At the same time, in most countries of the world providing patent protection, the relevant laws stipulate circumstances under which patent rights could be curtailed or limited, for example, by way of granting exceptions, waiving rights or adjusting royalties, which face difficult social and economic circumstances and should be exempt from international intellectual property requirements, especially in the case of patent protection for certain drugs. A robust patent system providing for adequate patent protection is an indispensable incentive to creative and inventive work and is crucial to establishing and maintaining an attractive commercial environment. An adequate patent system, effectively administered, ultimately stimulates domestic innovation, fosters new industries, and creates jobs. It helps attract foreign investment. An adequate patent system can also help countries develop and strengthen their own research infrastructures and capacities, seen by the UN and other organizations as a key factor in helping developing countries develop and strengthen their own research infrastructures and capacities, seen by the UN and other organizations as a key factor in enhancing and expertise regarding the question of patents and health care. WIPO has been providing a wide range of programs for establishing international legal and technical assistance to countries on the implementation of the TRIPS Agreement. WIPO has provided technical assistance to countries, through effective use of the patent system, should be able to stimulate local research activities and make joint efforts to develop and produce anti-AIDS drugs.

Both the right of any individual to enjoy the material and moral benefits as a creator of intellectual property, and the right of all human beings to a standard of living that affords adequate health and medical care are as a creator of intellectual property, and the right of all human beings to a standard of living that affords adequate health and medical care, are seen by the UN and other organizations as a key factor in fighting AIDs in the countries that are hardest hit. In general, adequate intellectual property systems are a key factor in sustained economic development, which ultimately helps break the cycle of poverty and destitution. For example, it should be seen as complementary because the former requirement promotes the latter rights through progress and innovation in science. International intellectual property treaties, including those relating to patents, fully comply with the Declaration.

WIPO’s Contribution

WIPO has a wide range of programs for establishing international legal and technical assistance programs for developing countries and least-developed countries for the last three decades. WIPO continues to provide legal and technical assistance to countries on the implementation of the TRIPS Agreement. WIPO has been providing a wide range of technical and legal assistance to developing countries and least-developed countries for the last three decades. This includes assistance for the establishment, modernization and automation of intellectual property offices, human resources development programs, the provision of legal advice on compatibility of legislation with relevant international treaties, and assistance in strengthening capacities to enforce intellectual property rights.

Following the WIPO-WTO cooperation agreement concluded in 1995 and as part of technical assistance programs for developing countries launched in 1996, WIPO has provided more than 100 developing countries with a wide range of technical assistance regarding the TRIPS implementation. WTO recently launched another joint initiative to assist least developed countries in implementing the TRIPS Agreement and in using intellectual property as a tool for technological advancement, economic growth, and knowledge and wealth creation. WIPO is convinced that all developing countries, through effective use of the patent system, should be able to stimulate local research activities and make joint efforts to develop and produce anti-AIDS drugs.

In providing such support, WIPO’s aim is to help all countries to fully enjoy the intellectual property system and patent system as a dynamic tool for wealth creation and cultural development. An adequate intellectual property system, respecting both the needs of creators of intellectual property as well as consumers, is especially important in the field of health care. Promoting human health and the use and protection of inventions and creations, is a key means to ensuring a better and more enriching life for everyone.

Myth: “The patent system is especially unfair to developing countries, which face difficult social and economic circumstances and should be exempt from international intellectual property requirements, especially in the case of patent protection for certain drugs.”

Myth: “International treaties concerning patent protection interfere with the basic human right to life-saving drugs.”

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THE PATENT SYSTEM
TO DRUGS AND HEALTH CARE

STRIKING A BALANCE:
INTELLECTUAL PROPERTY AND ACCESS
TO DRUGS AND HEALTH CARE

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WIPO’s Contribution

WIPO supports the initiatives taken by the Secretary-General of the United Nations, and is cooperating with the World Health Organization, UNAIDS, and the World Trade Organization in areas where it can offer its experience and expertise regarding the question of patents and health care. WIPO has no mandate to interpret provisions of the TRIPS Agreement, which is administered by the WTO. However, within its mandate, WIPO continues to provide technical and legal assistance to countries on the implementation of the TRIPS Agreement.

WIPO has provided more than 100 developing countries with a wide range of technical and legal assistance to developing countries and least-developed countries for the last three decades. This includes assistance for the establishment, modernization and automation of intellectual property offices, human resources development programs, the provision of legal advice on compatibility of legislation with relevant international treaties, and assistance in strengthening capacities to enforce intellectual property rights.
Striking a Balance: Patents and access to drugs and health care

The debate over patents, pharmaceuticals (drugs), and fair and afford- able access to health care for all is increasingly in the news today, even more so as worldwide attention focuses on the growing HIV/AIDS crisis. As a specialized agency of the United Nations, the World Intellectual Property Organization (WIPO) participates in that debate. Unfortunately, some of the discussion involving the relation between the intellectual property system and access to health care has been based on misunderstanding or misconceptions of the patent system. This brochure discusses various issues relating to access to drugs and health care and helps clarify the role of the patent system.

Patents perform an essential role in stimulating the development of essential new drugs, including anti-AIDS drugs. Without patents, existing anti-AIDS drugs would not have been produced. Without patents, new and better drugs that are needed to overcome the increasing resistance of the AIDS virus would not be developed.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is administered by the WTO, also provides essential flexibility to achieve that balance, and to accommodate the needs of countries deeply affected by the spread of the HIV virus.

WIPO considers it important to strike a proper balance between public health and the interest of the patent owner. This balance is critical to the proper functioning of the patent system, such key technical information would remain unavailable to the information leading to the invention of new drugs. Without the patent system, the spread of the HIV virus from cell to cell within a patient – do not enjoy patent protection. Still, they are prohibitively expensive for most patients. Many health care researchers and drug manufacturers, who spend heavily on such information for their work, would have to reinvest the wheel. Given the severity of the crisis, no one can afford to spare such resources and time.

Patents are only one of many factors that influence access to healthcare and drugs. Many governmental and non-governmental organizations have pushed for the reform of the current system to improve access to healthcare. The patent system is designed this way to allow new entrants to compete against existing patent holders.

In return for patent protection, the system requires adequate disclosure of the invention. Through this quid-pro-quo agreement between society and the inventor, key information on the invention is made available to the public.

The patent system favors corporate interests over the greater social good. The patent system exists to protect the work of any inventor, whether an individual, a research institution, or an enterprise — from a small operation employing a few patentees to a large multinational conglomerate — in both developed and developed countries. It provides key incentives to invent and to invest in the development of a new drug, by ensuring that the inventor derives certain economic benefits from his or her work for a fixed period of time, generally 20 years. An inventor must prove that the invention (such as a new drug) is new, is inventive, and is useful for practical purposes.

Many drugs do not even fall under patent protection in some countries. Many drugs do not even fall under patent protection in some countries. Many countries deeply affected by the spread of the HIV virus do not have the necessary patents to treat the epidemic.