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# Regional Seminar for Certain African Countries on the Implementation and Use of Several Patent-Related Flexibilities

***Topic 1: WIPO's Technical Assistance and the Development Agenda***

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# **Regional Seminar for Certain African Countries on the Implementation and Use of Several Patent-Related Flexibilities**

WIPO's Technical Assistance and the Development Agenda

Herman Ntchatcho  
Senior Director  
Department for Africa and Special Projects

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# IP For Development

- The concept emphasizes the notion that Intellectual Property (IP) is not an end in itself but rather is a tool that could power the process of economic growth and development in developing and least developed countries (LDCs)
- WIPO is the Premier intergovernmental organization and lead UN Agency mandated to promote the protection of IP – through cooperation among States [number of State members] and in collaboration with other international organizations [sister organizations: WTO, WHO, EPO, OAPI, ARIPO].
- WIPO ensures/emphasizes that all countries benefit from the use of IP for economic, social and cultural development.

## IP For Development (cont'd)

- WIPO's Development Agenda emphasizes the strategic importance and centrality of IP for Development and the need to address the challenge of development by:
  - integrating the specific needs and priorities of the developing and the LDCs; and
  - leveraging all the resources available across WIPO – i.e. not only WIPO's development specific programs, but all of its substantive areas of work and programs.

- In brief, the Development Agenda is concerned with ensuring that development considerations form an integral part or in other words are mainstreamed in WIPO's programs and activities.
  
- At the official launching of the WIPO Development Agenda in October 2007, WIPO General Assembly adopted a set of 45 recommendations aimed at enhancing the development dimension of WIPO's activities.

## Development Agenda Recommendations – the Clusters

The 45 recommendations are grouped into **6 clusters**:

- Technical Assistance and Capacity Building (14 recommendations).
  - Norm-setting, Flexibilities, Public Policy and Public Domain (9 recommendations).
  - Technology Transfer, Information and Communication Technologies and Access to Knowledge (9 recommendations).
  - Assessment, Evaluation and Impact Studies (6 recommendations).
  - Institutional Matters (6 recommendations)
  - Other Issues (1 recommendation).
- <http://www.wipo.int/ip-development/en/agenda/recommendations.html>

The notion of IP for WIPO Development may be appraised in two stages:

- (i) A review of the main themes contained in the various recommendations aimed at making the development dimension an integral part of WIPO's activities and programs – both substantive and technical assistance related.
- (ii) The menu of concrete projects showcasing the links between IP and development, as well as the impact of IP on the process of economic development.

- Review of selected Development Agenda themes
- Technical Assistance and Capacity Building (TACB) (14 recommendations)
  - TACB is a permanent feature of the activities and programs of the WIPO Development Sector which are undertaken through the regional bureaux and specialized divisions

- The Regional Bureaus work closely with other specialized units and sectors within WIPO to respond to requests from Member States to enhance national capacity to more effectively use IP for development

This assistance focuses on:

#### Developing national IP and innovation strategies

- Package of policy elements and implementation mechanisms that build linkages between science and technology, Investment and trade, education, health, agriculture, environment and national planning

#### Establishing development-oriented, balanced and country-specific legislative, regulatory and policy frameworks

- Laws designed to strike a balance between
- Right holders and users
- Private and public interest
- Incentives to create and access to knowledge

#### Strengthening institutions

- Modern technical infrastructure and enhanced office management procedures to spur innovation, commerce economic development

#### Capacity building aimed at developing human resources

#### LDCs

- Design and implementation of tailored TACB programs which address the specific needs of LDCs

- In the framework of WIPO's Development Agenda Member States undertook to rationalize the principles guiding the implementation of TACB
  - WIPO technical assistance should be based on the following principles:
    - Member States driven and upon specific request.
    - Respond to the real priorities, needs and interests of Member States, in particular the LDCs, and reflect their different levels of development. (*Country specific and custom made*)
    - Take into account the cost and benefits of the utilization of IP. (*Balance*)
    - Ensure mainstreaming of the DA principles into all of WIPO's work. (*Development oriented*)
    - Equitable geographical distribution of projects.
    - Comprise timeframe for completion and mechanism for monitoring and evaluation
    - Projects should be sustainable and it is important that local partners be fully committed to the projects.

