



GUIDANCE FOR THE DEVELOPMENT OF AN INTELLECTUAL PROPERTY (IP) STRATEGY IN COUNTRIES IN TRANSITION

Version Two

Prepared by the Division for Certain Countries in Europe and Asia

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I. INTRODUCTION

1. This Guidance is designed to enable Governments of countries in transition to assess the case for creating an Intellectual Property Strategy and how to relate that to the Government's economic and cultural strategy in relation to creativity and innovation. This is the second version of the Guidance and has been amended to take account of experience gained in the use of the guidance in practical situations and the comments made by many of those who have used the guidance.

2. The concept of an Intellectual Property (IP) strategy has been widely discussed and the importance of adopting a strategic approach recognized and agreed. In particular, developing economies and economies in transition are attracted to a structured and planned approach built on the specific situation and needs of the country and designed to maximize the benefits to be gained from the innovative and creative activities of citizens, from attracting greater inward investment, and building business partnerships with companies from more developed market economies. Developed economies also recognize the need to adopt a more strategic approach to the use of IP in the innovation process. Those economies, of course, did not base their past economic development on an IP strategy though, in all cases, IP has played an important part in achieving success. They now see the need for a more systematic approach in order to be able to compete with the main emerging economies, such as China and India, both of which have adopted a highly planned approach to innovation, creativity and IP, with significant resources allocated to planning and implementing IP strategies.

3. This global situation has led to conflicting responses. On the one hand, the leading economies realize that a global market place requires a consistent and coherent IP system and to deliver this various systems have been devised, such as the treaties administered by the World Intellectual Property Organization (WIPO), as well as the World Trade Organization's TRIPS (Trade Related Aspects of Intellectual Property Rights) Agreement, the European Patent Convention, various European Union Directives, the regulations of the Eurasian Patent Organization (EAPO) and the model laws of the Interparliamentary Assembly of countries participating in the Commonwealth of Independent States (CIS). Nevertheless, these have been perceived by some countries as benefitting mainly the existing economic powers to the detriment of developing economies.

4. That perception has the possible and potentially damaging consequence that such countries do not use IP effectively to their benefit and therefore inhibit their own economic, social and cultural development. It is important for such countries to realize that the international IP system permits flexibility and can be designed to serve the best interests of the country whilst respecting the necessary international dimensions which require consistent and predictable treatment of IP rights holders.

5. For those countries either in Europe or closely adjacent to Europe, current and future relationships with the European Union are an important factor in deciding the forms of their IP systems and institutions. The various Directives, Regulations, and Institutions of the EU may well impact on the content of their strategies. Equally, it will be appropriate for some countries to consider an approach involving EAPO and its relationships with its member states, as well as the legislative advice offered by model laws adopted by the Interparliamentary Assembly of countries participating in the CIS.

6. Many aspects of an IP strategy are inevitably determined to a great extent by the international and regional norms with which countries must comply. However, a successful strategy cannot just be imposed or applied from outside. Only an individual country itself can design a complete strategy to meet its own needs and circumstances, allocate the right resources to what can realistically be achieved, and then take the practical steps to implement the strategy. A country must not only be committed to producing its own strategy, it must also be equally committed to implementing the strategy. Of course, assistance can be sought from others, but the drive and direction must be nationally generated. It is with this foremost in mind that the rest of this guidance is written.

II. SUMMARY

7. An IP strategy cannot be conceived and developed narrowly within the IP community alone. It needs to recognize the needs of the stakeholders who will be affected by it. A cross section of government departments need to be involved in addition to the IP Office (or Offices if Copyright and Industrial Property are dealt with separately), including the Ministries that deal with Economic issues, Science and Technology, Trade and Services, Customs, Market Inspections Culture, Justice, Education and Finance, all of which play an important part in the economic and social life of the country. Given the international dimensions of IP it may be also that the Ministry for Foreign Affairs will be interested in the strategy as it may affect many of their negotiations. In addition there may be issues involving health, regional questions, or information which requires the appropriate government bodies involved. Countries have different government structures and must make their own decisions. This guidance aims only to indicate that a wide participation is required. However, Government alone cannot create a strategy which will meet the needs of the business community and others in society. The point of the strategy is to ensure that the creative, innovative and business communities can compete and thrive to create wealth and jobs, and that citizens understand the role of IP in creating social benefits. Particular attention has to be given to the needs of manufacturing, engineering, the high tech sector, the services and creative industries, and the extraction of benefit from cultural and other products unique to the country. There is a pressing need to ensure that the fruits of research at universities can feed into development of products by industry and that technology transfer benefits all parties. In order to achieve these objectives, it is also preferable that the domestic creators (authors, performers), inventors, manufactures, publishers and producers be represented by organizations to which they belong in order that they may take care of the protection of their interests, and, where and if appropriate (such as in the case of collective management of copyright and related rights), also of the management of their rights.

