

Intellectual Property Rights in the Tri-Border Area of South America

**A Private Sector Initiative
Promoted by the
Transatlantic Business Dialogue IPR Working Group
A business government dialogue**

18 – 19 September 2008
Puerto Iguazu, Misiones Province, Argentina

Scene setter – IP Protection and Enforcement in a Borderless World

There is increasing agreement that concerted cooperation between governments and the private sector is necessary to reduce the incidence of counterfeiting and piracy of intellectual property-protected goods. Tackling IP theft is a significant public policy issue for business and is among many governments' international economic policy priorities. Both the United States and the European Union have programmes to prosecute IP-related offences in their own jurisdictions and to provide expert assistance to developing countries to improve their IP enforcement efforts.

There are numerous private sector, trade association, national and international government organisation (IGO) initiatives currently in place but many of these focus either on broad global policy concepts and / or short term capacity building activity. This initiative would supplement existing joint public private partnerships and seek to set in place new milestones and actions supporting a long-term, practical and integrated approach to the three pivotal areas of IP enforcement - judicial and legal best practice, investigation and forensics, and best practice on financial sanctions and remedies for the illegal proceeds from contraband and piracy - within a specific regional context. Related to these areas is the focus of capacity supports available from government and the private sector. This is a private sector initiative designed to explore these three main pillars by stimulating creative discussions, identifying innovative application of legislation and identifying best practice

Originally the idea of the late U.S. Secretary of Commerce Ron Brown, the TransAtlantic Business Dialogue (TABD) was conceived to promote closer commercial ties between the U.S. and European Union. Brown, together with his counterparts in the European Commission, Martin Bangemann and Sir Leon Brittan, created the dialogue system as a mechanism to encourage public and civil society input to fostering a more closely integrated transatlantic marketplace. The dialogue system, which now includes separate dialogues for consumers and legislators was a key part of the governments' 1995 New Transatlantic Agenda (NTA), which laid out a plan to enhance overall transatlantic economic and political relations. The TABD is Co-chaired by a US and European CEO leading an Executive Board of another 29 CEOs and/or chairmen representing major American and European companies with strong transatlantic credentials, who together make up the membership of the TABD. The current Co Chairs are James Quigley, CEO of Deloitte Touche Tohmatsu, and Jürgen Thumann, Chairman of Heitkamp & Thumann Group

TABD supports creation of new public-private partnerships to jointly address the counterfeit problem at the source and throughout the supply chain. Given the magnitude of the counterfeiting and piracy problem and the threats posed to consumers, companies and societies as whole, joint action is also needed to raise public awareness of the dangers associated with the trade in counterfeit goods. TABD has already played an important role in focusing high level US–EU political attention on the issue through its traditional channels of activity. As a consequence, governments on both sides of the Atlantic have been more willing to devote greater attention to the problem and work cooperatively with third countries to address the causes and effects of illicit trade and production. They have indicated their support for this initiative.

The TABD has identified Latin America, and particularly the tri-border area as the geographic focus for the first in what it hopes will be a series of similar, regionally focused initiatives for the

IPR Working Group. The aim is for the roundtable dialogue with government to be a pilot for possible future events.

The tri-border area

TABD members are active in the tri-border area, directly and through associated companies and subsidiaries and have close hand experience of the effects of counterfeiting and piracy in distorting product markets, undermining both commercial and consumer interests. They also have experience of co-operating with law enforcement agencies and governments to support the capacity and capabilities needed to deal with the challenge. The United States has MOU arrangements in place with Paraguay which establish a basis for co-operation towards the achievement of clear goals by Paraguay in improving its IP laws and enforcement regime. Bilateral dialogue also takes place between the US and both Argentina and Brazil on IPR matters. Negotiations have been underway between Mercosur and the EU towards an eventual agreement on trade and related matters including IPR and protection. Both the US and the EU provide technical support and assistance to Paraguayan agencies to help them improve their enforcement efforts.

TABD focus on IPR and IPR enforcement

TABD has an important role to play in helping to elevate the discussion of IP rights enforcement in the tri-border region to global business leaders and to senior political levels in the US and EU.

TABD has focused consistently on the importance of IPR and IPR enforcement to EU and US economies and companies alike. Its latest recommendations to the 2008 EU US summit, including those on counterfeiting, were delivered to the summit leaders in June 2008 and can be seen at www.tabd.com.

