

Technical Assistance Services and Intellectual Property

Michel Kostecki

The Enterprise Institute, Université de Neuchâtel (Switzerland)

TASIP

**Technical assistance services
related to intellectual property**

The Distinctive Features of TASIP and Critical Problem Areas

<i>Characteristics of TASIP</i>	<i>Implications</i>
Service	Value created through an offer of intangibles and inter-action. <ul style="list-style-type: none"> - Beneficiaries are insecure in their choice. - The notion of “quality” may vary – performance is difficult to evaluate - Shared responsibility for the program’s results
Public service	Beneficiary does not pay for the service. <ul style="list-style-type: none"> - local ownership is not easy to implement - inefficiency due to bureaucratisation is likely - risk that approaches motivated by “<u>privilegia et beneficia</u>” might occur in program design and implementation - Donors might impose the service concept
IP-related serve	Assistance dealing with IP regime and its use: <ul style="list-style-type: none"> - Conflicting views on what is an optimal level of IP protection - Vested interest groups tend to be active - Technical contents: corporatism may be an issue
International service	Diversity of policy objectives and inter-cultural context: <ul style="list-style-type: none"> - political facts (foreign policy and foreign aid concerns) are important - Context may require understanding and may call for adaptation of the service offered
Multi-stakeholder service	There are numerous publics of TASIP (donors, owners, providers producers-users, consumers) <ul style="list-style-type: none"> - there are likely to be conflicting objectives and expectations - legitimacy may be an issue -

Source: Partly based on Kostecki (2001)