8. Before compiling a strategy, a clear picture of the current position is needed along with a realistic assessment of what can be achieved. The current IP activity should be analyzed and general information on the overall economic position taken into account. The picture painted by this information will then help identify a sound foundation on which to build the strategy. In particular, from the viewpoint of industrial property, one aspect is the question of what to do about inventors following the demise of inventor award systems common in the previous economic regimes. Furthermore, a separate WIPO document deals with the issues of transition from centrally-planned economy to market economy concerning copyright law, administration and management, namely, the research on the “Adaptation of the Copyright Laws of Countries in Transition to New Technologies”; the manuscript for a WIPO tool entitled/on “Special Features of the Copyright Systems of Countries in Transition”; and, a

draft law on copyright and related rights (available upon request to the e-mail address michal.svantner@wipo.int).

9. More than a general picture is needed, and the paper points out that the situation needs to be thoroughly audited in relation to existing capabilities of the IP Office, the operation of the legal system in deciding IP disputes and dealing with IP crime such as counterfeiting and piracy, the existing technology transfer mechanisms, the creation of and access to cultural goods and services, and any economic and political constraints arising from international agreements and regional rules, such as those following from membership of the EU and of the European Patent Organization (EPO) or Eurasian Patent Organization (EAPO).

10. Implementing the strategy requires a structured methodology based on recognized project management techniques. This requires that an action plan be drawn up to indicate who needs to do what and how. The plan has to include ways of ensuring that changes identified are relevant to the needs of stakeholders so that stakeholders remain committed to the program. The plan must also include ways of assessing that the objectives identified have been met.

11. The changes are complex and there are many risks which may prevent success. These are identified in Section VIII. These can be managed within a structured program methodology as indicated above. The strategy is likely to comprise short term, medium term, and long term objectives linked together in a coherent whole. This recognizes that resources do not normally permit all changes to be made at once. It is essential that stakeholders recognize this and remain realistic.

12. The benefits of such a strategy will not be realized if the program is seen as a “one-off” activity. Rather each country needs ongoing institutional capability to review IP policy and how it can support innovation and creativity. Such bodies are being created in many countries and already exist in some (e.g. China and Japan).

III. THE INITIAL STEPS

13. This guidance has been prepared in order to facilitate an effective start and indicate the steps on the way to a successful conclusion. Often, perhaps all too often, the issues are addressed solely by way of conferences and seminars on the assumption that those who attend such meeting will learn all they need to know and return to put their new knowledge into effect. The evidence is that this is not what happens. As this guidance will show it is not realistic to believe that this would happen. Such conferences offer a valuable opportunity to share experiences and to learn from what others have learned from practice, and this guidance is not critical of them. Indeed, this guidance is based on work presented at just such an event entitled “Seminar on Methodologies, Best Practices and Lessons Learned for the Development of a National Intellectual Property Strategy”, held in Belgrade on November 18 and 19, 2008. However, such events do not always or necessarily produce practical means of achieving the desired outcomes. It is important to go beyond such events and identify and carry out the practical steps needed to achieve results efficiently and effectively. This means using the strategy to generate a program of action.

