



Report of Discussions

G8 Intellectual Property Experts' Group Meeting

We, the members of the G8 Intellectual Property Experts' Group, convened at the Ministry of Foreign Affairs in Tokyo on 19 February and 10 April to discuss, building on the results achieved under the British, Russian and German presidencies, concrete measures towards realizing a well-functioning and efficient intellectual property (IP) system and for combating counterfeiting and piracy. Below are the results of these discussions, which will be reported to the G8 leaders through the Sherpa preparatory process.

I. Introduction

It is understood that a fully functioning and efficient IP system, through the promotion of creativity and innovation, plays a critical role in the robust and sustainable development of the world economy for both developed and developing countries. The Group, in following the numerous messages put forth by our leaders, hereto reaffirms our strong conviction that an efficient utilization of the IP system is conducive for the economic development of all countries.

Furthermore, the Group takes note with deep concern that global trade in counterfeit and pirated goods continues to persist, which threatens economic growth, consumer health and safety worldwide, and also deprive governments of tax revenue and provide easy sources of income for international criminal organizations.

In building on the firm leadership that the G8, along with competent international observer organizations, has hitherto shown in efforts to realize a well-functioning and efficient IP system and to combat counterfeiting and piracy, the Group commits to advance the following measures:

II. Specific Measures

1. Advancing our anti-counterfeiting and piracy initiatives

As the underlying theme of the Group's meetings, numerous efforts have been made since the G8 Summit in Gleneagles (2005) to combat counterfeiting and piracy. And while considerable work has already been done, the proliferation of pirated and counterfeit goods continues to pose a grave threat to the global economy, health and welfare. The Group has therefore decided to advance existing anti-counterfeiting and piracy initiatives as well as lay the ground work for the following concrete proposals, where appropriate, on outstanding themes and issues that require address. We agree as follows:

- *Appreciating the central role that customs and border enforcement agencies play in controlling and administering the international flow of goods, we commit ourselves to strengthening cooperation and coordination among customs and border enforcement administrations through facilitation of information sharing. We have identified two principle areas for further progress: the exchange of data among G8 members through appropriate mutual assistance provisions (G8 members should, where necessary, complete fully mutual assistance agreements and the complementary guidelines) and the elaboration of a rapid alert system to exchange data on a more informal basis.*

We also supported the development of the WCO's provisional Standards to be Employed by Customs for Uniform Rights Enforcement (SECURE), working closely with the WCO to enable it to play a key role in strengthening the customs enforcement on IPR. We endeavour to facilitate capacity building activities making reference to the measures in the SECURE program.

- *Conscious of the leadership role that governments must take in our fight against counterfeiting and piracy, we reaffirm our commitment of the 2000 Okinawa Charter on Global Information Society, calling for governments to*

use software in full compliance with IPR protection. We also commit ourselves to ensuring that laws, regulations and/or policies are in place to reduce the risk of government networks being used for the infringement of protected material, including through peer-to-peer file sharing. For implementing these commitments, the Group will develop, before the 2009 Summit, a set of guidelines. Moreover, the Group suggests that the G8 leaders call on all countries to follow the G8 commitments made at the Okinawa Charter, as a feasible starting point for IP protection on a global scale.

- *Consistent with our commitment to advance our fight against counterfeiting and piracy, we recognize the need for a better understanding of the economic impacts of counterfeiting and piracy and the pivotal role that comprehensive data play in this endeavor. We welcome the commencement of Phase II of the OECD Study on the Economic Impact of Counterfeiting and Piracy. Phase I of the Study provided us with a significant foundation on the issue. As technological advances have given rise to new forms of infringements such as digital piracy, the results of the Phase II of the Study will provide us with solid groundwork to address some of these new challenges.*

We also share views on the pivotal role that the private sector plays in our fight against counterfeiting and piracy, and accordingly, we take note of the discussion about the development of the “INTERPOL Database on International Intellectual Property (DIIP) Crime.”

