

28-30 January 2007, Sydney Australia

NETWORK

INFLUENCE

KNOWLEDGE

LEARN



SESSION 11
THE ROLE OF MULTILATERAL FORA IN
THE REGIONAL IP ENVIRONMENT -
APEC, WIPO and WTO

FRANCIS GURRY

trading ideas

THE FUTURE OF IP IN ASIA PACIFIC



Outline

1. Existing Multilateral Architecture
2. Existing Regional Arrangements
3. Possibilities and Opportunities



Existing Multilateral Architecture: WTO

Menu du jour system

- Comprehensive agreement (TRIPs), covering both
 - Basic system rules (national treatment, MFN and priority)
 - Detailed substantive obligations in all fields of IP

- No choice concerning coverage

- Differential treatment of countries contained in transitional and concessional provisions within the Agreement (eg, Arts 66.1, 70.9, paragraph 6, Doha Declaration)



Existing Regional Arrangements

Regional Trade and Integration Arrangements

- European Union
- Asian and Pacific Economic Community (APEC)
- North American Free Trade Agreement (NAFTA)
- Mercosur
- ANDEAN Community

Regional IP Offices

European:

- European Patent Organisation (EPO)
- Office for Harmonization of the Internal Market (Trademarks and Industrial Designs) (OHIM)
- European Plant Varieties Office (EPVO)

African:

- African Regional Industrial Property Office (ARIPO)
- African Intellectual Property Office (OAPI)



Institutions

Layers and Functions

	Rules and Norms (legislation)	Grant of Titles (executive)	Dispute Settlement (adjudication)
Multilateral	WIPO WTO CBD FAO WHO	WIPO	WIPO (private party) WTO (State/State)
Regional	Trade and Integration Arrangements: EU NAFTA ASEAN APEC Mercosur ADEAN Community	European: EPO OHIM EPVO African: ARIPO OAPI	
National	Parliament	National IP Office	Courts ADR



Possibilities and Opportunities

1. Building on symmetries not present at the multilateral level
2. Building common positions on issues in evolution multilaterally
3. Technical cooperation and assistance



Building on Symmetries not present at the Multilateral level

- Multilateral has to cope with regional diversity and levels of development
- Regional can take advantage of geographical, linguistic, economic and cultural similarities
- Different levels of integration possible
- May be stepping stone to international integration



Building on Symmetries not present at the Multilateral level: Models of Integration

- Regional title
 - Community trademark (OHIM), Community Design (OHIM), OAPI
 - National route may be open (OHIM) or closed (OAPI)
- Regional procedure and national titles
 - EPO, ARIPO
 - National route open
- Regional cooperation on one element of functionality
 - Regional international authority under the PCT (eg, Nordic Patent Institute)
- Choice of model depends on
 - Degree of regional integration
 - Desired relationship of central authority or function to the national (eg, European Patent Network)



Building Common Positions on Issues in Evolution Multilaterally

- For similar reasons, regional positions on normative issues may be more easily achieved than multilateral
- Compatibility with the multilateral
 - Timing can be crucial
- Many examples, eg
 - Andean Community Decisions
 - EU Directives and Regulations



Technical Cooperation and Assistance

- In support of regional objectives
- Widely used
 - EU, EPO
 - Regional development banks
 - UN regional units