14. All governments are interested in improving economic performance, increasing business and industries, controlling illegal activities which discourage inward investment, improve

international relations, and increase the wellbeing of their citizens. However, many – if not most – are not sufficiently aware of the positive role that IP plays in achieving these aims. Often, therefore, the very first steps will have to be taken by the national IP Office. This is a point at which WIPO can help. A short mission involving meetings with the most relevant government officials and ministers at which the strategy and its purpose are discussed can result in the IP Office being authorized to proceed further. Without such a mission it can be difficult to identify support and areas of concern and the outcome can provide the platform on which the initial information gathering and discussions can take place. This mission can also help clarify how the strategy should be handled politically for example identifying who will need to authorize the strategy, how it will be authorized (through parliament, president or prime minister, and what process will need to be followed.

15. Within the IP Office someone has to be given the responsibility to lead this first phase and be given sufficient support to carry out the necessary work. Similarly, that person needs to identify key contacts in other government departments, and bodies outside government such as the legal professionals, the communities of creators and inventors, manufacturing and creative industries, small businesses, research institutes, universities, and finance.

16. Within Government, the core ministries mentioned above and referred to later in this guidance as being involved (especially in relation to enforcement) should also be asked to participate. However, in general, the national Intellectual Property Office has the key role to play and it should lead and service the program. The way in which the work will be accountable should also be addressed at this stage and an outline of the mechanism prepared. More will be said of this later.

17. In addition, it is important and helpful to identify a strategic partner or partners to provide expert input as appropriate and required. WIPO has a number of programs to maximize the opportunities and access to skilled resources. However, international bodies such as the World Bank, USAID may have programs that can provide assistance. Regional bodies and other national IP offices may also offer such partnership.

18. The above identifies core players. It is for the Government to adapt the proposals in the light of their consideration of the remainder of this guidance, which may help identify extra or alternative role players.

19. The main task of this initial team is to gather information on the current situation and context and this is dealt with in detail in the section IV below.

IV. THE CONTEXT

20. The strategy has to be set in the context of the particular country. This means it takes account of the history and political institutions of the country, its level of population, its Gross Domestic Product (GDP), and the extent of Foreign Direct Investment. In addition the relationship of the country to international organizations such as the European Union, the European Patent Organization, or the EAPO, Commonwealth of Independent States and membership of the various treaties of WIPO will also affect the content and thrust of the strategy.

21. The activity at the national IP Office in relation to the types of IP should be analyzed in terms of trends, domestic applicants, foreign applicants, and the governance of the IP Office including its financial situation in terms of income, expenditure and mode of funding.

22. In order to gather the necessary information it is necessary to undertake research, collect statistics and conduct interviews, ideally based on questionnaires so that the discussions can remain focused. The precise nature of discussions will depend on circumstances but will include the following general parts:

- a. What is the current understanding of IP?
- b. What use is made of IP in the organization?
- c. What problems are encountered in using the current IP system?
- d. What improvements in the system are desired?
- e. What are the priorities of the organization?

An example of a Needs Assessment approach is given on the website of the IPRTA Forum ¹ Also; the Development Sector of WIPO has prepared a model approach to assessing the situation and moving forward.

23. Economy and National Infrastructure

Before beginning the assessment, the real nature of the economy, in terms of GDP, growth, and trends across manufacturing, services, creative industries, agriculture, and tourism has to be understood as this will influence decisions on priorities for development or change. Discussions with economic officials and research in reports such as the World Bank report on the “Ease of Doing Business”² and the World Economic Forum Competitiveness Report³

Also, the infrastructure in terms of telecommunications and information technology (IT) penetration and use must be determined as this will affect the methods and possibilities of implementation.

The amount and nature of Research and Development (R&D) and the use of technology licensing within industry is another base line for decisions.

The extent of activity within the creative industries producing books, music, software, and films as well as marketing and advertising will indicate the scope for copyright use.

24. Human dimensions

The age profile and skills profile of citizens and the current and projected educational provisions must be assessed as these will impact on what can realistically be achieved and has to be considered as part of the strategy.

¹ See <http://89.145.105.80/~iprtafor/documents/Common%20needs%20assessment%20tool.pdf>

² See <http://www.doingbusiness.org/rankings>

³ See http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2010-11.pdf

25. Development Strategies

The IP strategy has to be incorporated into any overall development strategy and related to existing policies for economic, scientific and cultural development. This includes ensuring that existing partners are aware of strategy and, if appropriate, incorporated into the strategy. This work provides a head start for the strategy and should avoid work that would otherwise be necessary to assess and plan the capabilities, management, and role of the national IP Office in the delivery of rights, the making of IP policy, and the extent to which the national IP office provides advice and assistance to business.