## □ Legislative Assistance and Norms Setting

Legislative activities shall reflect the standard TACB principles

- Be inclusive and member driven
- Development oriented and take into account the needs and priorities and the special needs of LDCs and
- Different levels of development (Article 13)
- Take into consideration a balance between costs and benefits
- Include timeframes for completion and monitoring evaluation mechanisms

- WIPO's norms setting activities should be undertaken in conformity with the development objectives of the United Nations and shall pay special attention to issues such as:



- safeguarding national implementation of IP rules
- links between IP and competition
- IP related transfer of technology
- flexibilities, exceptions and limitations for Member States
- the possibility of additional special provisions for developing countries and LDC's (Rec. 22, 15)
- Policy space as provided for in the TRIPs Agreement (Rec. 14)

- With respect to implementation, WIPO DA comprised two sets of recommendations:
  - Recommendations to be immediately implemented within WIPO's regular budgetary resources.
  - Recommendations requiring a phased and gradual implementation subject to the availability of additional resources to be approved by WIPO's General Assembly (GA). The International Bureau adopted a project approach and the GA approved and integrated 20 millions francs in WIPO's Program and Budget. The different projects are at different levels of implementation.

## IP and Innovation Policies and Plans

- ❑ The adoption and implementation of strategic IP and innovation policies and plans as power tools for economic development (Rec. 4). WIPO shall assist Member States at their request to set up appropriate national strategies in the field of intellectual property (Rec. 4)
- ❑ Shortcomings of National IP systems in Africa
- **The crosscutting nature of IP is not sufficiently acknowledged:**
  - Agriculture, key sectors of industry: manufacturing, chemistry, biotechnology, informatics, electronics (ICT), creative industries (music, films, publishing, computer software) R&D, applied research.
  - Access to medicines and public health
  - Trade (import, export)
- **Public authorities are slow in taking advantage of all the potential benefits of the IP system:**
  - In general IP is not accorded a prominent place in national political and economic agendas of African countries
- **Lack/or weakness of institutional links with**
  - Other ministries that *prima facie* could be interested in IP (higher education, technical and scientific, agriculture, health, industry, mines and energy etc...)
  - Institutions such as universities, R&D, employers' associations, chambers of commerce and industry, other consular chambers, private sector etc...
- **Institutional weakness of IP and Copyright (CR) administrations**
  - ❖ The various services and/or directorates belong to distinct ministries
    - Industry and trade or justice for IP
    - Culture or justice for CR
- Inadequacy of financial and material resources available for IP institutions and CR collective management organizations
- Lack or inadequacy of IP management policy

The above-mentioned shortcomings underline the importance of national IP innovation strategies and policies:

- Vision document, which acknowledge the catalytic role of IP in the process of economic value creation in particular as regards specific sectors (industrialization, agriculture, health, manufacturing industry, commerce, creative industries etc...)
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- Most IP Strategies and Plans take into account the orientations of strategic development blueprints (prospective vision documents) which have been elaborated by a number of countries for the coming decades: Rwanda 2020, Kenya 2030, Cameroon 2035, Gabon 2025, Uganda 2035.
- The Regional Bureau for Africa cooperate with countries – upon their request for the drafting of IP strategic and policy documents: Botswana, Burundi, Cameroon, Chad, Democratic Republic of Congo, Republic of Congo, Ghana, Lesotho, Nigeria, Senegal, Seychelles, Sierra Leone, Zimbabwe
- Several African countries have already adopted IP policies and plans: Liberia, Mozambique, Rwanda, Senegal, Seychelles and Zambia.
- Two countries have been receiving WIPO's technical assistance in the framework of WIPO's development Agenda projects – Mali and Tanzania
- OAPI has recently invited its Member States to engage in the formulation of national IP Strategies – a process in which it has committed to cooperate closely with WIPO.



## Contents of IP Strategic Plans

- The IP strategic Plan describes:
  - The policies which governments formulate and implement in a coordinated manner at the national level with a view to utilizing the IP system as a catalyst for the creation of economic value.
- The design and formulation of the IP Strategic Plan comprises several steps:
  - National stakeholders committee, including various stakeholders;
  - Intersectoral composition: ministries and departments; administrations and public institutions, private sector and civil society.
  - International and national consultants.
  - Methodology: needs assessment, inventory, review of areas of competitive advantages and of national assets
  - National validation workshop
- As regards some key issues considered:
  - Identification and enhancement of possible linkages between the IP system and different sectors of the economy (agriculture, health, commerce, culture, justice, tourism, mines, sports etc...)
  - Adoption of measures designed to encourage and support:
    - The effective creation of IP portfolio (innovation, R&D).
    - Protection (laws and regulations, enforcement).
    - Commercialization of national IP assets (Business identifiers, Branding etc..).
    - Implementation of concrete activities.