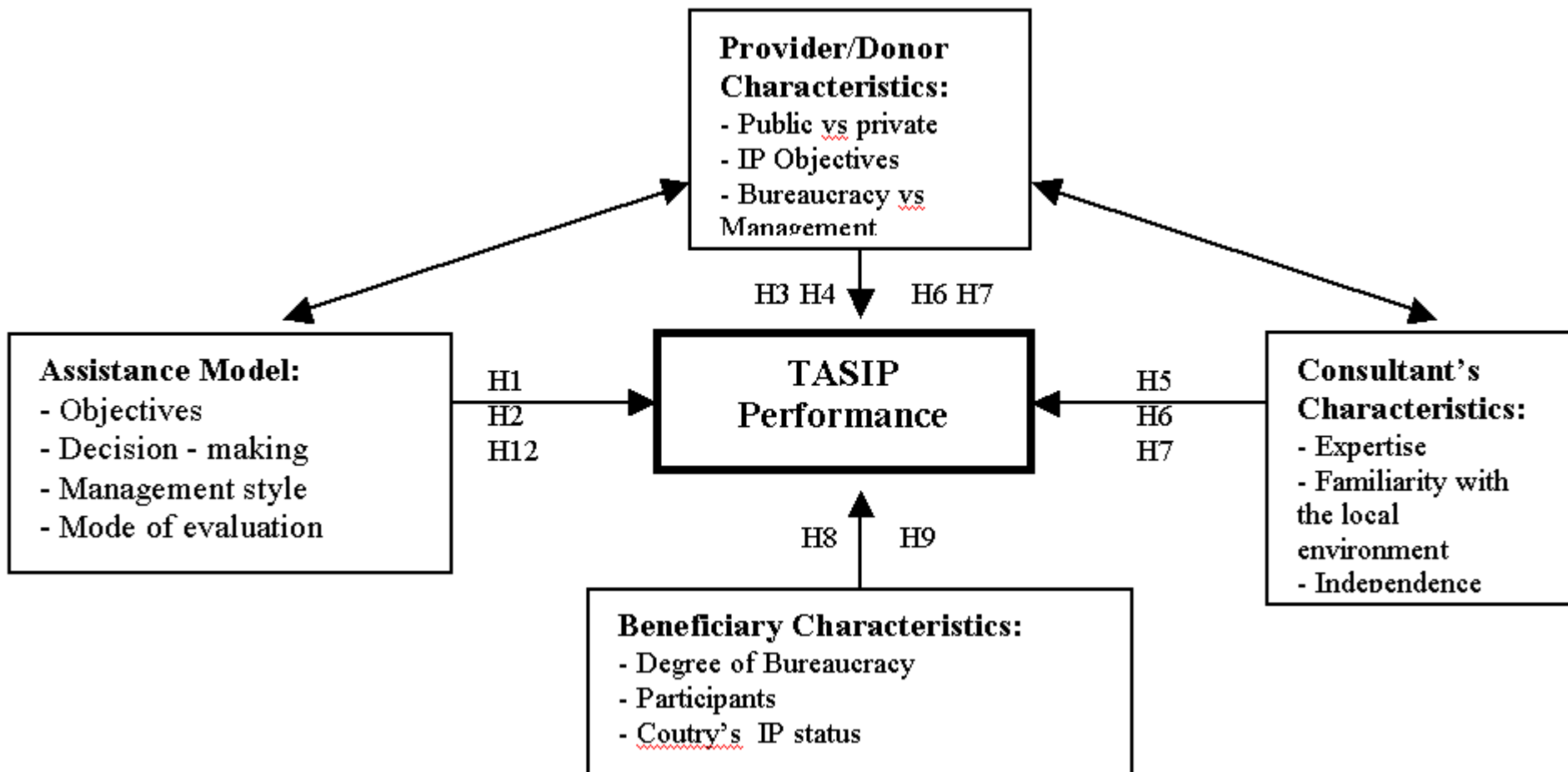
The TASIP Issue Matrix

Type of Issue	Example of Issues Covered by TASIP Activities
Legal	Drafting of WTO compatible legislation Implementation: court action against pirated product producers Government policing counterfeit good producers
Economic	Macro impact studies Cost-benefit analysis of corporate decision to opt for licensing contract
Managerial	Hands-on training in trademark management Business strategy for IP partnership Gaining access to new patented technology
Political	Activating IP-friendly pressure groups Negotiations on IP issues in the WTO Business advocacy and IP
Ethics	Providing generic drugs to poorest of the poor aids victims Training in deontology of copyrights at the university.

Typology of TASIP Activities

Areas/ Beneficiaries	Policy Issues	Economic Studies	Legal Issues	Business Issues
Governments	WTO assistance in drafting <u>TRIPs</u> - compatible national legislation.	Cost-benefit analysis of the new legislation on textile industry	Assistance in dispute settlement cases concerning <u>TRIPs</u>	Workshops explaining <u>TRIPs</u> to the business community in <u>LDCs</u> .
Companies	ITC support to encourage patent protection for traditional design (e.g. Iranian carpets)	Impact studies of various licensing contracts on an automotive firm	Consulting on how to optimize a franchisee contract in food processing.	Training for managers in the area of trade-mark strategies.
Other stakeholders	WHO program to support drug users' interests in <u>LDCs</u> (the case of Aides).	Evaluation of the potential employment benefits of a new IP legislation.	Presentation of a model copyright contract for public schools	Assistance to consumer organizations concerning IP issues

The Leading Determinants of the TASIP Performance



Hypothesis

- **H1: TASIP has a strategic role to play in the process of economic development in the contemporary information economy.**
- **H2: Most technical assistance programs aim at making the infringement of intellectual property rights not pay.**
- **H3: Impact of TASIP is often reduced by the “inside the box thinking” of the provider institutions.**

Hypothesis (continued 1)

- **H4: Many technical assistance programs are perceived as promotional tools for the organisations which deliver those programs to encourage a wider acceptance or better implementation of the IP treaties that they administer (provider bias).**
- **H5: TA consultants who are IP experts tend to favour stricter protection of IP rights (expert bias).**
- **H6: TASIP know-how and do-how is focused on developed country experience and concerns (content bias).**

