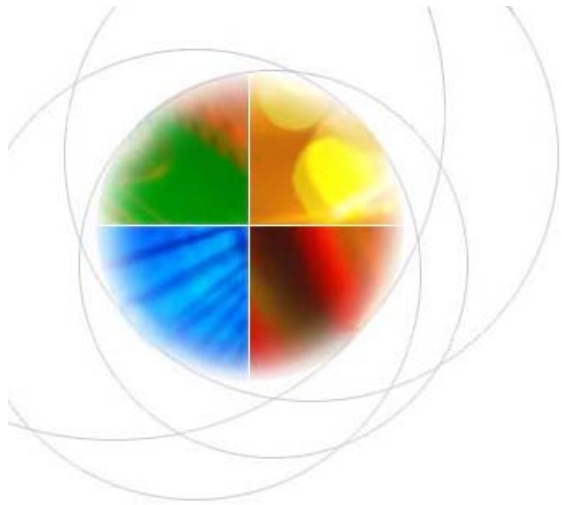


**BSA Regional Innovation Forum
Bangkok, May 18, 2006**

**The international perspective:
IPRs and standards: what are the challenges
faced by governments?**

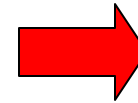
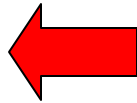
**Philippe Baechtold
Head, Patent Law Section
Sector of PCT and Patents, Arbitration and Mediation
Center and Global Intellectual Property Issues
World Intellectual Property Organization (WIPO)**



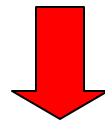


WIPO's main activities

**Services
for the
public**



**Develop-
ment of IP
laws and
systems**



**Economic
development**

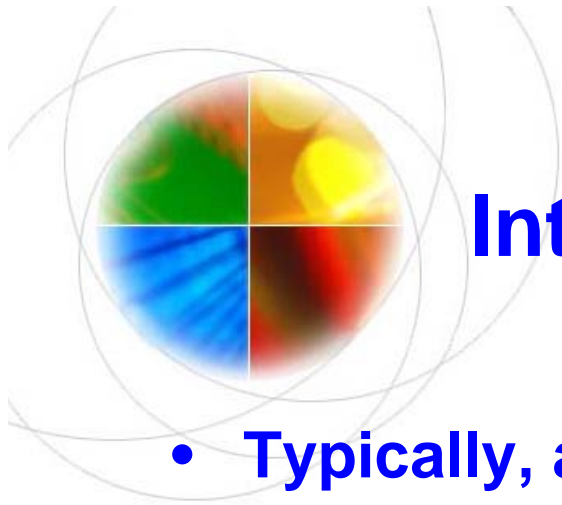




Interoperability and standards (1)

- **Interoperability necessary for dissemination of information, in particular, in an environment increasingly relying on ICT**
- **Interoperability achieved mainly through standards**
- **Emergence of IP issues: copyright and patent rights. Fear of endangering establishment of standards, and thus of interoperability.**
- **But interoperability essential for producers, users and governments (e.g. DRM and e-government)**





Interoperability and standards (2)

- Typically, achieve interoperability through SSO (public or private)
- Process is usually
 - voluntary
 - consensus-driven
 - characterized by transparency and openness
- Increasing complexity in standardization has triggered increasing attention to IPR issues, in particular, patents, including in e-government services
- Has resulted in SSO IPR policies