In the context of the newly constituted Transatlantic Economic Council, the agreed Framework for Advancing Economic Integration (including specific focus on IPR enforcement) and the TABD's role within it, delivery of an event with an associated roadmap on IP enforcement would help build credibility amongst stakeholders.

Objectives of the TABD/Private sector sponsored IPR Enforcement Dialogue

The Roundtable dialogue would aim to achieve several things:

- Bring government officials from Brazil, Paraguay, Argentina, Uruguay, US, and EU together with sponsoring business representatives to build more effective contact networks to combat criminality, corruption and IP rights violations in the region.
- Identify the essential elements for an effective IPR enforcement programme from an industry perspective.
- Examine industry's current efforts in IP rights enforcement in the context of criminal laws, asset forfeiture and seizure and identify successes and gaps in these efforts in Latin America with an emphasis on the tri-border area.

- Identify gaps and brainstorm ways of bridging these, identify “Best Practice” and innovative methods to improve enforcement of IP rights.
- Underline the value of IP and its protection as a platform for innovation and national development.
- With the help of the roundtable moderator to produce a declaration at the conference which would be developed with delegates over the course of the roundtable capturing the course of future actions agreed at the conference. The declaration would itself become a milestone.
- Agree on milestones for further engagement between the dialogue partners and relevant governments, authorities and IGO’s seeking to leverage the content and outcomes of the roundtable.
- To publish the declaration of the conference containing the agreed milestones and agreed responsibilities going forward that could lead to progress in the focus areas

Deliverables

Presentation of a declaration from the conference parties and the creation of a working document with actions agreed for private public sector collaboration

Identification of and agreement on areas for technical assistance within areas such as legislation, financial measures, forensic awareness application, and information exchange

Agreement among participants - governments and donors - to include local business and foreign investors in developing and implementing IP enforcement programmes on further forms of co-operation. This agreement could take any of several forms – a roadmap, a joint statement or a declaration which could in the future lead to a formal agreement or MOU – but as a minimum would provide for a role for business in providing and exchanging information, supply chain expertise, and know-how in IP enforcement.

The consolidation of working coordination mechanisms for the industry to coordinate on IP enforcement programs with Brazil, Argentina and Paraguay.

Dress code: Smart/Casual

Annex A

Outline Programme

Working title:	Intellectual Property Rights in the Tri-Border Area of South America
Venue:	Sheraton Hotel,, Puerto Iguazú, Misiones Province, Argentina
Date:	Booking secured for 18 – 19 September 2008
Audience:	120 (max) drawn from Tri-border, EU and US agencies
Participation:	By invitation only
Tone:	The event is intended to be mutually beneficial, cooperative, action-oriented partnering and about securing long term commitments from all participants.
Core Themes:	<ol style="list-style-type: none">1) judicial and legal best practice2) investigation and forensics3) best practice on financial measures and remedies for the illegal proceeds from contraband and piracy4) Capacity Building
Issues to address:	What is the current regime? What works well? What can be improved? What are the barriers to success? Defining success within a timeframe. What can the TABD / Industry do to assist? The role of incentives and penalties.
Guest Speakers:	To be confirmed – see provisional roundtable agenda
Rapporteur/ Moderator:	President Elect International Trade Marks Association (INTA), Richard Heath (TBC)
Organised by:	The TransAtlantic Business Dialogue and the private sector

Dialogue agenda

Wednesday September 17th

- 16:00 -18:00** **Optional visit to Falls**
- 19:30 - 21:30** **Welcome**
Dinner: sponsored by Baker & McKenzie

Thursday September 18th - Day 1 - Border enforcement and forensics

Dialogue Moderator and Day 1 Chair: Richard Heath, Unilever, President Elect International Trade Marks Association (INTA), United Kingdom

- 08:15 - 08:45 **Coffee and registration**
- 09:00 – 09:25 **Welcome remarks** and explanation of objectives and conference process from Giulia Di-Tommaso, Chair TABD IPR Working Group, Belgium
- 9:25 – 10.25 **The global IP enforcement agenda – Overview** Government experts - Luc Devigne , DG Trade, European Commission, Wayne Paugh , US Department of Commerce.
- 10.25 – 10:55 **Regional Overview** – Mauro Brito, National law Enforcement Coordinator Brazil; Adrian Massaro, Procter and Gamble, Argentina
- 10.55 – 11:10 **Coffee**
- 11:10 – 11.40 **The Present and Planned Legislative and Legal Regime in Counterfeiting and Piracy in tri-border countries** - Hugo Mersan, President, Paraguayan Association of Trademark agents, Paraguay; Roberto Porcel, Undersecretary of Planning, Province of Buenos Aires, Argentina
- 11:40 – 12:30 **Border Enforcement in Tri-border Area and Trans-shipment from other countries in Latin America** - Carlos Javier Troche Piñarez, Deputy Customs Director, Paraguay; Mr.Salvo, Customs Director, Uruguay (TBC); Mr. Fabián Di Risio, IPR Specialist Customs Director, Argentina; Bernard Malone, Baker & Mckenzie, Argentina (TBC)
- 12.30 – 14:00 **Lunch**
- 14:00 - 14.30 **Challenges in Border Enforcement in the EU – Common Ground, Shared Solutions?** – John Taylor DG Taxuid, European Commission, Belgium

