

## Intellectual Property Rights

### Minutes of the Workshop

After a brief introduction on the global, especially the financial, framework concerning Intellectual Property Rights (IPRs) by Ms Hall, **Mr. Wichard** held his introductory speech.

In it he explicated that the questions concerning IPRs were on the agenda of the German government. A main reason for this is that their basic importance as protection of ideas is essential for national economics worldwide and that their opposite, piracy, is likely to harm consumers. Especially a country like Germany deeply depends upon the protection of its ideas. The basic question brought up by Mr. Wichard was: How can and should the G8 act in this context? According to him, the one thing it can not and should not do is norm setting, but the G8 could single out topics and send out a strong political message. It also has the possibility to act as “body of coordination” among the different partners.

The German government therefore choose six different projects as priority ones:

- 1) projects of custom and boarders authority enforcement
- 2) law enforcement
- 3) cooperation projects between the government and the private sector
- 4) introducing a framework on technical assistance
- 5) identification of private projects concerning technical assistance
- 6) open up a dialogue with emerging countries because they need to be included in the IPR system

Following this, **Mrs. Smith** introduced the view of the Third World Network (<http://www.twinside.org.sg/>) on global IPRs. The main question brought up by her was whether IPRs were a property or a right. To strengthen her line of argument, she referred to her handout. Among various others, she discussed the fact that the nowadays industrialized states were five times richer than emerging countries by the time they introduced the patent system. Today, the latter have to agree to the TRIPS treaty when joining the WTO.

The basic question therefore is: Where should the balance between the protection of ideas and the right to use ideas of others be established?

**Dr. Noehrenberg** highlighted that from the point of view of the pharmaceutical manufactures, the basic debate is not going on between the northern and the southern countries but rather between innovative and not-innovative countries. According to him, 95% of the drugs mentioned by the WHO on the list of essential medicines are off-patent and copies of medicines are most of the time more expensive than the original. Even more important is that thanks to patents, new ways to attack HIV/Aids needed to be found.

At this point the chair accepted an interposed question. One participant explained that in her view, lots of patents held by international pharmaceutical companies were stolen from native communities all around the world. Dr. Noehrenberg rejected this strongly but Ms Smith mentioned in this context an example from Indonesia where the bird-flee virus was isolated by state funded laboratories which handed the sample over to the WHO. The WHO, nevertheless, gave the sample away to a privately run laboratory which nowadays holds the patent for the vaccination that it developed, so that Indonesia is forced to pay for the use of it. Another point of discussion touched the topic accountability. In this context, Ms Smith highlighted that in the US, everything can be patented which is not written down which is likely to apply to indigenous knowledge.

Following this, a participant raised his concerns that the negotiators of developing countries are generally put on the “wrong track”, so that they are hardly able to discuss at an equal level. Mr. Wichard’s answer to this question was that there absolutely were chances for these negotiators to get training and information and that they were not necessarily wrongly trained on purpose.

After lunch break, Miss Hall opened the second half of the workshop.

Firstly, **Mr. Moldenhauer** held his presentation, mentioning basic facts on Sub-Sahara Africa. This included, for example, that the vast majority of the HIV/Aids-affected live in this region but that the number of people getting antiretroviral drugs is rising. For Medecins Sans Frontières, he declared, the three basic problems mainly connected to research and development in the context of new antiretroviral drugs were poor diagnostics, old drugs and bad vaccine. As a solution he offered the “Drugs for neglected diseases Initiative” (<http://www.dndi.org/>).

In the context of the G8 summit, he concluded that there were three basic starting points.

- 1) the G8 should make sure that IPRs do not hinder access to drugs
- 2) the G8 should support TRIPS flexibilities
- 3) the G8 should support new methods of innovation

Following this, the roundtable discussion was opened by Miss Hall.

The first question concerned the meaning of the term “responsible growth”. The questioner explained that it was not clear for whom the growth should take place. His standpoint was that the G8 should urgently support countries which stand up against growth which is only concentrated in the first world countries.

Mr. Wichard answered this question by referring to the fact that IPRs were the prerequisite for sustainable growth, but to achieve this, a balance between the different requirements needed to be established. Mr. Noehrenberg added that the IPRs were mainly for the innovators, and therefore not about aid but about industry policy. In this context, the G8 had to be seen as pro-innovative and not pro-copying.

The following comment from the audience highlighted the fact that there is no balance between right-holders and consumers and that an equilibrium between public interests and the interest of the right-holders needed to be established. Therefore, the G8 should mention this balance-problem because “medicine is very different to motorparts”. Mr. Wichard replied that the discussion whether to open access was good or bad for innovation was still a hotly contested topic. Germany, as an example, was successful because of its intellectual property protection. Moreover, IPRs did not necessarily mean to get profit out of the product – it meant that the control of the product was in the hands of its creator.

Another remark highlighted that today developing countries are not allowed to use the same mechanisms European countries used in the last century to strengthen their industries. Therefore, it would seem as if the G8 were against the developing countries. An evidence for this was that 98% of the patents worldwide were hold by industrialized countries. This was, as the questioned pointed out, “a story of the ‘haves’ and the ‘have-nots’”.

This analogy, replied Mr. Noehrenberg, was defiantly not fitting, because the historical situation was not at all comparable.

A final question of the audience touched the ethical point within the IPRs – why would, e.g. Germany, not work against patents which were established 20 years ago?

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Germany, Mr. Wichard answered, was simply not lobbying against 20 years old patents, because it didn't think they were a crime.

Following this, Mrs. Hall gave all four participants of the panel time for their closing statement.

Mr. Moldenhauer:

The industry should give up patents for antiretroviral drugs, if, as they declare, they are not interested in profiting from HIV/Aids victims. He also addressed the German government: Please work harder on technical assistance!

Mr. Noehrenberg:

Especially when it comes down to antiretroviral drugs, the industry is not making any profit at all, it is, moreover, making a disprofit. Apart from this fact, the G8 should, in any case, strongly support innovations.

Ms. Smith:

Innovators in developing countries can export and should export their drugs to the EU and USA, the most prosper markets. The borders which are so far hindering them to do it, should be teared down.

Mr. Wichard:

The message which should be sent out by the G8 is that innovation and IPRs are not debarred from each other, in contrary, one way of supporting innovations are IPRs.

Finally, Ms. Hall thanked the participants on the Panel and in the audience for their interesting remarks on this topic and summarized that a whole number of dialogues governs the IPR debate.