

<p style="text-align: center;">JIPO contribution to Roundtable on Integrating Small and Vulnerable Economies in the Multilateral Trading System IFRRO General Assembly, October 2008</p>

Opening

To provide the context for our discussion, Small Vulnerable Economies (SVE's) are identified by several distinguishing characteristics such as small population, small geographic dimensions, restricted economic activity with a concentration of few export products, heavy reliance on external trade because of a narrow range of resources and the inability to support certain types of production, given the small scale of the market. These factors in turn lead to structural and institutional constraints in achieving sustainable economic growth and development.

For my presentation, I would like to consider 2 main issues:

1. How do these constraints appear in and impact IPR administration ?
2. What role can IPR administration play in overcoming these constraints ?

WHAT IS IPR administration ?

IPR administration can be generally defined as facilitating the protection and promotion of creativity of local and foreign creators and right-holders

What is IPR administration in a SVE ?

More specifically, IPR administration involves:

- Establishing an international level of procedures and facilities for the protection of IPRs for both local and foreign creators, investors, and commercial enterprises. This includes the necessary legal framework for the protection of IPR's, ensuring that laws are modern and meet international obligations

- Providing registration facilities for trademarks, patents, designs, geographical indications and as we now see, a growing call for formal copyright registration as well
- Educating the public, on the importance and economic value of IPRs and the end need for the protection of IPR's
- Providing input for national policy development of IP related industries
- Facilitating the creative community in organizing themselves into collecting societies

These are in fact the elements of IPR administration effected by JIPO, a definition of our role as the IP office in Jamaica.

What are the challenges facing IPR administration in a SVE ?

Some of the challenges which we face in carrying out our objectives fall under the rubric of being small and the structural and institutional implications of being small as outlined at the outset of this paper.

Small size:

In IPR administration, this translates as small offices with small staff complements. With few persons to carry out a large agenda or national programme, the IP office has to prioritise its activities as it is not physically possible to accomplish all plans within short period of time, notwithstanding the intention and desire to meet all objectives. This may result in certain areas of activity receiving greater focus than others, or significant delays in follow-up activities because attention had to be given elsewhere.

Linked to the constraints of a small office, is a small budget from which to fund a plethora of activities. Education campaigns usually account for a large proportion of activities such as the training of police, judiciary, educating private and public entities, and IP sensitization in schools.

Limited economic activity:

The effect of limited economic activity within an SVE is demonstrated not only through a concentration on a limited number of export products, but also by a low level of contribution by these countries to innovation development. Firms from small countries are small by comparison with multinational corporations and more than likely do not have access to and cannot spend significant funds on research and development.

These countries may also see a concentration of professionals in traditional careers fields. IP specialists whether in law, management, finance, science and technology are quite few in Jamaica and the Caribbean region as a whole. Certainly, lacking personnel who can offer specialised services also hampers the overall promotion of IP as an industry for growth and development.

This leads to another challenge facing SVE's although not necessarily a result of smallness, that of, **limited public awareness of IP**. For the most part, our populations are not familiar with the concept of IP as an economic right, and that certain financial obligations are required of users. Everyone knows something about 'copyright' but the notion of obtaining a licence to play music at the beach-party or to photocopy from the school text-book is, as the local CMO's will testify, an unwelcome idea. Ignorance but also stubbornness accounts for low compliance with licence obligations by public and private entities.

What ROLE DOES IPR have in OVERCOMING SVE constraints?

I would like to put forward that IP itself is an opportunity for SVE's to embark on a path of sustainable economic growth and development which will in turn reduce the negative impact of some limitation facing SVE's.

Our modern era has been repeatedly described as the information and knowledge age, and therefore, the human mind and what it can create and produce, called by academics as 'human capital', is a valuable component in any form of economic undertaking.

IP is then, the tool for protecting and promoting human capital - the knowledge, information, creativity and innovation. Increasingly, it is being appreciated that human capital and IP are often the most valuable elements in national economies.¹

IPR's are now seen as economic assets, and tapping into IP as a vehicle for wealth creation and economic development, for individuals, businesses and nations, is an ideology which is fast gaining ground globally.