2. *Facilitating an efficient and fully functioning IP system conducive to economic development*

As was identified at the G8 Summit in Heiligendamm (2007), an efficient and fully functioning IP system, through the promotion of innovation, plays a critical role in economic development for all countries. Hence, we agree as follows:

- *Strongly believing that an efficient and fully functioning IP system accrues benefits for all countries, and in recognition that the Group has decided to address current international initiatives that will facilitate the IP system, we reaffirm the importance of global patent harmonization and the realization of an international patent collaboration by supporting efforts to accelerate discussions on the Substantive Patent Law Treaty (SPLT) and to promote initiatives that will ensure a high-quality, expeditious, and cost-effective examination process.*

3. *Promoting the benefits of IPR as a development tool of economy and innovation*

Under the firm belief that the IP system benefits countries at all levels of development, we acknowledge existing development initiatives that promote the benefits of the IP system as follows:

- *Recognizing that the failure of an efficient and fully functioning IP system affects developing countries even more than developed countries, and the G8's obligation to reach out, we welcome the progress made in the three technical assistance pilot plans launched since our agreement at the Heligendamm Summit, and commit ourselves to launching three additional pilot plans to assist developing countries in building the capacity necessary to promote and protect their IP.*
- *In light of the importance of public awareness in this process, the Group will take stock of existing awareness-raising activities, and identify several key countries for joint public outreach programs, preferably with private sector participation, to build awareness of the importance of fostering innovation through robust IP protection and of the potential danger of counterfeit and pirated products.*
- *In this context, the Group recalls the numerous successful experiences that many small and medium-sized enterprises of G8 countries have had to date,*

which had driven the innovation and development of economy of their respective countries. Sharing of information of such successful experiences linking IP and business in G8 countries will be an effective tool to motivate private sectors in developing countries.

4. *Enhancing Cooperation with emerging economies through the Heiligendamm Process*

We discussed and assessed the current status of the Heiligendamm Process as initiated at the G8 Summit 2007 by the leaders of the G8 together with Brazil, China, India, Mexico and South Africa. We welcome the constructive start of the deliberations on the level of the working groups in particular on the promotion and the protection of innovation. We agree that the Process has substantial potential to foster a positive exchange on the crucial economic value of IPR protection and implementation.

III. Conclusion

Innovation is the process by which human ingenuity, enterprise and creativity crystallize to create new value-added and open up new frontiers of knowledge. It is the fountain in which our hope for future development and progress rests. An efficient and well-functioning IP system is critical for innovation and its activities to flourish. While we must constantly seek new ways to improve the IP system, it is imperative that we address the most outstanding issues of the day as identified above and implement solutions for those issues. In this light, the G8, along with developing countries and responsible international organizations will continue to follow up on the projects identified above according to their respective timelines, bearing in mind that the Heiligendamm Process plays another critical function to supplement these G8 efforts through the dialogue between G8 and emerging economies.



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Increase cooperation and coordination among national customs and border enforcement administrations”

Objective:

Strengthen cooperation and coordination among customs and border enforcement administrations. The core elements for such cooperation should be, (a) where appropriate, the further development of mutual assistance agreements, as well as development and implementation of a rapid, efficient information exchange system, especially utilizing existing international frameworks; and (b) the enhancement of capacity building activities making reference to the measures in the WCO's SECURE program.

Brief project outline:

In light of the critical roles that customs and border enforcement administrations play in administering the cross-border movement of goods, leaders at Heiligendamm endorsed the “Guidelines for Customs and Border Enforcement Cooperation” (para 38 (a)) to strengthen cooperation among customs and border enforcement administrations in the fight against counterfeiting and piracy.

In order to materialize the cooperation in the fight against counterfeiting and piracy through information exchange, the Group has discussed how customs and border enforcement administrations can facilitate increased information exchange.

New initiatives that aim to facilitate information sharing were agreed upon. These initiatives include further development of bilateral customs cooperation agreements among G8 members and the elaboration of detailed guidelines relative to these, and the facilitation of prompt multilateral information exchange through existing information exchange systems such as the WCO's CEN-COMM.

- **Facilitation of bilateral information sharing among G8 members through completion of mutual assistance agreements in customs matters, establishment of networks and elaboration of detailed guidelines**

Bilateral sharing of data related to specific traders will enable G8 members to identify high-risk cargos consisting of counterfeit and pirated goods more effectively. Mindful that such information sharing requires a legal framework in accordance with the legal constraints posed by the national laws of each G8 member, customs and border enforcement authorities of the G8 will, where appropriate, complete mutual assistance agreements to establish such legal framework for bilateral information exchange. These agreements will enable, in response to written requests, the exchange of detailed information for specific enforcement purposes that would otherwise be prohibited from disclosure. Moreover, these agreements will facilitate spontaneous bilateral information sharing without a written request. G8 members are also urged to develop bilateral information exchange networks with each other to facilitate such information sharing. Mutual assistance agreements and bilateral information exchange networks will further facilitate sharing of such detailed information as proposed in the INFO_IPR data template, and may be processed through communication tools such as the WCO's CEN-COMM.

