territoriality

Objective:

- ◆ To explore challenges to the global intellectual property system raised by the changing nature of territoriality.

Background Under the international intellectual property system, IPRs have been used and managed within a framework of distinct, national territories. However, an increasingly networked and integrated environment demands that new ways are conceived to exercise IPRs beyond this principle of territoriality. In this biennium, possible evolution of the intellectual property system in relation to territoriality will be explored in coordination with other Main Programs, particularly sub-programs 09.3 and 10.5. Specific points of study will include national treatment, exhaustion of rights, management of rights, choice of law, evidentiary rules, courts of competence and execution of judgments, as well as the implications of regional and international registration of industrial property rights, and other forms of cooperation between national granting authorities. Close attention will be given to changes in territoriality following from regional integration through agreements such as the European Union, ASEAN, APEC, COMESA, Mercosur, NAFTA and SADC.

In future biennia, other stress points will be studied, such as those arising from tensions between intellectual property and policies favoring competition, free trade, access to information and affordable healthcare. The conceptual groundwork undertaken in this sub-program aims to illuminate possible ways ahead for the intellectual property system in all such areas.

Main activities

- ◆ An expert meeting (drawing on the fields of intellectual property, economics, environment, information and communication technologies), to explore new practical approaches to the principle of territoriality in the global intellectual property system, with publication and dissemination of the meeting's results and recommendations for new approaches to the principle of territoriality.
- ◆ Consultations with competent secretariats, such as the European Commission and the Secretariats of ASEAN, APEC, COMESA, Mercosur, NAFTA and SADC, to secure input on the implications of this issue in the exercise of IPRs in regional cooperation arrangements.

Expected results

- ◆ Ongoing examination of the interaction between intellectual property and other policy objectives influenced by the changing nature of territoriality will ensure the continuing practical relevance of the intellectual property system.
- ◆ Enhanced understanding of the changing role of territoriality in the global intellectual property system and of possible improvements to the system in response to these challenges.

Intellectual Property Rights Beyond Territoriality (in thousands of Swiss francs)											
Sub-program 11.4	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm. & Other	Supplies & Materials	Furniture & Equipment
Total	103	-	57	-	25	3	3	-	-	-	15

Program Budget Summary

Global Intellectual Property Issues (in thousands of Swiss francs)												
	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies		
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm. & Other	Supplies & Materials	Furniture & Equipment	
Sub-program 11.1	608	201	190	-	31	140	17	5	11	-	-	13
Sub-program 11.2	516	54	197	-	36	66	-	150	-	-	-	13
Sub-program 11.3	595	88	469	-	25	-	-	-	-	-	-	13
Sub-program 11.4	103	-	57	-	25	3	3	-	-	-	-	15
Total	1,822	343	913	-	117	209	20	155	11	-	-	54

Staff needs and costs

Two new Professional staff are needed for new activities under Main Program 11: one Senior Legal Officer to participate in and draft reports of the large number of missions, meetings and other activities proposed under all four sub-programs and one Senior Program Officer to plan,

oversee and participate in missions under sub-programs 11.1, 11.2. and 11.3, and to organize and participate in meetings under this program.

Posts	1996-97	1998-99	Variation
Directors	1	1	0
Professionals	0	2	2
General Service	2	2	0
Total	3	5	2

Staff costs (in thousands of Swiss francs)	Budget 1996-97	Budget 1998-99	Variation
Salaries of regular staff	674	1,195	
Salaries of short-term staff	24	120	
Social charges + other personnel costs	221	392	
Total staff costs	919	1,707	85.7%

Comparative Budget Summary

MAIN PROGRAM 11: Global Intellectual Property Issues	(In thousands of Swiss francs)					
	Budget 1996-97	Budget 1998-99	Variation			
			Program		Cost	
			Amount	%	Amount	%
Program Activities	-	1,822	1,822			
Staff Costs	919	1,707	787	85.6%	1	0.1%
TOTAL	919	3,529	2,609	284%	1	0.1%