



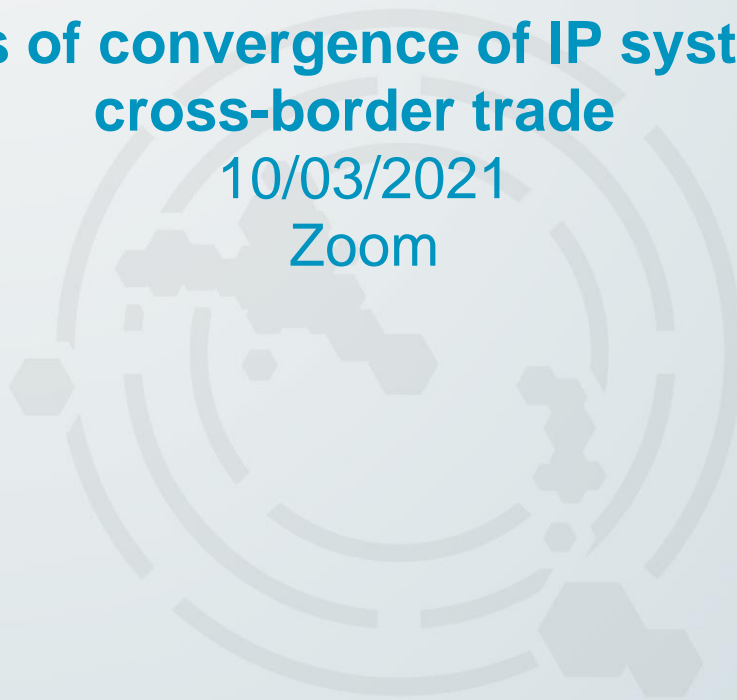
SUMMARY OF PRESENTATIONS



Benefits of convergence of IP systems for cross-border trade

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Zoom



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All presentations can be downloaded [here](#); video recordings (with subtitles in ES, FR, and NL) will be available in due course under the same link.

1. Relevance

The IP frameworks in the different CARIFORUM States (CS) are largely heterogeneous, providing diverse levels of IPR protection and enforcement for businesses seeking to trade in these countries. Under the current diverse territorial IPR regulations in CS, businesses seeking to expand in the region and investors are forced to protect their IPRs on a country-by-country basis. Harmonisation and alignment of IP laws and practices is expected to benefit businesses expanding in the region. Convergence can be gradual, starting with use of similar IT systems and databases and progressing to the alignment of forms, formalities and examination practices, alignment of legislative frameworks and ultimately the creation of regional IP rights and/or IP offices which could co-exist with national rights and bodies. Regional IP systems would reduce cost of doing business and provide legal certainty when trading across national borders and ultimately benefitting MSMEs. The major international IP treaties administered by WIPO benefit international trade and contribute to harmonisation of IP issues across borders. They generate the minimum required convergence that facilitates international trade on products and services involving IP. Only a few CS have acceded to some of these treaties.

Policy makers have encouraged regional convergence and harmonisation of IPR through:

- EU-CARIFORUM Economic Partnership Agreement: Art. 133 and Art. 141
- Revised [treaty of Chaquaramas](#) establishing the Caribbean Community
- Most recently: WIPO Ministerial - Level Meeting on Intellectual Property for Caribbean Countries was held in July 2018 in St. Lucia and included consideration of strengthening and advancing of a harmonized Regional IP System relative to:
 - i. Patent administration – negotiations on Caribbean Patent Convention to be completed
 - ii. Traditional knowledge, traditional cultural expressions and genetic resources – national consultations to be completed on draft text for the establishment of a regional framework for the protection of TK, TCE and GR to advance consideration

2. Highlights - [Presentation 1: CarIPI Overview](#)

Why regional integration?

- Intellectual Property Rights are territorial BUT business and trade flows are globalized
- Different legal frameworks, different procedures, forms and practices result in higher costs for protection and create barriers to regional trade, particularly for MSMEs
- Several international agreements aim to generate minimum common denominators, others even create global protection systems, e.g. Madrid System for the International Protection of Trade Marks, the Hague System for the International Protection of Designs
- Regional IP rights and systems are also gaining importance: in Africa (ARIPO, OAPI), Europe (Benelux, EUIPO and EPO), Eurasia (EAPO), ASEAN countries are conceptualizing a system.

[CarIPI](#) contributes to convergence by supporting:

- CS IPOs to offer more services online in the same form as many other IPOs worldwide (classification, searches, filing) – via joining:
 - ✓ TM Class, TM View, Design Class, Design View, ...
- Efforts to join or implement international treaties:

- ✓ Madrid Guide for entrepreneurs AG and TT
- Implementation of registration frameworks, following good practice in the region:
 - ✓ E.g. Plant Varieties in DO, and soon in VG
- CS IPOs in aligning their practice on aspects not dictated by the law (practice):
 - ✓ Manuals, guidelines, common practices
- CS in modernizing IP laws based on countries' policy decisions:
 - ✓ E.g. Draft model law on GIs including regulations and forms
- Deeper integration efforts – creation of regional rights / competencies, if requested:
 - ✓ Sharing know-how, technical assistance, studies

3. Highlights - Presentation 2: Experience of CF businesses trading across the region

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Trade Mark Registration Process