26. Government Structures

The machinery of government and how the various parts relate and work together to advance the economy may indicate new relationships being needed or may suggest changes in responsibilities. It is worth considering whether the situation of the IP Office in the governmental structure is appropriate and, if not, making changes. It may be that an IP Office is better situated in a Ministry that deals with innovation in the economy. However, irrespective of the place of the IP Office, it is important to remember that the various Ministries mentioned in this document have also a significant stakeholding in the strategy.

27. The private sector

Given the importance of private business in the generation of wealth and employment the patterns of ownership, business activities, and employment conditions help identify how and who to work with in developing the strategy. In particular investigate how the existing community of inventors can be joined with the business sector, where appropriate.

28. International aspects

If changes are being considered in order to join international organizations or treaties, or to implement them more adequately, then this needs to be fed into the strategy, alongside implementation dates and any institutional consequences. If there are any concerns about the country's IP policies, for example inclusion on the US 301 Watch List or any WTO issues then these will need to be addressed within the strategy.

29. IP disputes; enforcement of IP rights

The current methods of handling IPRs disputes and the extent to which they meet the needs of rights holders and third parties are as important as the access to such rights in the first place. Counterfeiting and piracy are major concerns within countries in transition, as also in other countries, and will have to be addressed within the strategy. In addition to the nature of the laws for tackling these, an efficient and effective institutional framework is needed, with appropriate powers allocated to the state institutions and, where appropriate, with alternative dispute settlement mechanisms (such as mediation or arbitration systems). In this area customs officials have an increasing importance as controlling the borders and the growth of international cooperation to make border control more effective. Local enforcement at markets and other retail sites is also essential. Publicity and educational activity by Government is necessary if the support of the public is to be gained in the fight against counterfeiting and piracy.

IP disputes can be complex and require due understanding of IP law and sometimes of technical issues. It is important that judges have the required specialist knowledge if they are to retain international credibility as to their ability to make the right judgments in which stakeholders have confidence. They may also need access to impartial expert advice when necessary.

It is not only judges, mediators, arbitrators, etc., who matter within the system. There needs to be a body of skilled advocates and attorneys to help the courts and those involved in IP rights usage. Furthermore, in the field of copyright and related rights, also an appropriate system of collective management organizations is necessary.

30. Technology Transfer

If there is a national policy on technology transfer then the IP strategy has to support it. If not, then the strategy should be used to help create one. Such a policy also needs to ensure that there are individuals or institutions with the skills to guide technology transfer as this is not straightforward given the usually very different expectation of academic researchers and business people.

31. Local Characteristics

If there are unique features of agricultural and cultural products that have particular consumer appeal this needs to be further investigated and encouraged to find items that can be marketed as unique products, perhaps using geographical indications or appellations of origin. It may also be that some aspects of design have characteristics that would benefit from design registration or from copyright protection.

V. THE DESIRED OUTCOMES

32. The desired outcome is, in broad terms, to create an environment in which Intellectual Property enables innovators and creators to lever economic value from their work and enhance the economic success of the country to the benefit of its businesses, researchers, creators, and society as a whole and to strengthen economic competitiveness.

33. Before expanding on the individual aspects of the desired outcome, it is worth briefly outlining the main types of Intellectual Property and recalling the reason for creating and implementing a strategy.

34. The main types of formal Intellectual Property are:

a. Patents

A patent is an exclusive right granted for an invention (product or process) which is new and capable of industrial application. The right is limited in scope and time. For more information see http://www.wipo.int/patentscope/en/patents_faq.html

b. Trademarks

A trademark is a distinctive sign which identifies certain goods or services as those produced by a specific person or enterprise. For more information see <http://www.wipo.int/trademarks/en/trademarks.html>

c. Designs

A design is the “eye appeal” aspect of an article, and may be three dimensional or two dimensional. For more information see <http://www.wipo.int/designs/en/designs.html>

d. Geographical Indications and Appellations of Origin

These denote the place of origin and quality of products. For more information see http://www.wipo.int/geo_indications/en/

e. Copyright

Copyright grants protection for the works of authors. In a broader sense, it also protects the so-called related rights of performers, producers of sound recordings, and broadcasting organizations. For more information see <http://www.wipo.int/about-ip/en/copyright.html>

35. There are also informal ways of protecting IP such as trade secrets and employment contracts. Although businesses need to understand these they are not usefully considered as part of an IP strategy, but rather in relation to business training.

