

Access to Knowledge 2006:

Seminar Background:

"With due respect to our international obligations and national copyright laws, it is our role to dream, seek, ask and work for an intellectual property system that provides proper balance between the rights of right holders and the rights of society to access, use and disseminate knowledge which in turn promotes innovation and creativity"

1-The Bibliotheca Alexandrina and Access to Knowledge:

1.1 In fulfillment of its mission as a center of excellence for the dissemination of knowledge and for dialogue, learning and understanding between cultures and peoples, the Bibliotheca Alexandrina (BA) is developing a growing interest in issues relating to access to knowledge, promotion of innovation and creativity and intellectual property.

1.2 In this context, the BA, together with ICTSD and UNCTAD, organized the "Arab Regional Dialogue on Intellectual Property Rights, Innovation and Sustainable Development" on 26-28 June 2005. The Regional Dialogue was a landmark event as it presented, for the first time in the Arab world, a wider perspective on intellectual property protection, in relation to its linkage with sustainable development policies in areas such as health, access to knowledge, and the protection of folklore and traditional knowledge.

1.3 One of the recommendations of the Arab Regional Dialogue in the area of access to knowledge and educational material states that "there is a need to raise awareness in Arab countries about new approaches to copyright, such as open source/open publishing models, as well as the creative commons movement."

1.4 Aiming to implement this recommendation, the Bibliotheca Alexandrina is organizing a regional Arab seminar on "New Tools for the Dissemination of Knowledge and the Promotion of Innovation and Creativity: Global developments and Regional Challenges" 7- 8 September 2006.

1.5 The aim of this seminar is to raise awareness about global developments in the areas of access to knowledge, open collaborative models, creative commons in the Arab world. It also aims to launch a process of networking and partnerships between Arab stakeholders with an interest in these issues (such as government officials, scientists, academics, authors, artists, consumers) and a number of these global initiatives. The seminar also seeks to develop a regional research agenda in the area of access to knowledge that may contribute to development efforts in the region.

2- Global developments in relation to access to knowledge, promotion of innovation and creativity:

2.1 The expansion in the use of information and communications technology (ICT), as well as the rapid path of scientific progress and technological innovation, have made access to knowledge a pressing issue on the international agenda.

2.2 While the growth of ICT has resulted in new opportunities to enhance access to knowledge, the current trend towards the expansion of the scope of intellectual property protection and the extension of the terms of IP protection, have generated a concern that the manner in which those rights are exercised, particularly in a number of areas such as information technology and biotechnology, may hinder creativity, innovation and the dissemination of knowledge instead of promoting it.

2.3 This development is of particular importance for developing countries, as these countries are required to encourage investment in human capital and to think creatively about models for the production of knowledge that maximize their participation in the processes of innovation and the spillover benefits of knowledge while minimizing the economic social cost of accumulating knowledge.

2.4 In this context, a number of important initiatives have appeared in recent years, particularly in the area of open collaborative models, with the aim of promoting greater access to knowledge at a reduced cost. These collaborative models need to be analyzed for enhancing the creation of and access to locally relevant knowledge in Arab countries and should be exploited accordingly.

3- Open Knowledge:

3.1 The "open-source" process of creation and innovation is extending to different areas of social and economic activity. Though the term at first described a model of software development, the approach has moved beyond its origins and is emerging as a significant way for collaboration in such different areas as legal research, academic publishing and biotechnology. The "open-source" method can now apply more broadly to all sorts of endeavors that combine the contributions of private individuals and institutions to create a product that, in effect, becomes freely available to all.

3.2 While there are many examples of such collaborative projects, the Human Genome Project that sequenced the human genome is particularly worth mentioning. This project was led by Sir John Sulston and Bob Waterston and defined itself in opposition to patenting data. It stemmed out of the conviction that without freely available data the work would flow less swiftly, if at all, and that the results would be very much less useful.

3.3 Another prominent example of these collaborative projects is Wikipedia, an international Web-based free-content encyclopedia project that allows visitors to edit its content, as it is written collaboratively by volunteers, allowing articles to be changed by anyone with access to the website. The project began on 29 January 2001 and Wikipedia has now more than 4,600,000 articles in several languages, including more than 1,200,000 in the English-language version.

3.4 These open collaborative models have important implications for research, education and research.

4- Creative Commons:

4.1 Creative Commons (CC) is a non-profit organization that offers flexible copyright licenses for creative works. It uses private rights to create public goods i.e creative works set free for certain uses. It was founded in 2001 by a group of cyber law and IP professors. The initial set of Creative Commons licenses was published on December 16, 2002 The project itself was honored in 2004 with the Golden Nica Award at the Prix Ars Electronica, for the category "Net Vision".

4.2 The Creative Commons website enables copyright holders to grant some of their rights to the public while retaining others through a variety of licensing and contract schemes including dedication to the public domain or open content licensing terms. The intention is to avoid the difficulties current copyright laws create for the sharing of information.

4.3 The iCommons (International Commons) project intends to fine-tune the Creative Commons legal wording to the specifics of individual countries. Representatives from 46 countries and regions have joined this initiative and licenses for 26 of those countries have already been completed. The CC movement has gained momentum in many countries and major international artists, such as Brazil's Minister of Culture, Gilberto Gil, have licensed their work under a CC license. Although the CC is now present in many developing countries, such as Argentina, Brazil, Nigeria, South Africa etc., it is not very well known in the Arab world.