## ❑ Support for establishment of specialized databases

- ❑ To facilitate access to scientific and technical information, e.g. patent information and non patent literature:
  - Recommendation 8 requests WIPO to develop agreements with research institutions and with private enterprises to facilitate access to specialized databases for the purpose of patent search by national IP offices, regional and sub-regional organizations.

The aim is to stimulate innovation, and under this project WIPO supports the establishment of the Technology Innovation Support Centers (TISC), and associated networks, comprising (R&D centers / laboratories, universities, technology hubs, etc...) on the national, regional and international levels.

□ Objectives:

- i. sustaining the TISC training program including on site training and long distance learning
- ii. enhancing the use and improving access to specialized patent and non patent databases.
- iii. Establishing a new TISC Knowledge Management Platform to facilitate exchange between TISCs at the national, regional and international levels, disseminating information materials to TISCs and the public.

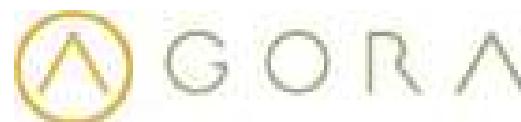
**The TISC is implemented through several activities and programs including:**

- The ARDi program (Access to Research for Development and Innovation) coordinated by WIPO with its partners of scientific publishing houses which facilitate access to scientific and technical journals, and ensure the integration of developing countries in the global knowledge economy as well as support their efforts to create and find new solutions to the challenges facing them.



- Since 2012 the number of active ARDi users has increased by over 100 percent to 70 institutions, another 30+ institutions have registered to access the ARDi resources.

- ARDi joined the « RESEARCH 4 LIFE » (R4L) partnership in 2012 which provides developing and LDCs:
  - online access to scientific and technical information critical for research and innovation, on free basis or at a fairly low cost
  - Comprises the following programs:
    - HINARI of WHO (online access to research reviews in health),
    - AGORA of FAO (online access to research on agriculture), and
    - OARE of UNEP (online access to research on environment)



- The Access to Specialized Patent Information (ASPi) program which facilitates access to specialized commercial databases is also attracting more users although at a slower pace. 30 users including 12 institutions are currently active users of database available through ASPI. (Launched in 2010 by WIPO in partnership with private sector companies (Lexis Nexis, Proquest, Thomson Reuters, Questel etc.).



- To create and develop database to match specific IP related development needs with resources available at the bilateral and multilateral levels (Rec 9) (IP-DMD)
  
- Develop in WIPO's website an electronic platform displaying general information on WIPO's technical assistance activities for the benefit of its Member States (Rec. 5)

□ **IP- Technical Assistance Database (IP-TAD)**

- The WIPO Intellectual Property Technical Assistance Database (IP-TAD) contains information on technical assistance activities undertaken by the Organization where one or more of the beneficiary countries were either developing or a least developed country or a country in transition.
- The database was developed within the framework of the [Committee on Development and Intellectual Property \(CDIP\)](#) in response to Development Agenda Recommendation No. 5.
- [Recommendation 5](#): WIPO shall display general information on all technical assistance activities on its website, and shall provide, on request from Member States, details of specific activities, with the consent of the Member State(s) and other recipients concerned, for which the activity was implemented.

□ **IP- Development Matchmaking Database (IP-DMD)**

- WIPO's Development Matchmaking Database offers a user-friendly process to match member states' IP-related development needs with available resources.
- It was developed in response to [Recommendation 9](#), namely: "Request WIPO to create, in coordination with Member States, a database to match specific intellectual property-related development needs with available resources, thereby expanding the scope of its technical assistance programs, aimed at bridging the digital divide."

## IP and Product Branding

- IP and Product Branding for Business Development in Developing Countries and Least Developed Countries (LDCs)
  - Emphasis on the needs of small and medium-sized enterprises (SMEs) and institutions dealing with scientific research and cultural industries and assist Member States, in setting up appropriate national IP strategies.
  - To assist Member States to develop and improve national IP institutional capacity through development of infrastructure and other facilities with a view to making national IP institutions more efficient and promote fair balance between IP protection and the public interest.
- The project supports small and medium-sized enterprises (SMEs), especially **associations of local groups of farmers and producers** DC and LDCs, in the **design and implementation of strategies** for the appropriate use of IP in product branding.

