

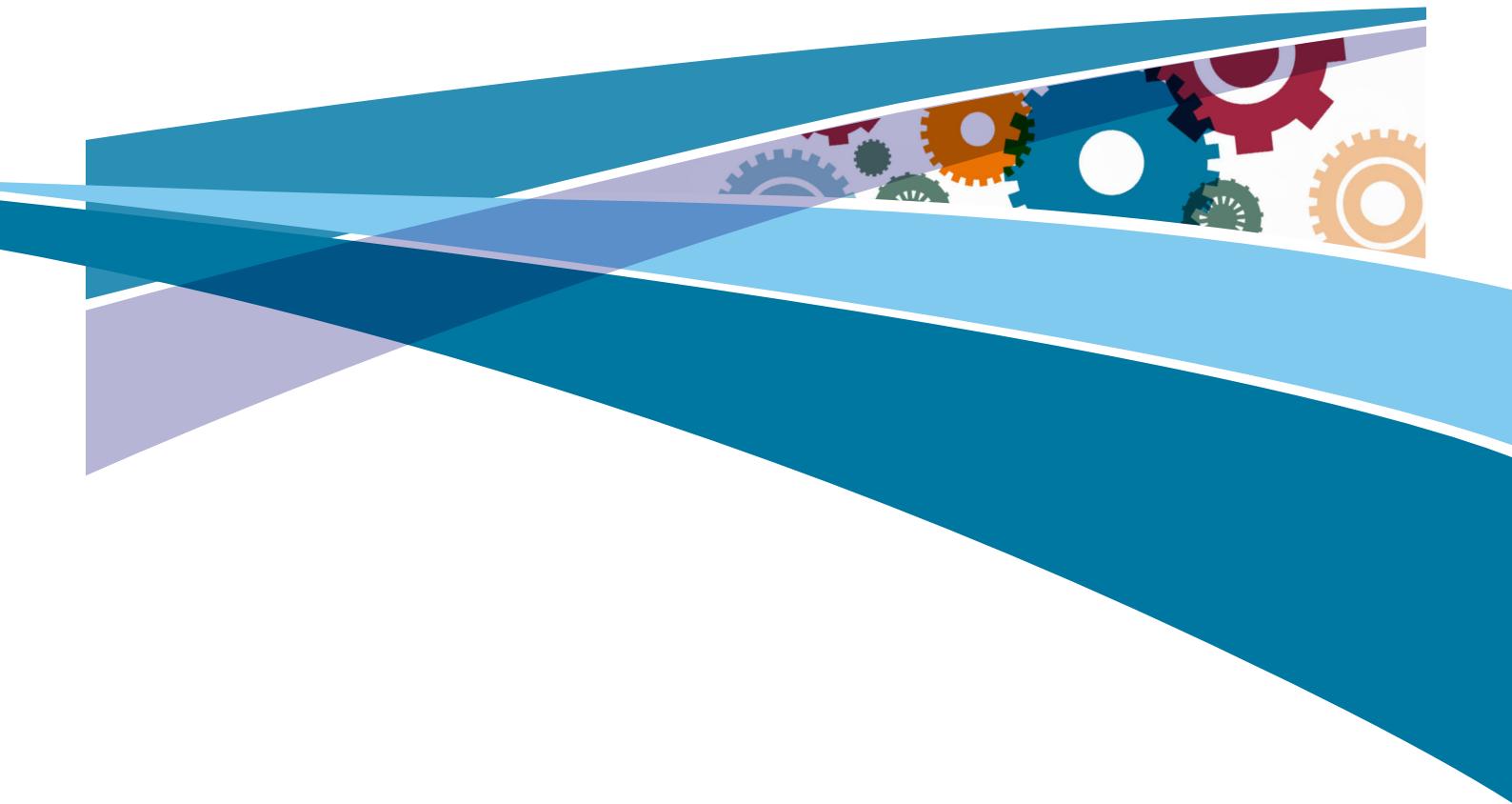


Intellectual
Property
Office

TONIC

IP Attaché Evaluation Report

Programme Review



Research commissioned by the Intellectual Property Office, and carried out by:

Prepared by Tonic Insight Ltd

This is an independent report commissioned by the Intellectual Property Office (IPO). Findings and opinions are those of the researchers, not necessarily the views of the IPO or the Government.

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IP Attaché Evaluation Report

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Foreword

The Intellectual Property Office (IPO) first set up its Intellectual Property (IP) attaché network in 2011 and it currently consists of four posts based in key emerging markets, namely; Brazil, China, India and South East Asia.

The IP attachés provide a focal point in host countries for supporting UK businesses with IP related issues, promoting UK Government interests and working with local IPR enforcement agencies. They help to build IPO relations with the Governments of host countries, and to understand and actively engage with IP policy makers. The IP attaché network is managed and funded by the IPO and supported in-country by the Foreign & Commonwealth Office (FCO) and UK Trade and Investment (UKTI).

In order to ensure that the attachés are operating at their fullest capacity, evaluate the ways in which attachés have worked for businesses and government, including UK businesses operating overseas and domestic IP policy makers in the UK, the IPO commissioned an external evaluation of the network and its operations. This document is the result of that external evaluation.

The evaluation has been conducted purely independently of the IPO and the attaché network. The findings, views and recommendations within the evaluation report are that of the external evaluator. This assessment is drawn from a wide range of sources including existing IPO management information, the evaluator's own surveys and 1-2-1 interviews with business and officials who have had direct contact with the network.

