

出國報告（出國類別：出席國際會議）

第 23 次亞太經濟合作會智慧財產權
專家小組會議暨工業財產之創新、管
理、使用及保護研討會

服務機關：經濟部智慧財產局

姓名職稱：陳文斌 組長

林淑瑛 事務員

派赴國家：墨西哥瓜達拉哈拉

出國期間：95 年 8 月 12 日至

95 年 8 月 20 日

報告日期：95 年 11 月 14 日

摘 要

IPEG 會議係 APEC 智慧財產權專家小組每年舉行兩次之例行性集會，由各會員體主管智慧財產權機關之官員代表出席，就亞太地區各國有關智慧財產權政策的擬定、立法、執行、宣導、人才培訓、推動電子化及技術移轉等各項議題，及國際間有關智慧財產權之最新發展，進行交流，增進合作，藉以提昇區域內保護智慧財產權之水準，並討論保護智慧財產權之未來發展方向及因應政策方針等。

近年來，智慧財產權保護逐漸發展成為 APEC 重要議題，2005 年 6 月 APEC 貿易部長會議通過「APEC 反仿冒及盜版倡議 (APEC Anti- Counterfeit and Piracy Initiative)」，為落實執行該倡議，2005 年 11 月第 17 屆 APEC 部長會議通過「減少仿冒品和盜版品交易之 APEC 準則(APEC Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods)」、「對抗非法盜版之 APEC 準則(Model Guidelines to Protect against Unauthorized Copies)」及「防止網路販售仿冒品之 APEC 準則(Model Guidelines to Prevent the Sale of Counterfeit Goods over the Internet)」。

今年，再提出「有效執行教育宣導活動之 APEC 準則(APEC Model Guidelines for Effective Public Awareness)」、「確保供應鏈杜絕仿冒及盜版品之 APEC 準則(APEC Model Guidelines to Secure Supply Chains against Counterfeit and Pirated Goods)」及「禁止政府機關使用非法軟體及其他著作物之建議(Proposal on Preventing Illegal Use of Software and other Copyright Materials by Government Entities)」

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(<http://www.apec.org>)

壹、參加會議之目的

「APEC 智慧財產權專家小組第 23 次會議」於本（2006）年 8 月 15 至 16 日於墨西哥瓜達拉哈拉召開，「工業財產之創新管理、使用及保護研討會」於 8 月 17 日接續舉行。本次專家小組會議由新加坡檢察署首席資深法務長 Mr. Sivakant TIWARI 擔任主席，計有澳洲、加拿大、智利、中國、香港、日本、韓國、墨西哥、紐西蘭、新加坡、我國、泰國、美國及越南等 14 個會員體派員與會，APEC 秘書處亦派員出席。我國代表於 IPEG 會議中就我國執行保護智慧財產權之成果及最新修法動態提出報告。

貳、會議過程及討論重點

一、非正式會議

由 T 主席邀集於 8 月 14 日舉行預備會議，討論重點有二：（一）為簡化議程項目及順應 CTI 之優先議題，主席建議將部分已獲結論之議題刪除，並依議題之重要性決定其優先次序，以便議事能更有效率地進行，獲各會員體同意；（二）有關 CTI 要求 IPEG 草擬本年 APEC 部長會議及領袖會議聲明草案，由主席草擬文字，內容略以：部長注意到以往在建立 APEC 反仿冒及盜版所作努力，呼籲會員落實執行，並與私部門協商，以減少仿冒及盜品透過傳統管道或網際網路進行交易，對抗未經授權之盜版，增進能力建構之合作。部長並歡迎會員們舉辦廣泛之教育宣導活動，增進智慧財產領域之宣導等語。惟中國代表以今日始見本聲明草案，無法立即表示同意，建議交由大會討論。