36. In today’s world the economy is globally interconnected and globally interdependent, something the crisis in the financial markets has uncomfortably reminded us. The free movement of capital and knowledge between countries and the extent of global trade has removed much of the traditional sources of economic success. It is now difficult for a country to rely in the long term on either a monopoly of natural resources and raw materials or on the ability to compete via cheaper labor costs. Both can succeed in the short term, but even countries rich in resources or having low labor costs are looking to creativity and innovation as the more stable long term source of economic success. Such an economy based on creativity and innovation depends on an effective and efficient IP system, including laws and institutions, as well as businesses and others who understand how to use IP to economic advantage.

37. Having collected, discussed, and analyzed the information on the current situation, the problems being encountered, and the changes desired it is time to set out the shape of the strategy. It is valuable to conduct a SWOT analysis which identifies Strengths, Weaknesses, Opportunities, and Threats and use these to build the strategy. ⁴The strategy should identify existing strengths and build on them, and look for opportunities for developing new strengths. Equally it should seek to remove weaknesses and remove threats. It will identify the general objectives and the actions to achieve them. These will be detailed in the Action Plan (more detail later). Such objectives could include the following:

- an effective legal framework enabling innovation and enforcement

⁴ See as an example http://www.axi.ca/tca/sep2003/facilitationrole_1.shtml

- creators, innovators and businesses that understand their intangible IP assets and how to use them;
- creators, innovators and businesses that understand how the IP of others impacts on their own activity;
- businesses that partner researchers in universities and other research bodies to solve problems and create innovative solutions and products;
- researchers that know how to work with business and tackle technical problems, and how to gain benefit from such partnerships;
- students who understand the role that IP will play in their future working lives;
- creators and artistic producers working together to maximize the economic return from creative activities;
- agricultural producers who understand the potential benefits of geographical indications
- citizens who are aware of IP and the justification for its reasonable enforcement and the consequences of ignoring the rights of others and supporting the activities of counterfeiters and pirates;
- an accessible and cost effective legal system for resolving disputes;
- an accessible and cost effective legal system for dealing with criminal activities of counterfeiters and pirates;
- expert and accessible legal and technical advisors for business and researchers;
- readily accessible technical and legal information for the public, researchers, and business;
- joined-up and balanced government policy in which the IP aspects of wider policy is taken into account and the IP policy is responsive to the needs of IP owners and the public;
- active participation in international negotiations on IP and trade to protect the interests of the country;
- membership of regional and international IP systems to maximize the efficiency of the delivery of IP services;
- a government institutional framework for the effective and efficient delivery of IP rights;
- an educational system that includes appropriate levels of IP content, depending on context;
- fully trained professional staff within the IP office who are working with other stakeholders to maximize the benefits of their work.

38. The Strategy Document and its accompanying Action Plan are likely to be lengthy and complex. A number of actors will need to play a part, and these are outlined below. It is very useful to prepare an outline of the summary and plan indicating the major aims and objectives and how they are to be achieved. Such an outline – no longer than 2 or 3 pages provides a way of introducing the strategy to politicians and ministers, as well as to others whose support is needed. It can also become a kind of “manifesto” for the strategy and be used to explain it to the public at large. Achieving the many objectives is a large task and giving each a priority and then implementing in a series of phases will likely improve ultimate success and also allow gains in the short and medium term.

VI WHO NEEDS TO ACT

39. If one thing is clear from all that is said above it will be that for an IP Strategy to be meaningful and contribute to the wellbeing of the country, then a wide range of stakeholders will need to contribute. That said, the strategy can only be developed in a structured and focused manner, which entails a small team at the heart of the strategy. Therefore, the program has to provide for extensive horizontal cooperation between interested parties.