In a publication entitled *"IP assets development and management: A key strategy for economic growth"*², the World Intellectual Property Organisation (WIPO), which is naturally on the frontline of promoting IP for development, has listed the following as some gains from proper management of IP assets :

- generate revenues from product sales and licensing royalties
- increase GDP and products
- stimulate research and development (R&D) based industries and create employment
- attract high-value foreign direct investment and joint ventures

¹ IP assets development and management: A key strategy for economic growth", WIPO, pge. 6

² WIPON Publication No. 896(E), pge. 6

Indeed, one of the recommendations that have been put forward for SVE's to lessen the negative impact of external shocks as a result of being open and vulnerable is, economic diversification into areas that are less susceptible to risks. Building IPR administration, using IP as a development tool and developing the creative industries' were identified by UNCTAD as definite assistance that could be undertaken to help SVE's to broaden their base of economic activities.³

Human creativity is borderless, unconstrained by geographic location or size of population. We in the Caribbean know this well. Indeed, the Caribbean abounds in natural, creative talent. I am of the view that if we nurture and harness the creativity that is so effortlessly expressed by our people, and properly manage its use through the avenues provided by IP administration, we would witness/experience momentous economic growth and development for our economies and region.

Empirical proof has been provided of the viability of the creative industries as profitable income-deriving activities. In the recently published WIPO study on the contribution of copyright-based industries to the economy of Jamaica, it was found that these sectors accounted for 4.8% of GDP at a value of J\$29 billion or US\$464.7 million. These figures are to be compared with other sectors such as agriculture, forestry and fishing which contributed 5.2 %, or electricity and water which contributed 4.1%.

These sectors which include Press and Literature, music and theatrical productions, radio and television, visual and graphic arts, provided 3.03% of total employment.

³ UNCTAD Secretariat paper entitled 'Structurally weak, vulnerable and small economies' prepared for the 2007 session of the Trade and Development Board

An important comparison to be made here is with the contribution made by traditional sectors such as agriculture which historically receive significant attention and investment, whereas the copyright sectors have been largely ignored, and funded only from within. That these sectors have made this level of contribution is due to the determination of creative individuals to express themselves and a commitment and passion to pursue their craft.

Of course, the results coming out of the study could hold true for other Caribbean countries.

I will ask the famous 2 words, 'what if', and you can allow your imagination to run freely.

What if the creative industries got the attention and funding that sugar, bananas and tourism continue to receive notwithstanding their declining earnings and the immense challenges posed by the current global economic climate?

What if the legislative, training, marketing and all other support facilities were put in place to pursue IP as a primary national economic activity?

The study puts forward that the copyright sectors can become one of the main sectors leading the Jamaican economy '... at rates necessary to achieve or surpass the growth rates and economic adaptability that would sustain effective reintegration into the rapidly changing world economy .' However, to achieve this will require -

- investment in the human capital from primary school right through to post-graduate level, and secondly
- investment in public infrastructure to facilitate the promotion of IP and, in private physical capital formation for creators and producers of copyright assets.

A commitment by Governments to invest in, develop and manage IP as an economic activity that will bring in rich returns , is key to realizing these '*what if's*' .

Also critical are strong partnerships between the IP office and other agencies or ministries that handle other dimensions of developing the IP assets such as, business development centres, trade promotion agencies, development financial institutions, science and technology R&D bodies, and very importantly, active and well-managed Collective Management Organisations.

I must speak to the integral role played by the Government IP office in assisting the local Collective Management Organisations which emerged in the late 1990's. The legal guidance provided by IP office helped those CMO's avoid certain pitfalls or obstacles that would have otherwise negatively affected their operations. The continuing support given by JIPO to these CMO's is a vital part of their successful functioning.

But it has also been our experience, that if Government is not involved in the initial stages of setting up a copyright society, a society may encounter unnecessary difficulties and frustrations in building its reputation with the public and potential licensees.

Conclusions

The vulnerabilities and limitations which SVE's are real and in some instances irremediable. But we have to survive and be active participants in the multilateral trading system. In identifying our comparative advantages, finding our niche and developing them through proactive, targetted policies, IP presents an accessible and practical tool for building national competitiveness.

The recognition that the Jamaican creative expressions have achieved internationally has carved out a certain market-space for 'brand Jamaica' which we need to protect and preserve through IPR administration among other methods. This will ensure that current and future creators and businesses can benefit from this international recognition and enjoy economic success.

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