



**Chair' s Report to APEC CTI on the
Intellectual Property Rights Experts Group VIII**

Fukuoka, February 25 - 26, 1999

Introduction

1. The Intellectual Property Rights Experts Group (IPEG) VIII was held in Fukuoka, Japan, on February 25-26, 1999. The IPEG VIII was preceded by the "APEC/ABAC Joint Symposium on Intellectual Property Rights" held on February 22-23, 1999.
2. The meeting was attended by representatives from Australia; Brunei Darussalam; Canada; the People' s Republic of China; Hong Kong, China; Japan; the Republic of Korea; Mexico; New Zealand; the Republic of the Philippines; Singapore; Chinese Taipei; Thailand; the United States of America and Vietnam. The APEC Secretariat also participated. The list of participants is attached in **Annex 1**.
3. The meeting was chaired by Mr Yoshifumi Saeki, Director of International Cooperation Office, Japanese Patent Office, Ministry of International Trade and Industry of Japan.

Agenda Item 1: Opening

4. The Chair extended a warm welcome to all delegates, especially to the delegate of Vietnam that participated for the first time since its full membership. He also welcomed Mr Sun Yuan Jiang, Director at the APEC Secretariat, for his first attendance at the IPEG.

Agenda Item 2: Adoption of Agenda

5. The Chair proposed that Collective Action item g, Implementation of the TRIPS Agreement and Technical Cooperation, be addressed at an early stage according to its priority. The meeting unanimously adopted the agenda which is shown in the **Annex 2**.

Agenda Item 3: Report to and instructions from the CTI

6. The Chair briefed members on his report to the CTI meeting in Kuantan on September 9 - 10, 1998 as well as its outcomes.
7. For the mutual recognition among IPEG members, the Chair introduced the Ministerial Joint Statement adopted in Kuala Lumpur last November, in which, among other things, the importance of the completion of TRIPS Agreement implementation by the year 2000 and technical cooperation for it was stressed.
8. The Chair reported on the outline of his report to the CTI meeting in Wellington on February 5 - 6, 1999, including the review of IPEG' s mandate. It was agreed that member economies should submit their comments to the Chair as early as possible.
9. The Chair also reported on the instruction therefrom, especially CTI' s expectation that member economies should exert utmost efforts for TRIPS Agreement implementation as well as that IPEG is encouraged to undertake a review of activities after the year 2000 in the context of the post-TRIPS environment.
10. Responding to these discussion results at the CTI meeting, the Chair suggested his plan to present an initial idea for new collective actions of IPEG by the IPEG IX and invited members' comments by the beginning of March.

Agenda Item 4: Collective Actions

(1) Item g: Implementation of the TRIPS Agreement and technical cooperation

< Chair's Paper >

11. The Chair proposed initiating information exchange regarding the current status towards TRIPS Agreement implementation by the proposed checklist, with a view to announcing its completion in the year 2000. He also introduced member' s responses to the proposal which are mostly favorable.
12. Japan shared its view that this information exchange approach is useful for IPEG activities and also stressed that these responses should be reflected in the technical cooperation programs, especially the technical cooperation symposium held in Korea in June 1999. It was also noted that it would be a useful tool for internal planning in member economies as they readied themselves for the final stages of TRIPS Agreement implementation.
13. It was agreed that member economies would submit their information on their status by the end of March 1999. The Chair will circulate a compilation by the IPEG IX meeting for the discussion.

< Technical Cooperation Program >

14. The Republic of Korea reported that it has received no information on bilateral technical cooperation among member economies under the framework of “Table of Technical Cooperation/Assistance Requested and Offered” and invited other members to forward any progress, including updated information for inclusion in the Korean table.
15. Korea also explained the progress report prepared for the March BMC Meeting of the Technical Cooperation Symposium to be held on June 14 “ Q8, 1999 in Taejon. Korea also presented a tentative program of the symposium and encouraged member economies to send their officials to the Symposium as participants as well as trainers.
16. The Korean proposal was praised by member economies. Some members also suggested that a summary of the symposium should be prepared so that its outcomes, as well as the lessons learned, could be widely available to IP administrators and potential beneficiaries throughout the APEC region.
17. It was agreed that Korea, taking into account members’ comments, would distribute a detailed proposal by the end of March. It was also noted that Australia, in advance of the Symposium, would prepare and circulate a discussion paper on the approach toward TRIPS Agreement implementation and any obstacles that had to be overcome.
18. The APEC Secretariat expressed its willingness to assist Korea in implementing the project and reminded the organizer to consult with the APEC Secretariat before any financial commitments would be incurred to ensure that such costs would be reimbursable within the approved budget. For the reporting to the BMC, Japan, Mexico, Philippines and Singapore volunteered to form a “small group” for the evaluation of this APEC funded project.