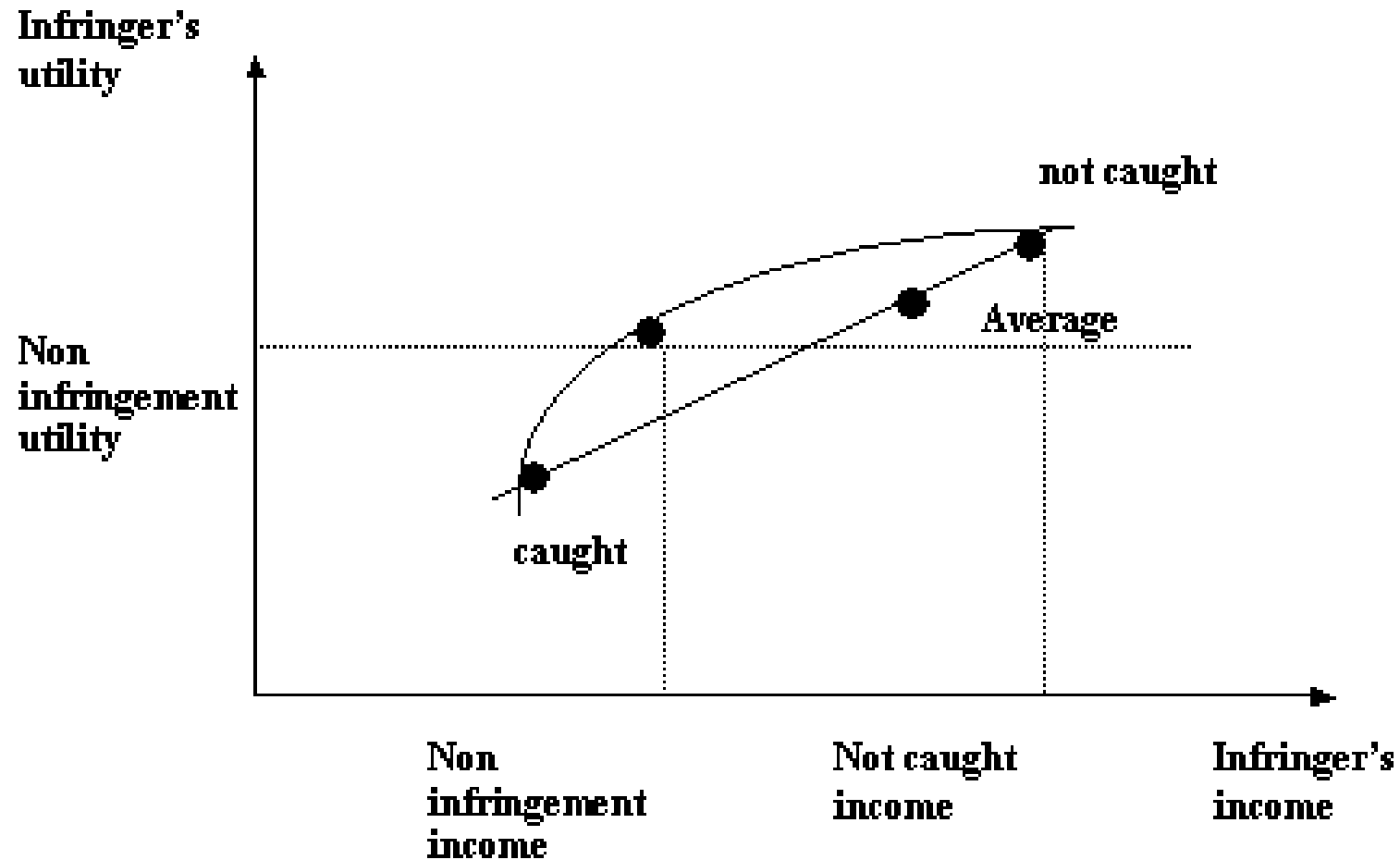
Hypothesis (continued 2)

- **H7: Most TASIP programs ignore or underestimate the theory of development stages in the field of intellectual property (ideological bias).**
- **H8: Business IP issues tend to be underestimated in TASIP programs.**
- **H9: Most TASIP programs overemphasise the message that lower standards of IP protection would limit rather than attract FDI (FDI bias).**