In order to facilitate such information sharing on a regular basis, the G8 will elaborate detailed guidelines to complement the legal framework for bilateral information exchange. Customs experts will draft a model guideline for bilateral information sharing among G8 members, taking note of the INFO_IPR initiative and

the rapid information exchange system (Alert System) related to health, safety and security.

Projected timeline:

The G8 will review progress on the development of mutual assistance agreements and bilateral networks among G8 members during the G8 Summit in 2009.

The G8 will elaborate a model guideline for bilateral information exchange, aiming at an agreement by the G8 Summit in 2009.

- **Facilitation of prompt multilateral information exchange through existing effective information exchange systems**

G8 members should share recent trends and significant new risks identified in their national risk management systems pertaining to counterfeit and pirated goods, particularly goods that might threaten health, safety or security, in order to facilitate more effective border enforcement. G8 customs experts will discuss the content of information to be shared promptly among G8 members via an alert system, taking account of the progress and results achieved in the INFO_IPR pilot project.

In this regard, G8 members will develop guidelines for the types of information to be shared and the communication tools to be used without delay. Concerning the communication tools to be used for this information exchange, G8 members will endeavour to utilize existing secure systems such as WCO's CEN-COMM as the realistic approach to enable quick establishment of an alert system for multilateral information exchange. The G8 will work with the WCO to implement this system without delay.

Projected timeline:

The G8 will develop a set of data elements and launch an effective multilateral “alert” information exchange system among G8 members as soon as possible on the basis of the progress and results achieved in the INFO_IPR pilot project.

Brief project outline:

- **Enhancing capacity building activities making reference to the measures in the SECURE program**

Needless to say, it is critical for G8 members to cooperate with other countries to improve their border enforcements.

G8 members have worked closely with the WCO to enable it to play a key role in strengthening customs enforcement on IPR through the development of the SECURE program. The SECURE standards are intended to provide various guidelines for comprehensive activities which facilitate the execution of effective border measures, including legislative and regime development, cooperation with the private sector, risk analysis and intelligence sharing. These guidelines will provide developing countries with a model for sound customs administration. The G8, taking note of the importance of effective border measures, agreed to facilitate capacity building activities, making references to the measures in the SECURE.

Projected timeline:

The G8 will urge the WCO to report on the progress of the capacity building activities by member countries, making references to the measures in the SECURE during the G8 Summit in 2009.



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Ensuring that governments take action to prevent IPR infringements in their computer systems and promoting the project to governmental agencies of all countries”

Objective:

Ensure that governments use software in full compliance with IPR protection and ensure that laws, regulations and/or policies are in place to reduce the risk of government networks being used in the infringement of protected materials, and promote such G8 project of to all countries.

Brief project outline:

Responding to advances in Information and Communications Technology, the G8 leaders at the 2000 Kyushu-Okinawa Summit adopted the Okinawa Charter on Global Information Society, which calls for governments to use software in full compliance with IPR protection (tired 3 of para 7 in the Okinawa Charter on Global Information Society).

Technological developments since Okinawa, such as the advent of peer-to-peer file sharing have posed new challenges to many countries. G8 member governments can take the lead in setting a positive example by reaffirming the commitments made at the Okinawa Charter and ensure that laws, regulations and/or policies are in place to reduce the risk of government networks being used in the infringement of protected materials, including through peer-to-peer file sharing.

The Group will discuss the formulation of guidelines for implementing these commitments while also referring to existing efforts (e.g. APEC Model Guidelines). Each G8 government will reconfirm their commitment to ensure that their computer systems are in full compliance with IPR protection.

Recognizing that this G8 commitment must be a feasible start point for any governmental agencies for their compliance with respect to IP protection, the Group suggests the G8 leaders to call on all countries to follow the commitment.

Project timeline:

At the 2008 Summit, the G8 will reaffirm the Okinawa Charter, commit to ensure that governments use software in full compliance with IPR protection, and ensure that laws, regulations and/or policies are in place to reduce the risk of government networks being used for the infringement of protected material, including through peer-to-peer file sharing at the 2008 Summit. The G8 will also call on all countries to follow the G8 commitments. The G8 will develop a set of guidelines for implementing these commitments by the 2009 Summit.



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Understanding the economic impact of counterfeiting and piracy”

Objective:

Recognize the importance of collecting comprehensive and comparable information, including data in better understanding the scope and scale of counterfeiting and piracy worldwide, and to further encourage our respective business communities and interested stakeholders to participate in ongoing international efforts and initiatives in this area.