二、第 23 屆 IPEG 會議

於 8 月 15 日及 16 日舉行，重要討論事項如下：

（一）依據上次 IPEG 會議決議，澳洲提出「智慧財產及區域及自由貿易協定

(IP and Regional and Free Trade Agreements)議題，澳洲在 IPEG 網站上，將各會員體目前簽署或進行洽簽之區域或自由貿易協定分別列出。日本、智利、墨西哥及泰國等均提出經驗分享；中國則質疑 IPEG 會議討論 IPR 章區域或自由貿易協定之目的，並認為其高標準已逾越世界貿易組織「與貿易有關智慧財產權協定(TRIPS)」之規範；我國代表發言表示，中華台北樂意與各會員體洽簽 FTA 協定，惟因政治因素受阻，目前僅完成與數個中南美洲國家簽署。我國密切注意有關各國洽簽 FTA 之進展，並經常更新我智慧財產權之體制，俾符合國際趨勢。

(二) 美國針對已獲通過之 3 項 APEC 反仿冒及盜版倡議準則，報告如何落實執行：

1. 日本針對「減少仿冒及盜版品交易之 APEC 準則」提出檢視表
(Template - Implementation of the APEC Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods)，香港亦提出其填報範例供各會員參考，主席請其他會員比照提報成果。
2. 未來，韓國將針對「對抗未經授權盜版品之 APEC 準則(APEC Model Guidelines to protect against Unauthorized Copies)」，美國將針對「禁止網路販售仿冒品之 APEC 準則(Model Guidelines to Prevent the Sale of Counterfeit Goods over the Internet)」製作檢視表，由各會員填報。
3. 美國訂於本年 9 月 27 日至 28 日假洛杉磯舉行「APEC 智慧財產權邊境執行實務研討會 (Workshop on Effective Practices in the Border Enforcement of Intellectual Property Rights)」，議題涵蓋：TRIPS 邊境管制之義務、公共政策、案例研究、風險評估及如何執行 APEC 準則等，邀請各會員體踴躍派員參加。

(三) 討論本年提出之「有效執行教育宣導活動之 APEC 準則 (APEC Model Guidelines for Effective Public Awareness Campaigns)」、「確保杜絕仿冒及盜版品供應鏈之 APEC 準則(APEC Model Guidelines to Secure Supply Chains against Counterfeit and Pirated Goods)」及「禁止政府機關使用非法軟體及其他著作物之建議(Preventing Illegal Use of Software and other Copyright Materials by Government Agencies)」，以便提交本年第 3 次 CTI 會議，並作為本年 APEC 領袖會議及部長會議之成果。

(四) 國際商標協會 (INTA) 對外關係協調及反仿冒公關主任 Mr. Faisal K. Daudpota 應邀簡報「INTA 對減少仿冒及盜版品交易之 APEC 準則之分析(INTA' s Analysis of APEC Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods)」，該報告就經由自由貿易區及自由港轉口仿冒品(Transshipment and Transit of Counterfeit Goods through FTEs and FPs)亦表示關切。INTA 敦促全球各國決策者對出口 (尤其是仿冒品出口之主要國家)建立禁止仿冒品進出口之制度。

(五) 墨西哥 TEQUILA Regulatory Council 代表蒞會，就墨國龍舌蘭酒之歷史、製造、原產地證明保護及全球行銷進行簡報，該國針對地方特產給予有制度之保護及推廣，值得我方借鏡。

(六) IPEG 提出 3 項 2007 年 APEC 基金補助計畫案：

1. APEC 教育宣導市場研究及最佳範例第二階段計畫(APEC IPR Public Education and Awareness Market Research and Best Practices <Phase II> Project)；
2. APEC 智慧財產權資訊電子化學習教材第二階段計畫(APEC

Disseminating E-Learning Contents on IPR Information <Phase II
> Project)；

3. APEC 數位時代智慧財產權保護與執行研討會計畫(APEC Workshop for the Protection and Enforcement of IPRs in the Digital Era Project)。

(七) 由於時間緊湊，我方所準備之「最新執行智慧財產權保護之成果」光碟片未及播放，僅在會中口頭簡報我國落實執行 APEC 反仿冒及盜版相關準則及執行查緝等工作成果，並表示我國樂意與其他會員體分享經驗及合作打擊仿冒。

(八) 另我方代表亦在會中簡報我國專利最新修法方向，中國代表表示興趣並洽索進一步資料。

(九) 大會於 16 日下午 7 時 15 分結束，T 主席宣布下（第 24）次會議於明(2007)年元月 24 日至 25 日在澳洲坎培拉舉行；我國代表亦發言我將於明年 8 月 6 日至 10 日在台北舉行第 25 次會議，惟新加坡、澳洲表示屆時適逢重要節慶，我方爰將日期延後一週，即 13 日至 17 日舉行。主席將於下(9)月召開之 CTI 會議提報 IPEG 開會成果。