< TRIPS Review Process >

19. Australia presented a discussion paper on the Notification and Review of National Intellectual Property Systems under the WTO/TRIPS framework, and emphasized the importance of effective utilization of information regarding the revision of laws submitted to the WTO/TRIPS Council.
20. Other member economies agreed to the Australian initiative. The Chair requested developed economies, including Australia, to share their experiences on the review and notification process with developing economies in need of assistance.

(2) Item a: Deepening the dialogue

21. Japan reported that the APEC IPR Event Calendar had been updated on the Japanese Patent Office's Homepage. Japan requested each economy to submit further information on IPR events. In response to this invitation, some members informed the meeting of events to be held in the near future.
22. Member economies agreed that the criteria under which IPR-related events should be uploaded to the APEC IPR Event Calendar should not be too strict and any information should be uploaded to the extent that it would be useful and of interest for the APEC members.
23. The APEC Secretariat confirmed that it would remind member economies to forward the IPR-related information to Japan. Japan also expressed willingness to accept members' updated information on IPR events on a regular basis.

(3) Item b: Survey of laws and regulations

24. Regarding the survey of laws and regulations as well as of jurisprudence and administrative guidelines, it was agreed that three new members are requested to submit information on their laws and regulations by the IPEG IX.
25. Regarding the survey of jurisprudence and administrative guidelines, Australia presented a progress report on this item for the March BMC. Australia reported that there had been a series of informal contacts on the possible conduct of support missions on this matter, and that it expected that the survey could be concluded by the IPEG IX. Australia also stated that it would initiate contact with those economies which had not yet submitted data on the survey. Other member economies in need of assistance were also encouraged to contact Australia early to ensure that their interests could be met.

(4) Item c: Contact point lists

26. Australia reported that it had completed distribution of a pamphlet publicising the contact point list to member economies. Members expressed appreciation of the work done by Australia. Some member economies, including Australia, gave an account of their pamphlet distribution within their economies.
27. Australia presented an evaluation report on this collective action item to be submitted for the March BMC.
28. It was confirmed that the contact point lists under this collective action item should be forwarded to Australia, the lead economy of this item, via an APEC IPR contact of each economy in order to avoid unnecessary confusion with the APEC IPR contact list managed by the APEC Secretariat.

29. It was agreed that the three new members are requested to submit information on their contact point lists for IP-related officials by the IPEG IX.

(5) Item d: Well-known trademarks

< Thailand Proposal >

30. Thailand reported that 16 members had replied to the questionnaire on practices concerning the protection of well-known marks. The three new member economies were requested to submit their information, preferably, by the end of March 1999. The publication of the compiled information will be considered at the IPEG IX.
31. Thailand also presented a proposal paper on the next step on the current practices concerning the protection of well-known marks which indicated possible steps to be taken, considering the difficulties of setting up directories for some member economies due to their legal systems.
32. It was agreed that, as a first step, member economies would submit to Thailand information on the measures available to revoke the already registered mark which is identical or similar to the well-known mark by the end of March so that Thailand could compile the responses and circulate it to members by the end of April. Member economies were also encouraged to submit their comments to Thailand's paper on the next step.

< Directory of Well-known Trademarks >

33. Japan introduced a "Well-known Trademarks Searchable Database" uploaded to the homepage of the Japanese Patent Office. It also emphasized the importance of information exchange on well-known trademarks lists managed by each IP office based on its own criteria for the reference to trademark examination.
34. The Chair encouraged information exchange on well-known trademark lists on a bilateral basis as suggested by Japan and Thailand.

(6) Item e: Simplification and standardization of administrative systems

< e-1: Electronic Filing System proposed by the US >

35. The United States demonstrated its trademark electronic application system through the Internet and expressed its willingness to distribute the software for electronic application worldwide. Australia and Japan also briefed members on their respective electronic filing systems.
36. Some member economies raised the question on reliability of the system and the United States explained that it had never met any trouble so far.