40. Government bodies cannot by themselves create and implement the strategy, which has to meet the needs of the people and the business and commerce sectors, as well as scientists and technologists and those working in the creative industries. The core team has probably to be constituted by government officials to maintain momentum, but there is a strong case for creating a Program Board to oversee the work of the core program team and to decide on priorities and the allocation of resources.

41. The main actors are:

42. Government

The IP Office needs to be core to the strategy and to work under a clear remit from the government. The Government needs to be seen to be committed to the program as sponsor or “champion”. It is for the Minister to set the overall objectives. Various Ministries should be able to monitor and influence the program through the Program Board. The Ministerial areas with a close interest include those set out below, though it is for each country to adapt as appropriate fit.

- Economy and Regional Development to ensure that the strategy fits with the country's broader economic objectives;
- Finance to ensure that the resources and activities planned can be properly financed within the most appropriate system of accountability;
- Justice to ensure that the enforcement and dispute resolution regimes can be adequately served and resourced;
- Trade and Services to ensure that the strategy meets the trading needs and obligations of the country ;
- Education to ensure that the educational system can adopt any new roles allotted to it and to ensure that the interests of access to education and knowledge remain in view when discussing IP rights;
- Culture to take into account the interests of the creators (authors and performers) as well as the producers, publishers and distributors of cultural products;
- Science and technology to maximize the contribution by universities and public research institutions.

43. The business community

The business community is not homogeneous; not only the bigger companies but also the SME sector should have due role, though in some countries in transition this sector is not well-developed. It is unlikely that a single representative can represent the diversity of interests. The main areas needing representation would seem to be:

- the engineering and manufacturing sector to ensure that the needs of this sector are not forgotten. All too often IP Strategies address only the needs of leading edge high tech industries despite the simple fact that these industries provide employment and goods essential to the economy and the population;
- the high tech sector to ensure that the Research and Development necessary to maintain this sector is supported by the IP system, that technology transfer is facilitated, and that the state provides people with the needed skills;
- the creative sector (producers, publishers and distributors of cultural goods and services). In many countries the importance of this sector is growing as knowledge, entertainment and software assume bigger roles in the lives of citizens, and there is a growing need for marketing and advertising services;
- the finance sector. R&D funding and support for small businesses is crucial if the innovation process is to be sustainable. There are various models of funding and the expertise of the finance sector is needed to ensure that these are built into the strategy.

At least one of the above should come from the Small and Medium Enterprise sector as these have special needs for support in relation to IP advice and financial support

44. The inventor community

Many countries with economies in transition have a significant inventor community which is the direct consequence of the former way of recognizing and encouraging inventors, namely by way of awards. Such a system is not compatible with a market-based IP system. The community is disparate and not all inventions will lend themselves to business exploitation. The creation of an SME community could involve supporting those inventors with commercially viable inventions to create new businesses. Alternatively, inventors could be encouraged to seek licensing with foreign companies. It must be recognized however that the strategy is to convert invention to innovation, and that not all inventions will succeed in making that transition, which means that some inventors will receive no material reward from their patents – situation that is common in all market economies but entails a change of attitude.

45. The community of authors and performers

Since the interests of authors and performers are not necessarily the same as – and, in certain respects, may also be in conflict with – the interests of the copyright-based industries, the communities of these creators, through the organizations (in particular, by their collective management societies) representing them, should also be involved in the creation and implementation of a national IP strategy.

46. Academia

The university sector, and any public research institutions, must influence the strategy to ensure that benefits from technology transfer are shared by all parties. In addition, the strategy has to take account of, and allow for, the core educational and research role (in the non-commercial sense) which have to continue for the general wellbeing of the country.

VII. THE ACTION PLAN

47. The strategy should be developed and implemented as a structured Program under Program Management Techniques. There are different project management techniques⁵ but they share common widely accepted features. Countries must be free to choose or adapt a methodology that fits their situation.

48. The Action Plan should be produced in a short period, if possible, say 12 months but it will of course identify actions to be conducted over a period of 5 years or so. It is important to agree the plan and set its framework reasonably quickly or more time will be spent adjusting the plan to changing circumstance than will be spent implementing the plan. There is a danger that the plan becomes a self sustaining stand alone exercise. It is better to commence implementation and then to change the actions according to changing circumstances, changing priorities as necessary. It is important to control changes to avoid confusion or clashing activities.