Brief project outline:

The OECD Council, with the support of industry, agreed in mid-2005 to launch a study on the economic impact of counterfeiting and piracy, which is being carried out in three separate phases. The results of the first phase, which focused on the infringement of “tangible” products (that infringe trademarks, copyrights, patents and design rights) was released on 26 October 2007 and found that in 2005, up to USD 200 billion of internationally traded products could have been counterfeit or pirated. This does not include domestically produced and consumed counterfeit and pirated products or non-tangible products being distributed over the Internet. The report also indicated that counterfeiting and piracy undermine innovation, which is a key to economic growth. Fake products are often substandard and can be dangerous, posing health and safety risks. The report also highlighted the emergence of organized criminal networks involved in counterfeiting and piracy.

Phase II of the Study will focus on digital piracy, which encompasses the infringement of all copyrighted materials including: recorded music, motion pictures, software, books and journals, through such methods as Internet piracy, direct computer to computer transfers, LAN file sharing and mobile phone sharing. Phase II of the Study may also incorporate a case study of digital piracy in the sports broadcasting industry. The study will seek to (i) describe the markets where digital piracy takes place, (ii) identify the drivers that underline the behaviour of the main market actors, (iii) present the main industry and government actions that affect the market and (iv) examine institutional regulations across different economies.

Phase III of the Study, which is yet to be scoped, will cover all other infringements of IPR.

A series of Workshops will be organized in 2008 and 2009 in order to disseminate the results of the Phase I of the Study, and to strengthen the availability of factual information on counterfeiting and piracy and raise awareness of the harmful effects on governments, business and consumers.

In addition, Interpol has developed a Database on International Intellectual Property Crime (DIIP), which is aimed at enabling the utilization of private sector information for more effective enforcement against international criminal organizations that are involved in the global trade of counterfeit and pirated goods.

Building on this work, the G8 recognizes the importance that comprehensive and comparable information and data play in understanding the scope and scale of the problem, and encourage their respective stakeholders to participate in ongoing international efforts and initiatives, including at the OECD and INTERPOL.

Projected timeline for OECD project:

- Phase I - Completed in October 2007
- Phase II - Has commenced in April 2008, lasting up to 9 months
- Phase III - Not yet decided



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Reaffirming the importance of global patent harmonization and the realization of an international patent collaboration to create an environment most conducive for innovation”

Objective:

Promote discussions and initiatives to further harmonize national and regional patent systems and to expand international cooperation and networks for the protection of inventions with a view to creating an environment most conducive for innovation and the protection and utilization of intellectual assets on a global level.

Brief project outline:

- The number of worldwide patent filings has been rapidly increasing and reached more than 1.6 million in 2005. In consideration of the heavy administrative burden that both patent applicants and patent authorities are facing today, there is much need for harmonizing the patent systems worldwide and expanding international cooperation to improve the quality of patents which can be achieved through work sharing and better coordination in the administration and examination of patent applications.

Not only does, the lack of a harmonized international patent system hinder innovation, it also negatively impacts economic growth and development. In light of this fact, leaders at the G8 Summit at Heiligendamm recognized the importance of

streamlining and harmonizing the international patent system in order to improve the acquisition and protection of patent rights worldwide (para 34).

While discussions on substantive patent law harmonization at the international level have shown some divergences, in light of the ever growing importance of patents (and the corresponding increase in applications) in today's knowledge based economy, the G8 reaffirms the need to support efforts for the early realization of international patent harmonization.

- A substantial decrease in patent examination work load can be realized by eliminating overlap and redundancy.

Given the rapid increase of worldwide patent filings, the G8 can take further steps to promote the utilization of examination results among patent authorities through work sharing initiatives, which facilitates expeditious, high-quality, and cost-effective patent administration and protection throughout the world.

Such cooperative initiatives can be further promoted to realize a more robust and user-friendly international patent system in the future, which on top of harmonization efforts, is essential in creating an environment most conducive to innovation and IPR protection.

Projected timeline:

The G8 may consider sending out a positive political message to reaffirm the importance of global patent harmonization and strengthening international patent collaboration in order to create an environment most conducive for innovation, protection of invention, and the utilization of intellectual assets on a global basis, with particular reference to the need to accelerate consensus building for the Substantive Patent Law Treaty (SPLT), and to further promote expeditious, high-quality and cost-effective patent administration and protection throughout the world at the 2008 Summit.



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Technical assistance”

Objective:

Assist emerging and developing economies realize the full benefits of the IP system, a critical element for sustainable development in today's knowledge-based economy, through technical assistance.