- 14:30 – 15.30 **Forensic Methodology** - Roberto Manriquez, International Criminal Police Organisation (Interpol), Lyons, France, Roger Berrett, forensic expert formerly Scotland Yard Laboratory, UK.
- 15:30 – 15.45 **Coffee served in breakout groups**
- 15:45 – 16:45 **Break-out Groups on industry's views on what works and what does not in each issue**
- 16:45 – 17:30 Feedback from Break out groups and Moderator summary of Day 1 proceedings
- 17:30 **Close Day 1**
- 19:30 – 21:00 **Cocktails**
Dinner: sponsored by Baker & McKenzie
Remarks from Giulia Di-Tommaso, Chair TABD IPR Working Group

Friday September 19th - Day 2 - Financial measures and remedies

Dialogue Moderator and Day 2 Chair: Toe Su Aung, British American Tobacco, Head of Intellectual Property, United Kingdom

- 08:15 – 08:55 **Coffee**
- 08:55 – 09:05 **Introduction** from Day 2 Chair Toe Su Aung, British American Tobacco, TABD IPR Working Group, United Kingdom
- 09:05 – 09.35 **Civil Proceedings - Asset Tracing / Financial Investigation/ Asset Recovery – A View from the region:** Arnaldo Giussio Anti corruption Prosecutor, Paraguay, Paraguay; Mr José Mauro Pinto Nunes, Federal Police, Brazil.
- 09.35 – 10.05 **Civil Proceedings - Asset Tracing / Financial Investigation/ Asset Recovery –** Emilio Garcia, Regional coordinator IFPI, Miami, United States; Todd Sharinn, Harris Beach, New York, USA.
- 10.05 – 10.20 **Coffee**
- 10:20 – 11:05 **Technical Assistance Capabilities – government and private sector** Matthew Ward, De La Rue Security Print International, United Kingdom; Jeffries Briginshaw, TransAtlantic Business Dialogue, Brussels, Belgium.
- 11:05 -12:30 **View from Industry – Impact on brand owners - Panel with company and business organisation representatives:** Pat Heneghan, BASCAP and British American Tobacco, United Kingdom; Fernando Henrique, Crop Life International, Brazil , Maria Tereza Machado, Cisco, Argentina.
- 12:30 – 13:30 **Lunch**

- 13:30 – 14:15 **Panel discussion on administrative Remedies in the region** – what works and what does not: - Mr Martin Heisecke, Minister Designate for Industry and Commerce, Paraguay; Carlos Gonzalez Ruffinelli(IP Director – Paraguay) Josemauro Nunes, Federal Police Brazil , Marcelo Garcia Sellart,Beiersdorf, Argentina
- 14:15 -15:00 **Panel discussion on Criminal Remedies** in the region – what works and what does not: Mrs. Carmen Cattoni, Senior Special IP Unit Prosecutor Attorney, Paraguay; Mr Eber Ovelar, Senior Special IP Unit Prosecutor, Ciudad del Este, Paraguay, Juan Carlos Tesoriero - Federal Prosecutor of Posadas - Misiones Province, Argentina, Roberto Manriquez (Interpol), France.
- 15:00 -15:30 Coffee served in breakout groups
- 15:30 – 16:45 **Break-out Groups - Where to now?**
- 16:45 – 17:30 **Feedback from working groups and plenary discussion**
- 17:30 – 17:45 **Conference conclusions and next steps:** Richard Heath (Unilever,INTA); Giulia Di-Tommaso (Unilever), Toe Su Aung (British American Tobacco)
- 18:00 **Close**
- 20:00 – 22:00 **Dinner**

Saturday September 20th

- 08:00 -10:00 **Optional visit to Falls**

Notes