

Intellectual Property (IP) Policy of Uzbekistan: Challenges and Reform Suggestions

Kuchkorov Mirshod¹

For landlocked countries, there are two main hurdles in accessing global markets - in broader terms achieving economic development. The first hurdle is a great dependence on the political and economic situations of the neighboring countries through whose territory shipments are made. The second hurdle is higher transportation costs which make them less competitive than countries that possess seaports in their territory. For these reasons, in large part, most of the landlocked countries are still on the list of developing countries excluding some western European ones such as Switzerland, Austria and Luxembourg. Being double-landlocked makes the situation more difficult.

As being one of the only two double-landlocked countries in the world, Uzbekistan has few options to achieve its development goals. In this opinion report, **the potential role of stronger Intellectual Property (IP) rights in achieving economic growth is discussed and appropriate measures to be taken are put forward.**

There is no consensus on whether strengthening IPR protections could contribute to the economic growth in developing countries. However, **without proper IPR protection systems in place it is hard to attract any Foreign Direct Investments (FDI) which is a prerequisite for technology transfer.**

As mentioned above, one of the primary burdens for land-locked countries is high transportation costs. To relieve this burden, some changes need to be made to the current content of export types. The principal exports of Uzbekistan are energy, minerals and agricultural products that in general entail high transportation costs. Therefore, **replacing current export types with high value-added products is necessary to achieving long term development goals.** Preparing value-added products for export requires high technologies. Since **high technology companies are generally IPR-sensitive**, relevant reforms need to be conducted before considering any technology transfers.

Thanks to the rapid growth of the IT (Information technology) industry new opportunities for landlocked countries have emerged. In this respect, experiences of countries such as Armenia and Estonia are worth studying. As part of recent reforms in Uzbekistan, a presidential executive order on further promotion of developments in IT sector was enacted on June 30, 2017 and the 'Mirzo Ulugbek Innovation Center' was set to be established as a free economic zone. Although a number of preferences, such as tax exemptions, are meant to be

¹ *PhD Candidate, Waseda University, Graduate School of Law*

given to the potential residents of this zone, **without offering sufficient protection for the results of innovative activities there is no incentive to make real progress.**

In addition to the IT sector, the pharmaceutical industry has also been given special attention by the Government recently. However, **as the development of new pharmaceuticals is extremely costly and time-consuming, it is not easy to find investors who are willing to make investments before becoming certain that their efforts will be sufficiently protected.**

The following are proposal measures for reforms:

1. Structural reforms

-Restructuring the Intellectual Property Agency.

The Intellectual Property Agency in Uzbekistan has jurisdiction over both the industrial property matters (patents, trademarks) and copyrights and functions under the direct control of the Cabinet of Ministries. In developed countries, there are two separate organs, one responsible for industrial property rights (Patents, Trademarks) and the other for copyright related matters. As the copyright system is more concerned with cultural matters rather than industrial policy, **it is more effective to separate these functions.** Moreover, it is necessary **to move the new organization responsible only for industrial property matters under the control of the Ministry of Economy and actively involve it with the countries' industrial policy issues.** As for copyright issues, the Ministry of Culture is more suitable to be the responsible organization.

-Although it might be too early to think about creating IP courts in Uzbekistan, it is desirable **to gradually prepare IP specialized judges.**

2. Legislative reforms

-The Situation with legislation is more complicated. After independence, **legislative acts for each of the IPRs (Patent law, Trademark law etc.) were enacted then revised and are now used in practice. At the same time, there is a special part in the Civil Code dedicated to IPRs.** Even in Russia, to whom Uzbek legislators frequently turn for reference when they are to discuss any legislation changes, with the enactment of the new Civil Code in 2006, all previous separate acts were revoked. Double regulation has been proved to make the situation more difficult and does not solve any problems.

Being ranked first as the most innovative country for seven years in a row, and as a most competitive economy for nine consecutive years, Switzerland can be a model for other landlocked countries.

There is also much to be learned from Japan's state-led industrial policies.

Needless to say, there are more provisions in each relevant act that are worth discussing. However, **without fundamental changes, it is too early to speak of more specific provisions.**