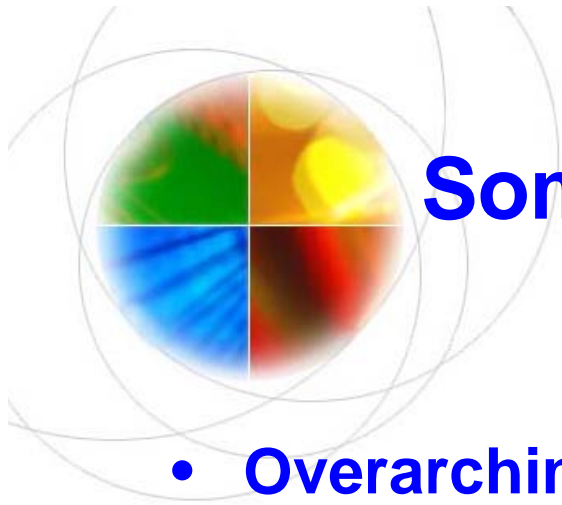




Patent policies of SSO

- **Some aspects of SSO patent policies:**
 - **Obligation for members of the standard-setting to disclose/inform of essential patents (and sometimes applications); non-members not covered**
 - **If relevant patents, obligation to agree on licensing conditions (RAND, FRAND, RF)**
 - **Cumulative royalty issue: consider patent pools, where revenues are shared among participants (competition aspects may be involved)**

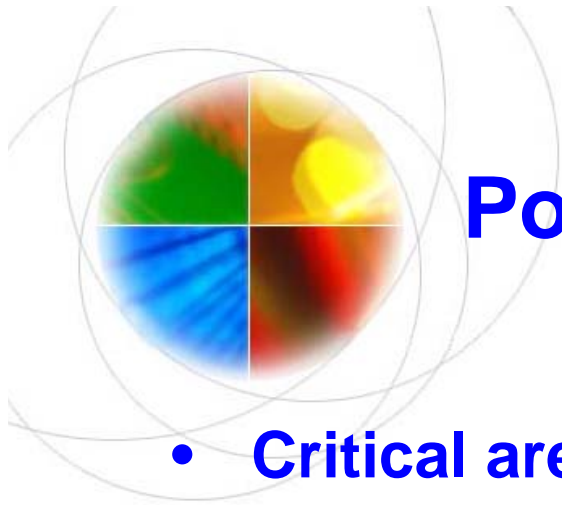




Some basic considerations on the process for authorities

- **Overarching principles: balance and confidence**
- **Technology producers and consumers benefit from standardization**
 - interoperability (particularly important for e-government)
 - technology transfer
 - market access
- **Particularly relevant for developing countries**
- **Different approaches: more state or more market?**
 - In general, flexible and consensual approach may yield optimal results





Possible issues for authorities

- **Critical areas: e.g. health, public safety**
- **Market disruption (competition aspects)**
 - no or late disclosure
 - dominant position (not automatically through patents!); exclusion of competitors
 - patent pools/licensing conditions
- **IP aspects**
 - create a safe legal environment
 - consider all aspects when choosing proprietary or non-proprietary technology in e-government



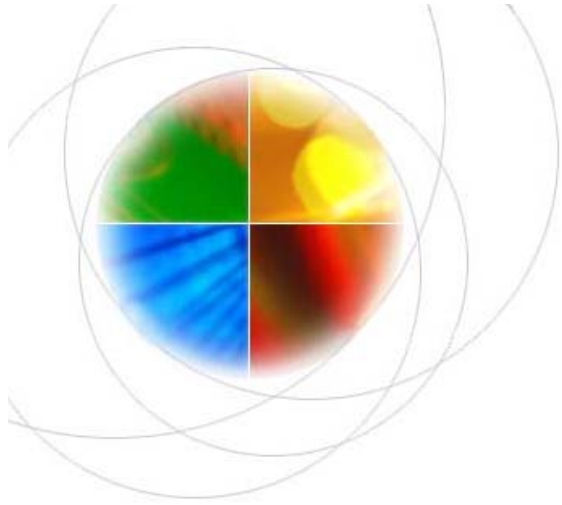
• **Enforcement**



Challenges

- **System works in many cases**
- **Consider role of IPR; improve information on IPR**
- **Fine-tuning balance between standards and IPR**
 - **Much will be solved by market and negotiation**
 - **Legal framework and competition authorities may encourage pro-competitive behavior**
 - **Intervention by authorities may be considered in some cases: abuse (competition law); violation of SSO obligations (IPR) etc.**
 - **Carefully evaluate measures against possible stifling development of standards; TRIPS**
- **International cooperation re IPR, standards and technical barriers to trade**





Thank you

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