49. The plan for the initial stage of preparing the strategy would look like the example given in Annex 1.

50. The plan needs a structure within which to operate and thus the small team set up during the initial steps should form the basis of a project team with representatives from the key Ministries. The project is led by a project manager, ideally from the IP Office. This team is responsible for ensuring that all the actions identified are delivered and are on time. They are also responsible for reporting on progress and managing such changes as may be authorized. Publicity material is also the responsibility of the team.

51. To maintain accountability and to control changes, it is advisable to create a small Steering Board chaired by a senior representative of the main sponsor Ministry and ideally containing a non-governmental stakeholder.

52. At the end of the Action Plan period there should be an exercise assessing the success of the plan, problems encountered, and lessons learned for the future. This review should be identified and built into the plan at the earliest stage.

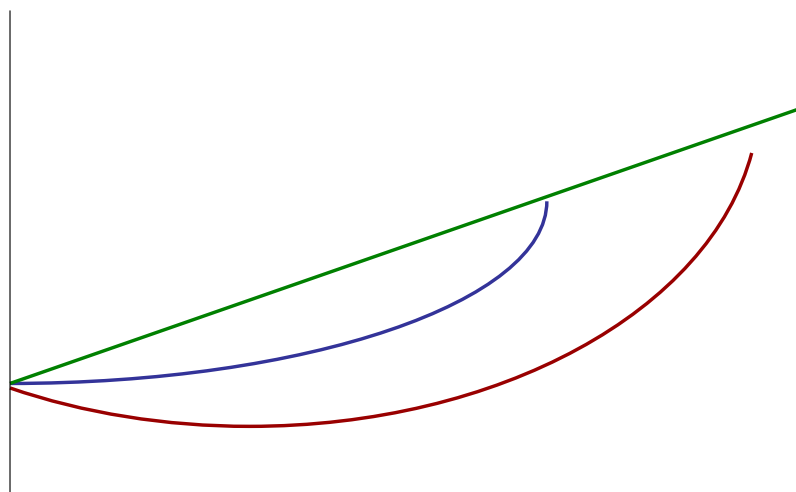
53. For each objective, the Action Plan would look like the model set out in Annex 2

VIII. RISKS

54. The creation and implementation of an IP Strategy is a large undertaking and will not achieve its intended outcome unless properly resourced and managed. Major risks are indicated below and the chosen program management system must be adequate to address them. Otherwise the exercise will consume time and effort and ultimately disappointing in its outcome. This needs to be avoided as it will result in future unwillingness to address the issues.

⁵ See for example <http://www.jiscinfonet.ac.uk/infokits/project-management>

55. There is also a general risk of unrealistic expectations. This one is more than likely to occur and hence it is important to understand it. Basically, the natural view is that any improvement program will result in steady progress from where we are today. That is a mistake. Any change program will initially have a negative impact because the momentum of the traditional system is disturbed before a new system is fully in place. The point of managing the change is to reduce the depth of the trough and shorten its existence. This can be illustrated graphically. In the diagram below:



- The green line shows what we expect (hope?) to happen;
- The red line shows what could happen without management; and,
- The blue line shows how management can improve the situation.

56. Risks include:

- lack of commitment from the top. The commitment of the top ministers in government is essential to provide the drive and access to resources needed to make the strategy work. Thus, at the very beginning, a lead ministerial champion is very beneficial;
- over-ambitious objectives and timescales;
- lack of focused resources to lead the process. There has to be a core team, perhaps led by the Head of the IP Office (or a senior official from a Ministry deputized by the IPO Head);
- lack of resources allocated to the core team. As well as people the team needs adequate time and support to concentrate on their task;
- lack of focus in decision making which would lead to confusion and an absence of a coherent objective and direction. Thus objectives and authority have to be clear to all stakeholders from the beginning;
- unrealistic perception of current abilities and unrealistic intentions for future development. It is essential that the strategy is fully based on a realistic assessment of the capabilities to complete the program within a reasonable timescale;

- a perception divorced from the real nature of the national economy and its ability to evolve in a particular direction;
- inadequate identification of stakeholders to be involved in the Program;
- lack of an operational methodology consistently understood and applied;
- lack of adequate consultation with stakeholders;
- lack of accountability to stakeholders;
- lack of active participation by stakeholders;
- conflict between interests of stakeholders, government departments, academia, general public;
- lack of compatibility with international obligations;
- inefficient use of technical expertise available from organizations such as WIPO, EPO, EAPO, OHIM, and EU as well as other national IP Offices, other institutions, including potential donors.

