



**ASIA-EUROPE**  
FOUNDATION

## CULTURES & CIVILISATIONS DIALOGUE

### “8<sup>th</sup> ASEF Talks on the Hill”

#### **Re-righting Intellectual Property: Economic and Social policy challenges in Asia and Europe**

7-9 May 2006

The 'Cultures & Civilisations Dialogue' programme <http://www.civdialogue.asef.org> was established in 2003 by the ASEF Department for Intellectual Exchange with the realisation that many **cultural and civilisational issues** need to be addressed in promoting greater understanding between the two regions of Asia and Europe. This programme facilitates leaders of civil society and government meeting, interacting and engaging with one another and with audiences in the opposite region.

The “Talks on the Hill” series under this programme brings together 13-15 expert activists, journalists, academics and policymakers to discuss and brainstorm issues of pertinence to the two regions in an open, frank and intense manner. For this reason, “Talks on the Hill” are closed to the media (*please see our Ground Rules for further details*). **The aim of this meeting series is to contribute to a better understanding of key issues on the topic and by doing so, to come up with real and useful policy-oriented recommendations that may be disseminated to the various governments of the ASEM process.**

The 8<sup>th</sup> ASEF Talks on the Hill will be organised from the 7<sup>th</sup>-9<sup>th</sup> May 2006 on the topic of “**Re-righting Intellectual Property: Economic and Social Policy challenges in Asia and Europe,**” at the Asia-Europe Foundation in Singapore. Beginning with an overview of the philosophical and economic rationale behind the development of intellectual property rights, the meeting will go on to discussing the pertinent issues faced by the countries of ASEM at the level of regional and international institutions. A further case study on the specific issues of intellectual property in the health care sector will practically examine the clash that can occur between sometimes opposing priorities and goals. Finally, this meeting will discuss concrete questions related to the implementation and enforceability of intellectual property across various countries, focusing on both economic and political challenges as well as cultural perceptions and beliefs of the population that need to be recognised in the incorporation of intellectual property law and policy into various societies.

#### **Background and Purpose**

Intellectual property policy is concerned with the design, implementation and enforcement of a system of legal devices commonly referred to as “intellectual property rights.” These legal devices take a number of different forms, including patents, copyrights and related rights, industrial designs, trademarks, trade secrets, plant breeders’ rights, geographical indications and rights to layout-designs of integrated circuits. Most commonly, discussions on intellectual property centre on patents and copyrights<sup>1</sup>.

As one of the most debated topics in international politics and trade, intellectual property rights is increasingly moving out of the realm of specialists and business and into mainstream political, economic and social discourse. However, conflicting views on the

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<sup>1</sup> UNCTAD-ICTSD Project on IPRs and Sustainable Development. *Intellectual Property Rights: Implications for Development*. August 2003

benefits of intellectual property exist, especially in discussions about the impact that the now global intellectual property regime has on less developed countries. In addition, some groups in developed countries that have traditionally strongly supported intellectual property regulation are questioning the use of intellectual property as an economic tool for protectionism. The careful balance that is necessary in formulating intellectual property law and policy while balancing the needs of the society, vulnerable groups such as the poor and indigenous peoples, economic interests and other stakeholders makes this an inherently political exercise.

### **Philosophical and Economic rationale behind Intellectual Property Rights**

Ideas and rationale behind intellectual property rights first surfaced centuries ago, but increased attention to this topic has intensified particularly in the 19<sup>th</sup> Century as Europe and the United States went through periods of rapid industrialisation.

Traditionally, both philosophical and economic arguments have been used in the justification of intellectual property rights. Philosophically, it may be argued that intellectual property rights benefit society by providing an incentive for invention and innovation. Economically, the main issue is that useful knowledge or culturally enriching works are likely to be expensive to produce and market as well as difficult to control in a competitive market. Further, there can be no incentive for either individual or corporate investment in research and development without some security over the potential benefits or profits. How has the intellectual property regime evolved? Who are the major actors and which interests do they serve?

Ideas, opinions and views on the subject however differ widely. In some areas, this subject has become politically and economically contentious – especially in discussions on public health, food security, traditional knowledge and the entertainment and media industries. What are the main controversies in these areas? Is there scope for alternative understandings and opinions on the current state of intellectual property?

### **National, Regional and International regimes of Intellectual Property Regulation**

Intellectual property policy has now acquired global relevance and has permeated strongly into the spheres of trade and politics. Arguably, the most significant change has been the entry into force of the WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), but numerous other agreements, treaties and other political and economic products exist at national, regional and international levels. Most countries are involved in this global system of intellectual property regulation.

Projecting intellectual property rights onto the international arena, has the proliferation of regulation at regional and international levels constrained the policy “space” available to countries in devising and implementing intellectual property policies that are supportive of their individual goals? What are the major points of contention between countries of ASEM and the relevant regional and international organisations?

### **Case Study: Intellectual Property in the Health Care sector**

Issues of health care and intellectual property rights, particularly with regards to access to essential medicines is perhaps one of the more controversial policy areas of intellectual property. In particular, pharmaceutical companies have been heavily criticised for high prices of life-saving medicines and using patents to prevent cheaper generic drug productions or import of cheaper drugs. There has also been criticism for not investing as much research and development into diseases that affect the poor.

On the other hand, many international organisations and pharmaceutical companies have countered that much is being done to ensure the fair access to essential medicines. Further they argue that problems of access of essential medicines are often the result of socio-economic factors in affected countries rather than high prices of medicines. Using this case study, the meeting will seek to draw out the main philosophical as well as practical issues in intellectual property rights. Ethical as well as practical issues will be discussed in the challenge of finding a balance between various priorities and needs.

## **Protection, Enforceability and challenges in the implementation of Intellectual Property**

Political, business and other major players have recently intensified calls for the increased enforcement of intellectual property and in fact, “for a global war on intellectual property piracy<sup>2</sup>.” In particular, several Asian countries are often singled out for mention in having particularly lax in prioritising the enforcement of intellectual property.

At a practical level, what is at stake when calling for greater enforcement of intellectual property – particularly in less developed countries? How much is the underground economy in counterfeit goods worth? At a cultural level, how do cultural attitudes and beliefs determine the success of intellectual property regulation in the various countries? How can these aspects be harnessed in order to better address the issues faced in the enforcement?

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### **TARGET PARTICIPANT GROUP:**

There will be 13-15 participants at the meeting, including legal experts, policymakers, activists, academics and journalists.

### **CONTACT INFORMATION**

#### **Bertrand Fort**

Director  
Intellectual Exchange  
t: +65 6874 9706  
f: +65 6872 1207  
e: [bertrand.fort@asef.org](mailto:bertrand.fort@asef.org)

#### **Sohni Kaur**

Project Executive,  
Intellectual Exchange  
t: +65 6874 9709  
f: +65 6872 1207  
e: [sohni.kaur@asef.org](mailto:sohni.kaur@asef.org)

#### **Asia-Europe Foundation (ASEF) 31 Heng Mui Keng Terrace**

Singapore 119595  
<http://www.civdialogue.asef.org> | <http://www.asef.org>

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<sup>2</sup> Address by Jean-Rene Fourtour, CEO of Vivendi Universal and Chairman of the International Chamber of Commerce to directors representing pharmaceutical, media and software multinationals at the United Nations in October 2004.