- In this way, the project helps to **promote** the development of local **communities** and **strengthen capacities**, at the community and institutional levels, by focusing on **the promotion** and the strategic use of IP, particularly **geographical indications (GI)**, and trademarks (TM).
- The use of IP Rights in particular **GI** and **TM**, can help **add value** to their products, **increase export income** and alleviate poverty.
- Most importantly, **traditional production methods**, coupled with **innovative procedures** and the **commitment of local communities**, can be instrumental to set **new standards** of social, economic and environmental development. Institutional capacities for the effective use of IP, appropriate infrastructure and facilities are also developed as part of the project.

- In Africa the project has been implemented with a focus on:
- Supporting local communities and other **stakeholders in Uganda**. IP and branding strategies were developed for vanilla cotton and sesame, based on a thorough assessment of each product.
- Stakeholders consultations were held to approve the above strategies, resulted in the registration of:
  - a **certification mark** for vanilla,
  - a **company trademark** for sesame oil
  - a **certification mark** for cotton is pending
- Capacity-building workshops were carried out for producers and local institutions as well, with a view to strengthen their understanding and management of IP and branding notions.

*Documentation and awareness-raising:*

- A series of **video documentaries** were produced for the purpose of documenting and raising awareness on the challenges and opportunities faced by each community in the branding and commercialization of their unique, origin-based products.
- A series of **case studies** is also being prepared in order to document the various project experiences and their results.

- Development of institutional capacities and human resources
- Project for the Establishment of “Start-up” National IP Academies
  - The overall objective of the “Start-Up” National IP Academies project is:
    - to strengthen national and regional institutional and human resource capacity
    - develop infrastructure and other facilities with a view to making national institutions more efficient
    - promote a fair balance between IP protection and the public interest as well as
    - to meet the increasing local demand for IP specialists, professionals, government officials and other stakeholders.

- In Africa the project is focusing on: Egypt, Ethiopia, and Tunisia.
  - The Egyptian Academy of Scientific Research and Technology (ASRT) is in the process of designing a long-term strategy and vision for the national IP Academy and defining priority actions, target audience and trainers for its national IP training institution.
  - The Ethiopian Intellectual Property Office (EIPO) has identified as a priority, the translation into Amharic and offering of the general distance learning course of the WIPO Academy and a project is being set for this outcome.
  - *Institut National de la Normalisation et de la Propriété Intellectuelle* (INNORPI) of Tunisia is in the process of developing a general course on Intellectual Property for external audiences

- It is expected that national IP training institutions established under the project should be able to run in a **self-sustainable manner, delivering regular programs.**
- Capacity Building plan developed.
  - Development of a capacity-building plan for the local training institution aiming to promote a balance between the public and private interests.
- IP Libraries established
  - Liaising with the WIPO Depository Libraries project and purchase of bibliography necessary for the provision of identified training programs.
- Development a set **of tools and guidelines** which may be used as a reference for other interested Member States in creating their own training institutions.
- Contribution to the creation of a forum of discussions on the use of IP for social and economic development at the national and regional levels.
- Training of academic coordinators.
- Promote a fair balance between IP protection and the public interest as well as meet national development priorities.

## Other Development Agenda themes and projects

- Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges
- Enhancement of the transfer of technology to developing countries (Rec 31)
- Request WIPO to explore IP related policies and initiatives to promote transfer and dissemination of technology to the benefit of developing countries (Rec. 25)
- IP, ICT and the Digital divide (Rec 24, Rec. 27)
- Provide additional assistance (budgetary and extra-budgetary) to promote the legal, commercial, cultural and economic exploitation of IP in developing countries and LDCs (Rec.2)

## IP for Development in Africa

- The ultimate objective of the concept of WIPO for development is to gradually foster the ownership and mastery by DC and LDCs of technological innovation based knowledge and ensure a more equitable distribution of related economic, social and cultural benefits.



# THANK YOU

- For more detailed information concerning WIPO Development Agenda, please refer to:  
<http://www.wipo.int/ip-development/fr/agenda>