三、工業財產之創新管理、使用及保護研討會

於 8 月 17 日舉行，除了 IPEG 各國代表與會外，該研討會並開放給墨國工商企業界參加，人數約百人，參與情形甚為踴躍。議題涵蓋：智慧財產保護對經濟及文化發展之重要性；澳洲在智慧財產教育宣導議題及中小企業、研究機構及大學方面相關活動之經驗分享；區域性教育宣導議題及中小企業、研究機構及大學方面相關活動之經驗分享；商標對已開發及開發中國家經濟之重要性；活用智慧財產帶來成長-專利及創新策略、研究成果商品化以進入市場；綜觀美國智慧財產體制；智慧財產作為維持經濟成長之工具-韓國

之經驗分享；中國在工業管理之策略-國內智慧財產議題及其影響等。

四、雙邊會談情形

(一) 美國專利商標局(USPTO)國際關係辦公室 Jasmine C. Chambers 博士欣然表示將參加本年 9 月 28 日至 29 日在台北舉行之「2006 年生物專利國際研討會(2006 International Conference on Biology- related Patents)」，擔任「動植物專利審查實務(Examination Practices on Animal and Plant Patents)」議題主講人。我方表示歡迎，並樂意提供必要協助。

(二) 澳洲智慧財產局國際合作處長 Mr. Gary Kichenside 表示，因新上任工商部長對該局局長 Dr. Ian Heath 之海外旅行有所限制，致取消原安排本年訪台之行程。該局復因人力短絀，本年度對外國人員之訓練被迫取消，表示歉意。此外，該局副局長 Mr. Ian Goss 將於今年 11 月訪台，屆時再與本局洽商相關合作事宜，我方表示歡迎。

(三) 日本特許廳總務部國際地域政策室室長田中庸介：我方感謝日方協助，本次順利派遣 3 名人員前往研習專利無效案，盼此類研習可繼續進行，本局商標審查人員亦盼有機會研習商標無效審查情形，盼日方協助安排。我方並感謝日方同意派遣 2 名文化廳官員，參加本年 10 月 19 日在台北舉行之「台日網路侵權研討會」。

(四) 國際商標協會(INTA)代表 Mr. Faisal K. Daudpota：我方感謝該會主任去年來台，與本局商標審查官舉行圓桌會議，並盼下次類似機會該協會也能共襄盛舉。

(五) IPEG 主席 Mr. Sivakant Tiwari：雙方協商台北於明年 8 月主辦第 25

屆 IPEG 會議事宜，並請主席提報本年第 3 次 CTI 會議採認。

叁、心得與建議

- 一、有關落實反仿冒、盜版，教育宣導等議題已成 IPEG 會議主軸。而美國、日本、澳洲等已開發國家，與中國、墨西哥、泰國、智利等開發中國家，針對國內法律配合及財源問題歧見頗深，兩天之會議，幾有一天半時間在雙方爭執中渡過。主席 Mr. Sivakant Tiwari 爰在最後一天下午加緊議程，並請各會員縮短或省略報告，相關之詢答也採會後以 E-Mail 方式進行。
- 二、有關去年通過之 3 項 APEC 反仿冒及盜版倡議相關準則之後續配合辦理事項，及本年新增之 2 項準則及 1 項建議，涉及國內跨部會相關主管機關者眾，應召集各相關單位說明並共同檢視，俾於期限內適度表達我方立場及意見，亦可作為各單位未來在制定相關政策及執行措施上之參考。
- 三、在會中簡報我國落實執行 APEC 反仿冒及盜版相關準則及執行查緝等工作成果，以及說明我國專利最新修法方向，促使各會員體瞭解我國保護智慧財產權政策及進展。
- 四、利用開會之便與相關國家代表洽商合作等事宜，除加深友誼外，並有助於促進與各國間在智慧財產權領域之合作關係。

肆、附錄

**APEC Intellectual Property Rights Experts Group
Guadalajara, Jalisco, Mexico
August 15 – 16, 2006**

ANNOTATED AGENDA
(As of August 10, 2006)

August 15, 2006 9:00-17:00

August 16, 2006 9:00-17:00

1. Opening

The Chair will open the IPEG XXIII meeting.
Mexico will deliver a welcome speech.

