

# Commonwealth Framework of Co-Operation on the Enforcement of Intellectual Property Rights



The Commonwealth

Office of Civil and  
Criminal Justice Reform

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# Introduction

Intellectual property rights are rights conferred by law in relation to certain defined categories of industrial, scientific and cultural creativity. The principal policy objectives of intellectual property rights are to provide an incentive for innovation through the creation of a limited period of commercial exclusivity during which research and development costs can be recovered, as well as to create a legal infrastructure to encourage technology transfer.

Intellectual property rights are of crucial importance for modern businesses. They serve not only to make research and development attractive, but are also of increasing importance as tradeable assets and as security for investment. Copyrights and patents play an important role in research-heavy industries, and this can be seen through the ever-increasing rise of intangible assets within business portfolios.

Piracy and counterfeiting of intellectual property have a number of effects including loss of sales for enterprises, loss of tax and excise revenue for governments, reduced foreign investment due to concerns by investors that intellectual property produced in a jurisdiction may be stolen, distortions in enterprise competition, employment effects, damaging and dangerous consequences for consumers, and public security challenges due to the involvement of organised criminal groups in counterfeiting and piracy and associated money laundering of proceeds of crime.

Commonwealth Law Ministers will recall the Resolution on counterfeiting and piracy which was passed at their last Meeting in 2005 in Accra. In that Meeting, they requested the Secretariat to examine and develop a Commonwealth response to concerns about the growing problem of counterfeiting and piracy.

The Commonwealth Framework of Co-operation on the Enforcement of Intellectual Property Rights represents a non-binding framework that seeks to promote informal co-operation between Commonwealth Member States by developing and sharing best practices and experiences in anti-counterfeiting and piracy activities. The Framework is also a representation of the consensus position of member countries in the arena of enforcement of intellectual property rights and a realistic effort to promote activities in the Commonwealth that strengthen country capacity in combating counterfeiting and piracy.

# Background

At their meeting in October 2005, held in Accra, Ghana, Commonwealth Law Ministers requested Senior Officials and the Commonwealth Secretariat to examine the development of appropriate responses to piracy and counterfeiting of intellectual property.

A draft Framework of Co-operation on the Enforcement of Intellectual Property Rights was presented to Senior Officials of Commonwealth Law Ministries and Law Ministers of Small Jurisdictions at their respective meetings in October 2007.

Both Law Ministers and Senior Officials decided that the Framework should not contain binding obligations in view of pre-existing obligations under other relevant international agreements. These included obligations under various multilateral, regional and sub-regional Agreements, and World Trade Organisation agreements to which member states are already parties.

Following the October 2007 Meetings, a revised draft Framework was prepared and circulated to member countries for comments and responses by April 2008. Responses were received from Australia, Belize, Malaysia, Cameroon, Canada, Singapore and the United Kingdom.

The revised Framework was considered and adopted by Commonwealth Law Ministers at their meeting held 7 to 10 July 2008 in Edinburgh. At that meeting, Law Ministers noted that the Framework contained practical measures for cooperation in the area of intellectual property rights and allowed room for sufficient flexibility.

# Commonwealth Framework of Co-operation on the Enforcement of Intellectual Property Rights

The Governments of the Member States of the Commonwealth:

**RECOGNISING** the important role of intellectual property rights in the conduct of trade and the flow of investment;

**DESIRING** to foster closer informal co-operation in the field of intellectual property enforcement and related fields in order to provide a firm basis for economic progress;

**RECOGNISING** the value of closer co-operation and understanding amongst Member States of the Commonwealth in the field of intellectual property enforcement;

**HAVE PROPOSED AS FOLLOWS:**

## Part 1: Objectives

1. To look for areas of co-operation in the field of intellectual property enforcement through an open and outward looking attitude, with a view to contributing where necessary to the promotion and growth of global trade liberalisation.
2. To encourage co-operation in the field of intellectual property enforcement among government agencies and the private sectors and professional bodies of Member States of the Commonwealth.
3. To explore appropriate intra-Commonwealth co-operation in the field of intellectual property enforcement, in order to enhance Member States' solidarity as well as the promotion of technological innovation and the transfer and dissemination of technology.
4. To consult on the development of Member State intellectual property regimes with a view to developing best practices and maintaining Commonwealth norms which conform with international standards.

## Part 2: Principles

1. Member States of the Commonwealth agree to abide by the principle of benefits in the implementation of measures or initiatives aimed at enhancing Commonwealth intellectual property enforcement co-operation, whilst also recognising the different levels of economic development of Member States.
2. Member States of the Commonwealth, being mindful of the international conventions on intellectual property rights and international treaties to which they are parties, and the international obligations and flexibilities assumed under the provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), seek to work towards intra-Commonwealth intellectual property standards in a manner in line with the objectives, principles, and norms set out in such relevant intellectual property conventions and treaties and the Agreement on TRIPs.

## Part 3: Scope of Co-operation

1. Subject to the domestic laws, regulations and national policies of each Member State of the Commonwealth, co-operation includes, inter alia, civil, criminal and administrative enforcement of intellectual property rights.
2. Co-operative activities aim to strengthen the intellectual property administration and to enhance co-operation in intellectual property enforcement and protection in Member States of the Commonwealth.
3. Co-operative activities include, inter alia:
  - 3.1 Activities to enhance intellectual property enforcement and protection such as:
    - (a) co-operation between enforcement authorities;
    - (b) networking of judicial authorities and intellectual property enforcement authorities; and
    - (c) the exchange of information relating to intellectual property legislation and case law concerning intellectual property.
  - 3.2 Activities to promote human resources development such as:
    - (a) networking of intellectual property training facilities or centers of excellence on intellectual property enforcement; and
    - (b) exchange of intellectual property enforcement personnel and experts.
  - 3.3 Activities to promote public awareness of the impact of counterfeiting and piracy.
  - 3.4 Activities to promote public and private sector co-operation in intellectual property enforcement.
  - 3.5 Exchange of information on best practices between enforcement authorities on intellectual property issues.
  - 3.6 Other co-operative activities as determined by Member States of the Commonwealth.



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