< e-2: Information Exchange proposed by Mexico >

37. Mexico reported that 16 member economies had submitted their information on the current IPR administrative systems. Members expressed appreciation of the great efforts made by Mexico in consolidating the replies to the survey. Mexico agreed to receive updated information from member economies by the end of March so that Mexico could upload the latest information. The three new member economies were requested to submit the information on their current IPR administrative systems by the IPEG IX.
38. Mexico also presented revised draft guidelines for the simplification and standardization of administrative procedures, by reflecting comments submitted from other member economies, as well as a comparison matrix between the revised guidelines and TLT or PLT.
39. It was agreed that member economies would submit to Mexico written comments on the revised guidelines by the end of March so that Mexico could propose further draft guidelines at the IPEG IX for a final agreement.

< e-3: IP Information Mall proposed by Japan >

40. Japan demonstrated a standard display format for the IP Information Mall showing the bibliographic data, including legal status, and the abstract of each patent application.
41. Chinese Taipei suggested possible participation of the private sector in the IP Information Mall. Some member economies appreciated the contribution of the IP Information Mall to information sharing and transparency.
42. It was agreed that member economies would submit comments for improvement of the IP Information Mall to Japan by the end of March.

< e-4: Standardization of Trademark Application Form proposed by Singapore >

43. Singapore presented a proposal on a Common Trademark Application Form and invited members' comments.
44. Some member economies noted that a format in a language other than their mother tongues would be unacceptable under their current legislation. Other member economies raised the question of whether the form was intended to be a domestic one in each economy or aiming at regional system as its future goal.
45. It was agreed that member economies would submit to Singapore written comments by the end of March so that Singapore could present a revised proposal at the IPEG IX.

(7) Item f: Enforcement

46. Mexico reported that 16 members had provided information on their IPR enforcement system and encouraged the rest of the members to submit their information. For the future publication of the latest compilation, member economies that need correction of their answers were requested to forward to Mexico their information so that Mexico could revise the compilation. The three new members were also requested to submit their information by the IPEG IX.
47. Mexico also reported on the responses submitted to their proposal on the second step of this collective action, some of which expressed difficulties in finding appropriate cases in their jurisdiction. Still, majority of member economies agreed that IPEG should continue to discuss enforcement issues.
48. Taking this into consideration, Mexico proposed that the next step of this item should be altered from the original plan and should go in line with the Australian discussion paper on item f-2). Member economies agreed to the concept of this paper, especially in that IPEG' s activities should be focused on information exchange on enforcement, including the setup of information exchange mechanism.
49. Japan briefed member economies on the outline of enforcement related activities within the JPO aimed at information gathering and providing on enforcement systems and the current status of counterfeits mainly in the Asian economies. Japan also noted that this practical approach could be a course that the IPEG should take collectively in the future.
50. It was agreed that member economies would submit to Mexico their comments on the possible course of action under this item so that Mexico would circulate a redesigned proposal by the end of May.

(8) Overhaul of CAPs

51. The Chair explained the necessity of the restructure of IPEG' s Collective Actions after the year 2000 and proposed that he would present his initial plan at the IPEG IX.

Agenda Item 5: Policy Dialogue

< Biotechnology >

52. Australia explained its technical cooperation program held last December with a paper on biotechnology and intellectual property rights and stressed the value of information exchange on this issue. It foreshadowed further technical support and training on this issue and welcomed the various expressions of interest received in this area.

53. In terms of the draft questionnaire on IP and biotechnology provided at the last IPEG, member economies were invited to forward their comments to Australia so that they could present a revised questionnaire at the IPEG IX if needed.

< Electronic Commerce >

54. Australia presented a paper on electronic commerce which highlighted the extent which existing IPEG activities were already providing concrete effective support to the APEC-wide objectives set by Ministers in the "APEC Blueprint for Action". The paper also discussed broader developments in relation to intellectual property and electronic commerce, and suggested future consideration of IPEG work in this field. It was agreed that member economies were requested to provide comments on Australian paper on Electronic Commerce by the end of March.
55. It was also agreed that Australia would brief member economies on the recent developments at the newly established APEC Electronic Commerce Steering Group at the IPEG IX and that Australia would continue as contact point with that group.

Agenda Item 6: Other Business

< Geographical Indication >

56. Mexico expressed that it had no further proposal at this meeting and reported that Korea and China had already replied to the questionnaire. Australia expressed its willingness to reply to the questionnaire.
57. Some member economies raised their concern that there would be duplication between this initiative and the work being done by WTO. Singapore felt that an exchange of views on matters of common interest could be considered.
58. The United States also presented its paper for multilateral system for notification and registration of geographical indications for wines and spirits.
59. It was agreed that further consideration should be given to this issue and member economies would submit to Mexico further comments on its proposal by the end of March so that Mexico could circulate its revised proposal by the end of April.