2. Adoption of the Agenda

3. Report on Previous Activity of IPEG

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

3.A APEC

- APEC Secretariat Report on APEC Developments

3.B TILF

- “Update on IPEG Public Education and Awareness Program Project (CTI 11/2005T)” (Information Paper by Australia)
- Korea will make a presentation on Progress report on “APEC Project for e-learning content on IPR information”.
- Vietnam will give a report on the APEC IPEG Workshop on IP for SMEs and Micro-enterprises (Mes)

3.C Self –funded

- Australia will make a presentation on “APEC 2007 IP Symposium”

3.D Other

- Hong Kong, China; and Australia will give an update on the APEC Workshop on “Effective Strategies for IP Public Education and the Online Communications Platform” - components of the “APEC IPR Public Education and Awareness Platform” Project (Lead Economies: Australia; Hong Kong, China; and Singapore).
- Australia will make a presentation on “Potential use of the APEC Information Management Portal by IPEG”

4. Interactions with the CTI

- The IPEG is invited to consider/comment on the draft languages for incorporation into the APEC Ministerial Meeting (AMM) Statement and the APEC Economic Leaders’ Meeting (AELM) Declaration in November 2006.
- IPEG’s comments/inputs to CTI’s draft of IPR aspects of the Hanoi Action Plan.

5. CTI priorities

5-A. WTO Matters

Deepening the Dialogue on Intellectual Property Policy – WTO Doha Development Agenda and Protection of IPR in New Fields (Lead Economy: Convenor)

5-A-i. WTO Doha Development Agenda

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

5-A-ii. Protection of Emerging Fields in IPR

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

5-A-ii-a. Protection for Biotechnology and Computer-related Inventions (Lead economy: USA)

Any member who wishes to identify its interests and to make

presentations on them will be invited to do so.

5-A-ii-b. Protection for Geographical Indications (Lead Economy: Mexico)

- China will make a presentation on “The New Progress on Protection for Geographical Indications in China”.
- The United States will give a presentation on “What are Geographical indications really?”
- The Tequila Regulatory Council (TRC) will make a presentation on “Tequila”

5-A-ii-c. Protection of Genetic Resources, Traditional Knowledge and Folklore

- The United States will give a presentation on “Views of the United States on Traditional Knowledge and Genetic Resources”

5-B. Trade and Investment Facilitation

5-B-i. APEC Anti-Counterfeiting and Piracy Initiative (Lead Economy: Japan, Korea and USA)

- Japan will circulate its responses to the three Guidelines which would serve as a template for economies to submit their responses.
- Members who were in a position to do so will report on their responses to the initial three APEC IPR Guidelines.
- Hong Kong, China will make a presentation on its returns to the Guidelines under the Initiative.
- Members will discuss the three Guidelines as a follow-up from the IPEG XXII meeting.
- The United States will give an update on an IPR workshop to be held in Los Angeles that will include a component on implementing the initial three APEC IPR Guidelines.
- Members will take up the US’s request to discuss two new draft

sets of IPR guidelines (one on “Public Awareness Campaigns” and one on “Supply Chains”), and a proposal on “Preventing Illegal Use of Software and other Copyright Materials by Government Entities”.

- China will make a presentation on “Chinese Government’s Explorations of Copyright Protection in Internet Environment”.
- Japan will make a presentation on “Outline of Partial Amendments of Design Law and other IP-related Laws”.
- INTA will make a presentation on “INTA’s Analysis of APEC Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods”

5-B-ii. APEC IPR Service Center (Lead Economy: Japan)

- China will make a presentation on “China’s Work on IPR Service”.

5-B-iii. Enforcement Related Activities

- China will make a presentation on “China’s Outline of IPR Protection Action (2006-2007)”.
- China will make a presentation on “China Strengthens the Trademark Administrative Protection.
- Australia will make a presentation on “Copyright Enforcement Reforms in Australia”
- Mexico will make a presentation on “Enforcement activities”
- Chinese Taipei will make a presentation on “IPR Enforcement”
- “Major Copyright Law Reforms in Australia” (Information Paper by Australia)

5-C. Implementation of Pathfinder Initiatives

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

5-D. Implementation of Transparency Standards

- China will make a presentation on “China’s Work on Transparency”.