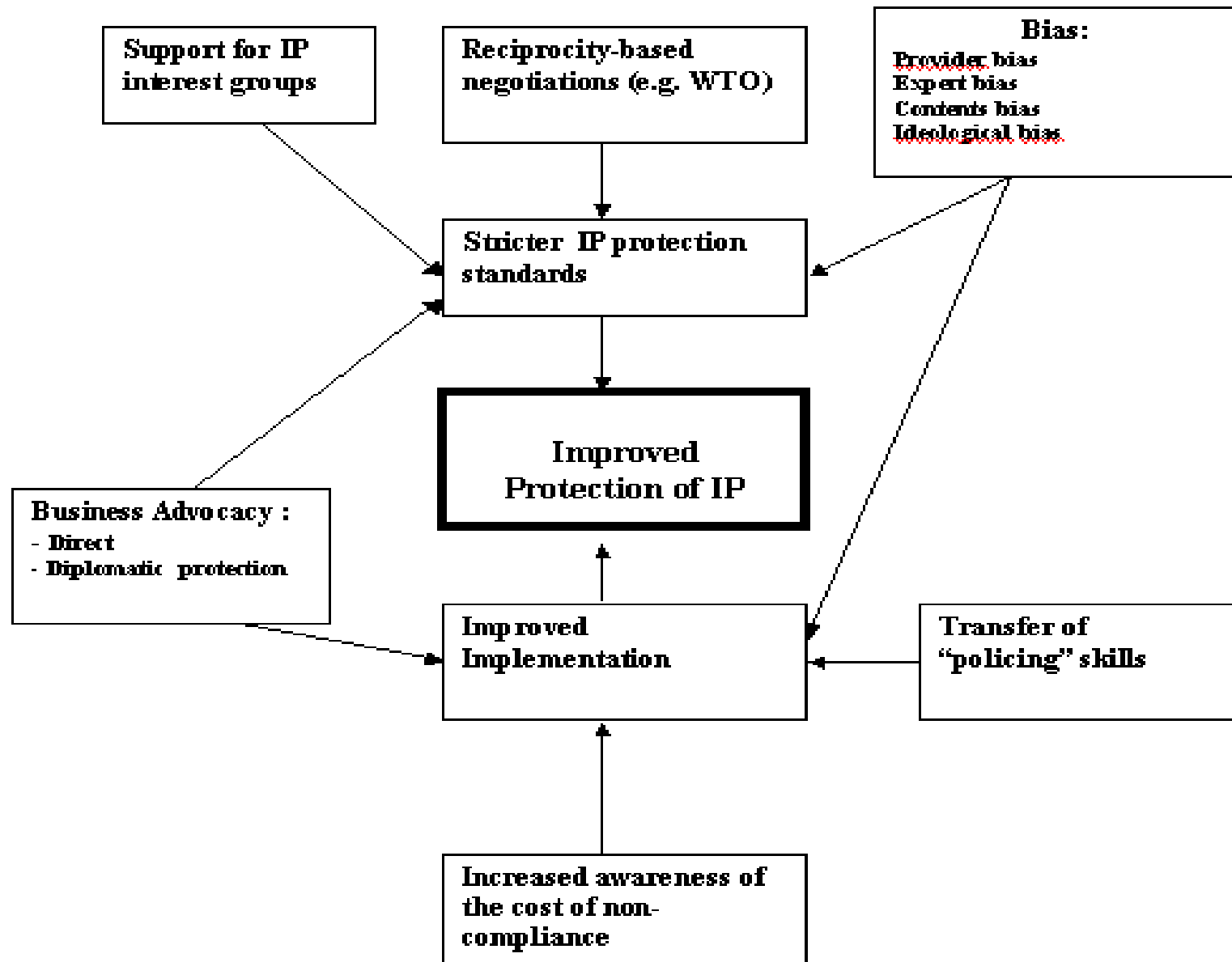
Hypothesis (continued 3)

- **H10: TASIP tends to encourage pro IP groups.**
- **H11: Informal sector is a reality in developing countries, but its IP dimension tends to be perceived as particularly distorting because it directly affects the interests of developed countries.**
- **H12: Development dimension of TASIP is often restricted by the lack of neutrality and legitimacy of the TASIP decision-making process.**

Making the infringement of IPRs not pay



TASIP and Making the Infringement of IPRs not Pay



Tentative Conclusions

(Empirical Research Results)

- The major North-South divergencies of views on IP are reflected in TASIP
- In LDCs, TASIP is largely perceived as a promotion tool aimed at improved IP protection
- TASIP suffers from a bias: (i) provider institution, (ii) expert, (iii) contents, and (iv) ideology.
- TASIP tends to reinforce pro-IP interest groups
- **TASIP is strategic for economic development**

TASIP is needed
but it should change!

How?

What should change?

- Move towards a multi-stakeholder model of decision making (to correct bias)
- Less government more NGOs and private providers
- Increase effectiveness: use rules rather than measures, favour entrepreneurship & competition, limit bureaucracy, encourage hands-on projects
- Independent audit & feedback