



Model Laws on Intellectual Property

Luis Villarroel

2023

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PROPIEDAD INTELECTUAL Y COMPETENCIA

Model Laws and WIPO.

- Model laws are created to guide the development of national legislation.
- IP Model laws have been primarily directed to developing countries.
- Private / academic origin or Official Bodies, including within international treaties (Marrakech Treaty)

WIPO has an extensive experience on model laws towards guided development of IP norms.

IP Model laws under WIPO/ UNESCO

- BIRPI, 1965, The **Model Law for Developing Countries on Inventions**. BIRPI elaborated the first draft, and a committee of experts of developing countries discussed this document. Later, the Model Law was updated by an expert committee under the guidance of the WIPO Permanent Committee for Development Cooperation Related to Industrial Property. The International Bureau of WIPO appointed the expert committee.
- BIRPI, 1967, Model Law for Developing Countries on **Marks, Trade Names, and Acts of Unfair Competition**. BIRPI elaborated on the draft, and a committee of experts of developing countries discussed this document.
- **Tunis Model Law** on Copyright for Developing Countries adopted by the Committee of Governmental Experts convened by the Tunisian Government in-Tunis from February 23 to March 2, 1976 (hereinafter referred to as "the Tunis Committee"), with the assistance of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO).
- UNESCO/WIPO, 1983, Model provisions for national laws on **the protection of expressions of folklore against illicit exploitation** and other prejudicial actions. A working group elaborated the draft. The Secretariat of UNESCO and the International Bureau of WIPO appointed this expert group.
- WIPO, 1996, Model Provisions on **Protection Against Unfair Competition** prepared by the International Bureau of WIPO. Advising the preparation of the Model Provisions participated Bernard Dutoit (Professor of Law, University of Lausanne, Lausanne); Charles Gielen (Lawyer, Amsterdam); William Keefauver (Lawyer, New Vernon; until December 1995, President, United States Group of AIPPI); - Kazuko Matsuo (Lawyer, Tokyo).

Advantages of Model Laws

1. RESPONSE TO LACK OF RESOURCES OR EXPERIENCE.

- 1. Facilitate adoption of national norms on new or contentious subjects. Reduces cost of human resources.**
- 2. Facilitate access to high level experts and best practices**
- 3. Capacity building**
- 4. Harmonization if several countries adopt it.**
- 5. Do not represent obligation to member countries the adoption of the model law or its implementation.**

Precautions on Using Model Laws

- 1. Who does the drafting and what are the terms of references will condition the outcome. Fear of capture of the process.**
- 2. Model law, might not consider cultural or legal tradition differences or to have bias interpretation of existing international law.**
- 3. Require political will to implement. There is no mandate.**
- 4. Need to complemented with normative mandates.**

Conclusions

- **Model laws on IP can significantly benefit countries seeking to develop their national legislation when there is not enough local capacity or need of clarification at international level.**
- **For example, the Tunis Model Law on Copyright for Developing Countries has influenced the legislation of many developing countries**
- **However, it is essential to ensure that model laws are produced under transparent and inclusive process, subject to member countries supervision.**
- **Also those model laws need provide enough alternatives for political choice to be adaptable to local circumstances and cultural differences to ensure effective implementation and enforcement.**
- **WIPO Secretariat could work model provisions to address needs of member countries, in parallel track with the normative text work by the committee.**

VI. References

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