5-E. Regional Trade Agreements (RTAs) / Free Trade Agreements (FTAs)

- Australia will make a presentation on “IP and Regional and Free Trade Agreements - issues for discussion”

6. Other collective actions of IPEG

6-A. Support for Easy and Prompt Acquisition of Rights

- Mexico will make a presentation on “Improvements in the acquisition of trademark rights”
- Mexico will make a presentation on “IMPI’s Regional Offices”

6-A-ii. Establishing Internationally Harmonized IPR Systems (Lead Economy: Japan)

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

6-A-iii. Standardization of Trademark Application Form (Lead Economy: Singapore)

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

6-A-iv. Well-known Trademarks (Lead Economy: Thailand)

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

6-A-v. Cooperation on Searches and Examinations (Lead Economy: Japan)

- Mexico will make a presentation on “Projects for improving searches and examinations in patents”

6-A-vi. Non-traditional Trademarks (Lead Economy: Singapore)

- Singapore will provide an update on the project.
- “Examining Non-Traditional Trademarks at the US Patent and Trademark Office” (Information paper by the United States)

6-A-vii. Plant Variety Protection Survey (Lead Economy: Singapore)

- Singapore will present an update on the form and request completed returns from member economies.

6-B. Electronic Processing of IPR-related Procedures

6-B-i. Electronic Filing Systems (Lead Economy: USA)

- Korea will make a presentation on “E-filing Service for the International Trademark in Korea”

6-B-ii. Dissemination of Information by Electronic Means: APEC IPEG Website (Lead Economy: Australia)

- Australia to make a presentation on the “APEC IPEG Website Review Proposal”
- Mexico will make a presentation on “Patent information website for small and medium sized enterprises SME’s: PYMETEC”

6-C. IP Utilization

6-C-i. Promoting IP Asset Management in APEC Economies (Lead economy: USA)

Any member who wishes to identify its interests and to make presentations on them will be invited to do so.

6-C-ii. Raising Public Awareness (Lead economies: Australia and Hong Kong, China)

- Hong Kong, China will give a presentation on “Update on the Public Awareness Activities in Hong Kong, China”.
- China will make a presentation on “China’s Work on Raising Public Awareness”.

- Australia to make a presentation on the “Latest Developments in IP Australia’s Public Education and Awareness Program”
- Mexico will make a presentation on “Public awareness activities and IMPI academy”
- Mexico will make a presentation on “National Promotion of Copyright”

7. New Project Proposals

- Singapore will give a presentation on “APEC IPR Public Education and Awareness Market Research Best Practices” under the “APEC IPR Public Education and Awareness Platform” Project (Lead Economies: Australia; Hong Kong, China; and Singapore).
- China will give a presentation on “APEC-IPEG Survey on Laws and Best Practice on Exceptions and Limitations to Copyright among APEC Economies”
- Vietnam will give a presentation on “APEC Workshop for the Protection and Enforcement of Intellectual Property Rights in the digital era”

8. Cooperation with Other Fora / Bodies

- The United States will make a presentation on its proposed "APEC SME IPR Initiative," introducing the Initiative's components (which would require individual economy and joint SMEWG and IPEG actions), including a presentation on the "APEC Joint SMEWG-IPEG Seminar on SME Management of Intellectual Property Rights" project proposal.
- United States will provide an update on the "Draft of Best Practice paper for protecting IPR in Automotive Products"
- The United States will explain with a view to seeking the IPEG’s consideration for the LSIF’s draft project proposal: “Anti-Counterfeiting of Pharmaceutical Products and Medical Devices: Training Seminars for Government Officials and relevant stakeholders”.

9. Other Business

- China will make a presentation on “Introduction on the Third Revision of the Chinese Patent Law”.
- Chinese Taipei will make a presentation on “Chinese Taipei’s Revision of Patent Act”.

10. Document Access

Members will decide whether each document is to be made public or to be restricted.

11. Future Meetings

12. Report to the Next CTI