57. There are also global economic risks affecting the outcome of any of the actions and this need to be assessed and managed.⁶

⁶ See <http://riskreport.weforum.org/>

IX. REFERENCES

Examples of IP and Innovation Strategies:

- Policy Recommendations and Report of “Policy Committee on Innovation and Intellectual Property”
- New Intellectual Property Policy for Pro-Innovation
- Intellectual Property System as Global Infrastructure

http://www.jpo.go.jp/cgi/linke.cgi?url=/torikumi_e/puresu_e/press_new_intellectual_property_policy.htm

United States Patent and Trade Mark Office

<http://www.uspto.gov/web/offices/com/strat2007/>

Romania

http://www.osim.ro/strate_en.htm

United Kingdom

<http://www.dius.gov.uk/publications/innovation-nation.html>

WIPO

http://www.wipo.int/ip-development/en/strategies/national_ip_strategies.html

Program Management

http://www.ogc.gov.uk/programmes_and_projects.asp

Needs Assessment

“Assessing Intellectual Property Regimes in Developing Countries and Transition Economies, A Diagnostic Tool for Capacity Building Efforts” Mart Leesti and Tom Pengelli, Saana Consulting. See

http://iprtaforum.org/index.php?option=com_content&task=view&id=67&Itemid=100

Technology Transfer

UK <http://www.innovation.gov.uk/lambertagreements/>

Germany <http://bmwi.de/BMWi/Navigation/Service/publikationen,did=217918.html>

EU

http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0182en01.pdf
on technology transfer

http://ec.europa.eu/cip/eip_en.htm innovation support

http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0165en01.pdf
enhancing the patent system in Europe

http://ec.europa.eu/enterprise/funding/files/themes_2007/calls_prop.htm#ipr

IP enforcement

http://www.proinno-europe.eu/NWEV/uploaded_documents/IPR_Expert_group_report_final_23_07_07.pdf
Removing barriers to use of IP by SMEs

Annex 1. Example of initial steps

Action	Product	Timing
Initial Mission to obtain strategy authorization	Agreement to proceed	Month 0
Identification of key contacts in Ministries and external stakeholders	Group of key contacts	Month 1
Conduct investigation and research into current position	Report on current position, weaknesses, and desired changes	Month 2-5
Compile outline strategic document and obtain decision on way forward	Outline strategy	Month 6-7
Create Project Team and Steering Board	Team and Board	Month 6-7
Prepare Detailed Strategy	Detailed Strategy	Month 7-9
Obtain acceptance on Strategy and Implementation	Decision to proceed	Month 10
Prepare Detailed Action Plan	Action Plan	Month 9-11
Obtain Approval of Plan	Approved plan and resource allocation	Month 12
Start implementation		Month 13
Review Results		Month 60

Annex 2. Example of an Action Plan

Objective (example only) To improve business performance by better use of IP						
Action	Responsibility	Outcome	Indicator	Timescale	Partners	Resource Needed
Produce IP advisory information and leaflets for SMEs	IP Office, Commerce Ministry	Range of leaflets covering all aspects of IP and business impact	Number of leaflets distributed		WIPO, Chamber of Commerce	IP Office staff time
Conduct IP seminars and training sessions for SMEs	IP Office	Seminars and training courses prepared and delivered	No of seminars/courses and number of attendees		Business advice centres and libraries	IP Office staff time
Create SME advice centers	Commerce Ministry, Education and Science Ministry	One or more advice centers (in IP Office and regions if appropriate)	Number of advice sessions given		Chamber of Commerce, regional authorities,	Staff time
Train business advisors in IP principles		Training courses for business advisors	Number of advisors able to give IP advice			

[End of document]