- A large Caribbean company may instruct an international IP law firm to register its TMs in export markets; these law firms have relationships with other IP law firms around the world and can instruct them on behalf of the company which own the TMs to be registered
- This approach addresses:
 - large volume of the work to be undertaken coupled with limited resources locally
 - the language barrier in some of the territories where the marks are to be registered and
 - lack of knowledge of the requirements where the TMs are to be registered
- However, hiring such a law firm adds a significant layer of cost to each registration
- For other TMs to be registered within the Caribbean, relationships can be established with law firms in each territory and these firms instructed to make the applications

Challenges:

- *Involvement of separate law firm in each territory where a TM application is to be made*
- *The TM registration requirements vary between territories*
- *To apply for TM registration you are typically required to authorize an attorney to act as the Agent of the owner of the TM and to complete an Application Form*
- *Although the required information is very similar across territories, forms can be different*
- *The TM registered may not be standard across the territories*
- *Due to varied registration processing times, there may be significant differences in registration dates for a single TM registered across territories (difficult to keep track of the renewal dates)*

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4. Highlights - Presentation 3 – Example of the Eurasian Patent Organisation

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- International Intergovernmental Organization, founded in 1995 in accordance with Eurasian Patent Convention administering the Eurasian Patent System; currently covering only patents, but Industrial Designs will be added to the portfolio this year;
- Member States (MS): Armenia; Azerbaijan; Belarus; Kazakhstan; Kyrgyzstan; Russian Federation; Tajikistan; Turkmenistan
- Eurasian Patent: 1 application, 1 language, 1 set of fees, 1 examination, 1 attorney → covering 8 member states; it is valid in all MS directly after grant; no additional actions required (e.g. national examination, validation, provision of translations etc.); patent owner chooses MS for maintenance by payment/non-payment of maintenance fee for a particular MS

A regional system is beneficial to all:

- *Applicants: legally solid patents, easier and cost-effective coverage of several countries, easier access to regional and national markets*
- *National IP Systems, IP offices: make use of maintenance or term extension fees, use common IT tools, participate in assistance and cooperation programs, trainings, obtain advisory support*
- *National Economies: boost in the number of inventions and designs protected - paves the way for innovative technologies and new products, fosters development of trade*

5. Highlights - Presentation 4: African Regional Intellectual Property Organisation (ARIPO)

- Based in Harare, Zimbabwe, ARIPO was created by the Lusaka Agreement, signed on 9 December 1976 and now has 20 MS, with 8 more potential members
- Objectives: promotion, harmonisation, development of IP/IP systems for the benefit of its MS
- 3 main areas: Industrial Property Rights; Copyright and related rights, Traditional Knowledge (TK), Expressions of Folklore (EoF), and Genetic Resources (GR).

Advantages of the ARIPO systems for the users:

- *Applicant(s) can file application(s) either with the national office of a MS or directly with ARIPO*
- *Applicant can choose some or designate all MS*
- *Application is in one language (EN) for all designated states*
- *Applicant pays fees in one currency US dollars*
- *Applicant (where necessary) engages only one agent*
- *Centralized processing, grant and renewal: low costs compared with individual filings*
- *During processing, ARIPO application can be converted into a national application without losing the filing date*
- *ARIPO system is simple, cost effective and user friendly*

Challenges:

- *Lack of centralized TM examination: each MS carries out its own substantive examination which causes delays and duplication*
- *Need for harmonization of national laws*
- *Lack of common territory and jurisdiction*
- *Slow accession/ratification by MS*
- *Slow domestication by some contracting states*

6. Highlights - Presentation 5: European Intellectual Property Office (EUIPO)

- The EUIPO (OHIM back then) was created in 1994, to grant trade marks valid across the EU territory; Industrial Designs were added later to its portfolio as well as Observatory tasks, international cooperation, and others.
- EUIPO has been nominated several times as the most innovative IP Office by World TM Review

The EU Trade Mark and Design systems:

- 2 main ways to register a Trade Marks and Designs in the EU
 - national trade marks / designs,
 - EU Trade Marks (EUTM) / Registered Community Designs (RCD)
- National and EU rights and IP Offices coexist and are complementary to each other (the same TM/DS can be registered at EU and/or national level)
- The EUTM/RCD system consists of 1 single registration procedure that grants the owner an exclusive right in all 27 EU countries

Without these systems, TM/DS would have to be registered in every country separately, paying 27 different fees, dealing with 23 different languages, 27 different filing dates & practices. The EUTM and Design Systems are assessed regularly in relation to efficiency, effectiveness, relevance, coherence and EU added value.

- EUIPO is assisting the 10 ASEAN countries in conceptualizing the creation of a regional system, most recently via a study which is about to be released.

7. Highlights - Presentation 6: Experience of a micro enterprise from the EU

As an entrepreneur, Rachel had to experience how her trade mark was infringed, her copyright stolen, her design infringed and her product copied and sold on major online marketplaces. She fought back fiercely and later founded SnapDragon, a brand protection company with a mission to combat counterfeiting in the marketplace. Highlights:

- *The importance of registering your IP in your target markets; only this will give you the necessary weapon to fight against counterfeit and infringement*
- *The benefit of regional systems like the EUIPO's where a business can achieve a single right valid in many countries with one registration; the benefit of international systems (i.e Madrid)*
- *The importance of monitoring IP rights and act on infringement (i.e. major online marketplaces)*
- *Studies at EU level found: That SMEs with registered intellectual property rights (IPRs) are 21% more likely to experience a subsequent growth period, and 10% more likely to become a high growth firm. Additionally, those with bundles of IPRs are even more likely to achieve high growth.¹*

¹ <https://euiipo.europa.eu/ohimportal/en/web/observatory/sme-scoreboard>