Brief project outline:

- **Advancing the G8 technical assistance pilot plans**

At Heiligendamm, leaders endorsed the “Guidelines for Technical Assistance on intellectual property rights protection to interested developing countries, as well as a mechanism to better coordinate and leverage existing G8 assistance to such counties with a view to building the capacity necessary to combat trade in counterfeited and pirated goods to strengthen intellectual property enforcement” (para 38 (b)) and agreed to launch three technical assistance pilot plans, in cooperation with competent international organizations, with a view to building the capacity necessary to strengthen the IP system in their respective countries. Japan agreed to sponsor technical assistance to the Republic of South Africa, the United Kingdom to the tri-border region of Argentina, Brazil and Paraguay and the United States to the Republic of Indonesia.

Japan informed the G8 experts that it has dispatched its first project formulating mission in November 2007 to conduct local fieldwork and discussions and

presented a brief outline of its IPR system and possible ideas for assistance to the Government of the Republic of South Africa. Japan's second mission has been dispatched in March 2008 in due course. The United Kingdom has provided the G8 work with an update of their progress on the Tri Border project and in order to launch the pilot are intending to run a capacity building seminar for enforcement officials and SMEs in the Brazillian region of the Tri Border Area. The United Kingdom are now co-ordinating joint activities with other G8 member active in the area. The United States has informed the G8 experts of its current assistance program to the Government of Indonesia, which include the dispatch of IPR advisors, assistance in enhancing the domestic government structure dedicated to combating IP crime, providing general prosecutorial training, and providing funding to IP-related regional programs through the APEC and the ASEAN frameworks.

At this stage, G8 experts shared the view that the existing pilot plans showed certain results and they should continue to identify specific assistance plans to developing countries in need of capacity building, and agreed to launch three additional pilot plans.

Projected timeline:

The G8 will welcome the progress achieved in the formulation of the three existing pilot plans and consider ways in which we can further advance these pilot plans in cooperation with other countries and competent international organizations. *(The G8 will identify other developing countries interested in receiving technical assistance, and formulate three additional pilot plans as soon as possible.)*



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Raising public awareness for combating counterfeiting and piracy in the global society”

Objective:

Raise public awareness, especially in emerging and developing economies, of the importance of fostering innovation through robust IP protection and of the potential danger of counterfeit and pirated products.

Brief project outline:

In light of the importance of public awareness in strengthening the global IP system and utilizing it to its fullest potential, particular emphasis should be placed on public awareness activities that will promote the benefits of the IPR system to government officials, researchers and the general public. The Group can take stock of existing awareness-raising activities and identify several key countries to undertake joint public outreach programs, preferably with the collaboration of the private sector. It may be advantageous to initiate such programs in countries in which the framework for technical assistance pilot plans already exists.

The OECD has noted that it will conduct up to four regional seminars to disseminate the results of the Phase I of its “Study on the economic impacts of counterfeiting and piracy.”

The Group will also identify several key countries, reach out to the private sector on collaboration, and present proposals on joint public outreach programs.

Projected timeline:

The Group will catalogue existing awareness raising work for review and present proposals on joint public outreach programs at the 2009 Summit in Italy or other appropriate upcoming opportunities.



Annex: Individual Project Outlines
G8 Intellectual Property Experts' Group Meeting
Ministry of Foreign Affairs, Tokyo
February and April 2008

PROJECT PROPOSAL:

“Sharing of successful experience linking IP and business”

Objective:

Promote the sharing of successful experiences linking IP and business with developing countries, recognizing that such linkage increases the value of IP as a development tool.

Brief outline:

In order to enhance business competitiveness through the effective utilization of IP and to promote industrial growth through the utilization of community-based IP, it is essential, both in developed and developing countries, to continuously share the best practices of IP and business, including measures for supporting small and medium-sized enterprises (SMEs) in the IP field, and to disseminate such information worldwide. This project targets SMEs and SME support institutions worldwide as well as policy makers.

The WIPO has been making various efforts to disseminate information by means of the WIPO website, including the introduction of case studies regarding business successes resulting from the utilization of IP.

G8 members will collect information on successful experiences linking IP and business in their respective countries. G8 members will also promote the sharing of

successful experiences linking IP and business by further advancing their efforts to collect information about successful experiences in cooperation with the WIPO.

G8 members can make a great contribution by widely promoting the sharing of successful experiences linking IP and business.

Projected timeline:

As the first step, the G8 will review the existing promoting activities of sharing experiences by G8 member countries and the WIPO, and if appropriate, request the WIPO to report how we develop or organize network of such information sharing activities by the G8 Summit in 2009 or other appropriate upcoming opportunities.