4.4 Several million pages of web content use "Creative Commons" licenses. Some of the best-known CC-licensed projects and works include Archive, Wikimedia Commons, and Ourmedia. and the Public Library of Science PLoS.

5- Global IP norms and Access to knowledge Global:

5.1 IP norms in the areas of patents, copyright and database protection have a profound impact on access to knowledge, research and education. Either at the multilateral level (WTO/WIPO) or at the regional and bilateral level (through free trade agreements), there is a noticeable trend towards the increase of the scope of IP protection and the extension of IPR terms. This trend has generated a concern that the manner in which IPRs are exercised, particularly in a number of

areas such as information technology, biotechnological research and development of new drugs, may hinder creativity, innovation and the dissemination of knowledge instead of promoting it.

5.2 What are the implications of this trend for science, research and education particularly for developing countries. What are the possible responses for policy-makers and users such as libraries and scientific institutions?

6-The Treaty on Access to Knowledge (A2K):

6.1 The original idea for a Treaty on Access to Knowledge (A2K) has its origin in a proposal for a Development Agenda for WIPO that was made by a number of developing countries at a WIPO General Assembly in 2004. Civil society representatives, among them the Transatlantic Consumer Dialogue (TACD) and the Consumer Project on Technology recognized the potential of such a proposal and engaged in developing it further by starting a global initiative – the A2K initiative.

6.2 In 2005, a small group of experts met in Geneva brainstormed and submitted a first proposals on what the content of such a Treaty could be. In May 2005, experts from Brazil, Canada, Chile, France, Germany, Greece, India, Italy, Korea, Malaysia, the Netherlands, Serbia, , South Africa, Spain, UK, USA among others, met in London for a second round of drafting. During the two-day discussions, a consolidated version of the draft Treaty was presented for discussion to representatives from non-governmental organizations and consumer organizations, academics, governments, international organizations, academics, foundations, standardization bodies and industry players.

6.3 The version of a draft Treaty that was presented in London begins with a Preamble that describes the motives and guiding principles for this initiative. The goal of the Treaty is to create opportunities for the accumulation, distribution and sharing of knowledge, as well as benefiting from knowledge on a global level. The initiative is aimed at both developing and the developed countries; it is aware of possible disparities and different needs of both, developing and developed countries.

6.4 The actual draft provisions consist of a bundle of ideas on how to promote and protect access. Most of the suggestions made have already been subject to extensive research, and are the result of practical experience or are inspired by already existing national or international legal solutions. They cover a comprehensive agenda of twelve different subject matters, all of which have in common that they address ways of how to make knowledge accessible and how to realize the economic, academic and social benefits of access to knowledge. The draft includes provisions on the nature and scope of obligations in this draft treaty, its relationship to other international and regional agreements, provisions on governance and enforcement. It has provisions regarding limitations and exceptions to copyright and related rights on collecting societies and access to publicly funded research. Other sections deal with patents, the

promotion of open standards and the relationship between intellectual property and competition law.

6.5 One major section of the draft Treaty suggests provisions regarding limitations and exceptions to copyrights and neighboring rights, and here more specifically exceptions and limitations to exclusive economic exploitation rights (not: moral rights).

6.6 The principal idea behind this section is the need to preserve and promote a number of uses of creative works that should not be inhibited by exclusive intellectual property rights. This can be the use of works for education, science or preservation. This can be the use by groups with special needs and interests, such as persons with disabilities, but also distant education institutions, the media or developing countries.

6.7 One issue that generated a good deal of critical discussion in this context was the relationship of the suggested exceptions and limitations in the draft treaty and provisions in other, existing treaties. This is most certainly a point that will deserve further attention during future meetings. Some of the proposed exceptions already exist in this or a similar form in other legal texts, such as in the TRIPs agreement others are new, such as an exception on search engines.

6.8 In a vast and complex information environment, seekers of access to knowledge rely increasingly on the services of intermediaries that select, bundle, guide and offer access to contents. Such knowledge-intermediaries can be search engines, portals, libraries, archives or schools, to name but some. Their activity providing access to knowledge must be reconciled with the interests of holders of intellectual property rights to control the distribution of such content.

6.9 Occasionally, the interests conflict. One example are search engines, and the search-engine exception in the draft Treaty is a response to an ongoing discussion whether search engines, such as google.com or yahoo.com, conflict with copyright law by deep linking and/or caching. If this was the case, holders of intellectual property rights could possibly abuse such rights to impede the function of search engines. The search-engine exception in the draft A2K Treaty seeks to avoid the use of intellectual property rights to impede the work of search engines.

6.10 The exceptions in favor of knowledge-intermediaries such as search engines, libraries, archives and academic institution acknowledge that one important precondition or access to knowledge is the existence of institutions that make knowledge accessible. The experts at the London meeting stated rightly that the work of such institutions should not stop at national borders.

7- Challenges and opportunities for the Arab Region:

7.1 Arab countries, as most developing countries, face immense challenges in terms of promoting greater access to knowledge, developing scientific research and improving the quality of education. Yet global debates concerning access to knowledge and promotion of innovation and creativity have received, in general, little attention in the Arab world.

7.2 Open collaborative models and new initiatives in the area of access to knowledge offer many opportunities to help Arab countries to face these challenges in an manner that contributes positively to their development process.