< Public Education >

60. Australia presented a discussion paper on the practical and policy issues concerning public information in the intellectual property field, and raised suggestions for more effective pooling of resources within APEC to meet common objective in this area.

61. Australia also circulated its educational materials on IPR directed at the general public. Australia also advised that IPR-related materials had been forwarded from Japan, Chinese Taipei and Hong Kong, China.
62. Member economies recognized the importance of continuous efforts in IPR education to the public.

< A Mechanism to Share Information on the Revision of Laws & Regulations >

63. Australia presented a discussion paper titled “Notifying new and amended laws and regulations” . Considering that the effective utilization of information on the latest laws and regulations is needed, it was agreed that member economies would submit information on revision of laws and regulations to Australia by the designated format attached to this paper.

< Association with WIPO proposed by Australia >

64. Australia presented its revised paper on links with WIPO and proposed the establishment of a contact with WTO and WIPO and proposed the establishment of limited formal contact between the IPEG Chair and the Secretariats of WIPO and WTO.
65. Singapore expressed support for Australia’ s proposal if the Chair was comfortable with the arrangement proposed and added that criteria should be agreed upon as to how other organizations were to be dealt with in the event that these organizations also sought links with the IPEG.
66. It was agreed that the Chair would initiate an informal contact with WTO and WIPO along the lines proposed by Australia and advise members of progress at the IPEG IX. The Chair also expressed that he would explain his opinion on the criteria for other organizations at the IPEG IX.

< Private Sector-sponsored IPR Information Database/Service Centers proposed by Chinese Taipei >

67. Chinese Taipei presented a proposal for encouraging establishment of IP database/service centers by private sectors and suggested that member economies should consider utilizing business sectors’ resources to promote the provision of IP information.
68. Singapore queried whether APEC should be involved in endorsing such private sector efforts or this matter should be left to the private sector. Some member economies requested clarification of APEC’ s roles for private-sectors initiatives. The APEC Secretariat reminded member economies of Guidelines on APEC Database Projects approved by the SOM last year and asked members to follow the guidelines when considering the project.

69. It was agreed that member economies would submit to Chinese Taipei further comments on its proposal by the end of March so that Chinese Taipei could circulate its revised proposal by the end of April.

< ASEAN Trademark Filing System>

70. Thailand briefed on the recent development of the ASEAN-wide trademark system and explained that ASEAN Trademark Filing System would be established by January 1, 2000.

< Patent Examination Cooperation>

71. Japan explained its concept on patent examination cooperation, with a view that prompt and effective patent examination would be needed in the post-TRIPS environment where each member economy would be equipped with the minimum patent protection system.

Agenda Item 7: Partner for Progress (PFP) Project

72. Japan reported to member economies on the result of the third APEC/PFP/Course held in Thailand on October 19 to November 13, 1998.
73. Japan also introduced the endorsement at the CTI meeting in Wellington that the fourth APEC/PFP/Course would be held in Thailand and proposed member economies on the outlines of the curriculum for the Course.
74. Member economies unanimously endorsed the Japan' s proposal on the curriculum for the fourth APEC/PFP/Course.

Agenda Item 8: Business Sectors' Views

75. The Chair briefed on the APEC response to ABAC recommendation prepared by the Chair for the ABAC meeting held in February 5 -7, 1999.
76. Japan briefed the outcomes of "APEC/ABAC Joint Symposium on Intellectual Property Rights" held in conjunction with IPEG VIII on February 22 - 23, as well as the Summary of Conclusions of the symposium that contained useful insights for future IPEG activities.
77. Japan also expressed its willingness to hold a joint symposium focusing on technology transfer among the public, business and academic sectors in February 2000 in Sapporo, Japan.

Agenda Item 9: Document Access

78. It was confirmed that documents listed in Annex 3 would be open to the public.

Agenda Item 10: Future Meetings

79. Mexico offered to host the next meeting, IPEG IX, on July 15-17, 1999 in Guadalajara, Mexico in conjunction with a seminar on July 14, 1999. This proposal was unanimously approved.

Agenda Item 11: Report to the next CTI

80. In accordance with IPEG' s Terms of Reference, the outcome of this meeting will be reported to the next CTI meeting held on May 3 - 4, 1999 in Christchurch, New Zealand.
81. The list of deadlines and actions of the IPEG is attached in the **Annex 4**.

List of Annexes

- Annex 1: List of participants
- Annex 2: Agenda
- Annex 3: List of open documents
- Annex 4: List of deadlines and actions of IPEG

(Annexes follow)