



BRICS INTELLECTUAL PROPERTY OFFICES COOPERATION ROADMAP

Magaliesburg May 2013



Companies and Intellectual
Property Commission

a member of **the dti** group



1. Purpose

The purpose of this document is to outline the Cooperation Roadmap for the BRICS Intellectual Property (IP) Offices as adopted by the BRICS Heads of IP Offices, in Magaliesburg, South Africa on 16th May 2012

2. Background

BRIC was established following the first diplomatic meeting in 2008, and later the BRIC summit in 2009 in Yekaterinburg, Russia as an economic block of the developing and emerging economies/ countries, namely Brazil, Russia, India and China. BRIC invited South Africa to join in 2010 to form what is now known as BRICS. Since its establishment BRICS has held annual Heads of State/Government Summits in all the member countries with the most recent one hosted by South Africa, in Durban on 26 -27 March 2013. Among its aims on establishment was the quest to achieve peace, security, development and cooperation. It further aims to contribute to the development of humanity and establish a more equitable and fair world.

The Contact Group on Economic and Trade Issues (CGETI) was established by the Heads of State and Government at the Sanya Summit in 2011. The CGETI is the senior officials' level mechanism to prepare the programme and agenda for the BRICS Ministers of Trade and Economy. In its 2nd Trade and Economic Ministers BRICS meeting held on 29 March 2012 the BRICS Ministers directed their officials to explore ways and means of enhancing and furthering intra-BRICS cooperation particularly on customs, e-commerce, and IP rights among others. As these offices are responsible for IP it is therefore sensible that cooperation be explored in the IP space for the mutual benefit of the IP offices in the respective countries and to further the objectives of BRICS. During the 5th BRICS Summit held in Durban 2012, the Trade Ministers endorsed the BRICS Trade and Investment Cooperation Agreement which makes provision for cooperation in IP. The provisions are made specifically for:

- a) Enhancing information exchange on Intellectual Property Rights (IPR) legislation and enforcement through meetings or seminars;
- b) Jointly developing capacity building programmes in the IPR area; and
- c) Promoting cooperation among IPR offices.

The BRICS Heads of IP offices (BRICS HIPO) met on the sidelines of the 2012 WIPO General Assemblies in Geneva, Switzerland and agreed to enhance cooperation between the respective BRICS IP offices with a view to enhancing the value of IP and to ensure its contribution to the economic development and growth in the member countries. In order to further the agenda, the following processes were agreed:

- Focal points need to be identified in BRICS IP Offices to facilitate this cooperation;
- A roadmap setting the basis of the interaction between the BRICS IP Offices be developed, and should include the areas of possible cooperation. This should also include identifying the benefits of such cooperation and collaboration. Tele/Video Conferences should be held to take this process forward;
- This plan should be submitted to the BRICS HIPO for consideration;
- BRICS HIPO should gather in South Africa after the BRICS Heads of States/Government Meeting for an inaugural meeting of the BRICS HIPO;
- BRICS IP Offices should continue to also engage in bilateral meetings to ensure mutually beneficial cooperation.

The focal points were identified in this meeting and were tasked with fulfilling the four points identified above.

3. Outlook of the Offices

BRICS countries are the developing countries that are fast growing and bear significant influence in the international affairs. They have a combined estimated population of above 3 billion (43% of the global population) people, a combined estimated GDP of US\$14.9 trillion, and an estimated US\$4trillion in foreign reserves. This counts for a significant proposition of the world population and economy. With the rapid growth of the economies in all the five BRICS countries, it is evident from the WIPO 2012 World Indicator Report that some substantive progress in the field of IP has been achieved in these countries while their influence on the global IP undertaking has been significantly enhanced.

During the year 2011 the number of patents filed increased by 7.8% across the world and China accounted for the biggest share of the patents filed. In fact between 2008 and 2011, the share of China in world total filings considerably increased for each of the forms of IP. In 2011, China received 526,412 patent applications compared to 503,582 for the US and 342,610 for Japan. The growth in patent filings in China was mostly due to substantial growth in resident filings. Between 2010 and 2011, Chinese resident filings grew by 41.9%, while the Republic of Korea and the US saw resident filings grow by 4.7%, and 2.4%, respectively. Between 2009 and 2011, patent filings worldwide grew by 293,900. SIPO was the main contributor to growth in patent applications worldwide – accounting for 72% of total growth. China's contribution to overall growth has increased in recent years. By the same token between 2010 and 2011 South Africa experienced an increase of 13.5% in patent filings making it number 3 in terms percentage growth in the world after China and China Hong Kong in 2011. Within the BRICS IP offices, Brazil, South Africa and India seem to be granting most of their patents to foreign applicants.

In relation to the Industrial Designs the world saw a growth of 16% mainly influenced by the growth in Chinese applications. They accounted for 90% of the industrial designs total growth between 2009 and 2011. Between 2010 and 2011, the IP offices of China (23.8%), India (16.7%), Mexico (17.2%), Turkey (17.6%) and Ukraine (17.5%) each saw substantial growth in filings. Further in the BRICS group China, Brazil, and India have a significant percentage of industrial designs applications is filed by domestic applicants. Similarly South Africa is mentioned as one of the countries that received a higher number of applications in 2011 despite majority being foreign applications (60%). This is important for BRICS as it would be a demonstration of the stimulation of innovation in these countries which the BRICS IP Offices may be interested in exploring. India, Russia and China also saw a faster increase in the BRICS group in terms of foreign filing patents by its residents.

Similarly in 2011 trade marks filings globally increased by 13.3% according to the 2012 World Indicator Report and again China was the top contributor in this regard. In Comparison with 2010, the trade marks application filings by Class Count grew by 9.6% in 2011 and China remained the major contributor of filings accounting for 61.8% of the total growth. India has also seen some significant growth in trade mark filings in the past few years, surpassing the Korean Office in 2011. India saw its growth on trade marks filings double during this period. In 2011 Russia also demonstrated 35% increase in the number of Madrid applications filed by Russian nationals.

It is evident from this brief outlook that the BRICS IP Offices are beginning to take their place in the world IP space based on the WIPO data and analysis. It is of great importance that the BRICS IP offices begin to review their influence in the world IP space and seek ways to leverage on this advantage for the BRICS IP Offices, as well as the improvement of the role of IP in emerging economies.

4. Cooperation Streams

During the various discussions held between the Focal Points of the various BRICS IP Offices regarding the roadmap and the possible areas of cooperation, the following were identified:-

- Training of Intellectual Property Office Staff;
- IP/Patent processes and procedures including, search, classification and translation services;
- Promotion of public awareness on IP in BRICS countries;
- National IP Strategy and IP Strategy for enterprises;
- Information services on IP, e.g. exchange of patent documentation, taking account of local legislation;
- Collaboration in International Forums as required and subject to consensus;
- Examiner exchange programme;

In identifying these areas it is acknowledged that the various IP Offices may have different legislative frameworks, policies, procedures and priorities and as such these areas may not necessarily be in the order of importance or be prescriptive in nature. It is anticipated that these areas will give a sense of the broader areas of cooperation that the member countries may wish to explore. For the purpose of this document these areas will be known as cooperation streams.