As a result of the evaluation, this report will help the IPO better understand how the attaché network is performing and identify areas for improvement.

The IPO would like to thank all of the businesses and individuals who took part in the evaluation for their participation, time and patience in pulling together this important report.

Executive Summary

We set out to evaluate the IP Attaché Programme – its operations in market and its accomplishments. We looked at how the attachés are improving relations with foreign IP policy makers, how they are affecting and improving awareness of local market IP issues with businesses in the UK and for UK businesses operating abroad. We explored how the attachés' work is understood by the Intellectual Property Office's (IPO) various constituents and stakeholders, with the aim of measuring the impact of this work on the IP landscape and for key stakeholders.

With 85% of businesses stating that their IP assets are important, but only 56% of businesses feeling like they have a comprehensive understanding of IP, the services the attachés provide are vital to the improved operations and success of British businesses abroad¹. The attachés help businesses navigate the complex IP landscape in their individual markets, building knowledge in the IP community, supporting UK Trade & Investment (UKTI) in advising businesses, and helping support individual business cases where possible. This support is highly valued by business users and UKTI alike with 79% of business users rating their interactions with the attachés as valuable. This is particularly true as no similar source of centralised expertise was previously available. UK businesses are able to make decisions more confidently and better protect their IP with the attachés in place, and in many cases money, jobs and time have been undeniably saved or protected – and in some cases revenue is even going up.

Policy and government colleagues both in market and back in the UK also benefit from the attachés local expertise. The attachés have ensured local IP information sharing and education programmes are run and well attended, supporting the consuls' remit in market. They also keep government colleagues at home abreast of developments and prepare for specific meetings – they have an inside track on the motivations of local policy makers, and share their understanding of the landscape so the UK is better prepared to participate in international conversations.

It is more difficult to assess the impact the attachés are having on local governments and policies, as these things move more slowly and are influenced by so many factors, but stakeholders agree that the impact is evident. The UK is more a part of local IP conversations and considerations than it ever was before, and local IP thought leaders and policy makers often look to the attachés for best practice sharing and education of their own local stakeholders.

¹ Figures in this report are all taken from a survey of IP Attaché contacts and service users, as detailed in the methodology section; full data can be located in the Data Annex that accompanies this report

The main area for improvement the review revealed is around communicating the attachés' remit. As the programme succeeds in many areas, stakeholders want more. Providing a clearer understanding of what the attaché network is and what they can and cannot do will clarify for service users and government colleagues what they can expect and what services must be obtained elsewhere. As such, key recommendations are:

1. Communicating the exact attaché remit will help alleviate frustrations.

Clearly understanding the programme scope and aims is key to user satisfaction. Knowing exactly what is within the remit of the Attaché Programme is essential as expectations of the programme are high and sometimes unrealistic.

2. Feeling informed makes people value the programme more.

Ensuring information is communicated proactively, in a timely manner would make stakeholders feel even more positively about the programme (and its capabilities). Not having to chase the attachés for responses or information is highly important. Providing prepared information could also cut out the attaché as a 'middle man' between UKTI colleagues and UK businesses, in terms of providing commercial answers – and would likely save time for the attaché as well.

3. A clear schedule of market IP 'updates' would help alleviate the sense that the programme is reactive.

Giving IPO colleagues a structured reporting style to help develop their knowledge, covering specific market and industry advances, developments and resolutions of issues is desired.

Although many businesses and policy representatives openly acknowledge and appreciate receipt of newsletters from the Chinese attaché, proactive information sharing even from China isn't always cutting through. Some feel the attachés only make contact if responding to particular issues being brought to them by IPO colleagues.

4. The IPO should also consider whether expanding services in a single market or offering an additional market for coverage is feasible at this time, as it would certainly be welcome.

A schedule of new market rollouts or additional hires would help service users anticipate changes and upcoming support.

5. Finally, in terms of succession planning, the IPO needs to have a plan in place for when the individual attachés move on.

Any handover should be proactively addressed with service users. Bridging gaps, for example with dual attachés (current and new) in market in transition periods, and making proactive introductions would help address any potential concerns.

Methodology

The IPO commissioned independent research agency Tonic Insight Ltd to conduct market research to understand the impact of the international IP Attaché Programme among business users and UK policymakers. A combined quantitative and qualitative approach was used.

An initial quantitative survey invited 198 business contacts provided by the IPO to give their views on their use and perceptions of the Attaché Programme; this sample was supplemented by a small subset of Tonic's UK business contacts who work internationally to provide evidence and information from businesses who had not interacted with the attachés. The survey achieved a total response rate of 31%, with 77 fully completing. However, including partial completes (an additional 43), the response rate was 48%.

Following the quantitative survey, Tonic Insight carried out a series of face-to-face and telephone expert interviews with programme users across business and policy contacts, ranging from 20 to 90 minutes in length (most lasting approximately 45 minutes). These interviews focused in detail on specific experiences with and knowledge of the IP attachés in relation to individual usage contexts.

Interviews were carried out from a combination of business users indicating interest in participating during the quantitative survey, and UK policy contacts provided by the IPO. During this process, Tonic spoke to 25 business people, and 18 policy contacts.

Finally, Tonic carried out additional contextual interviews to understand the role and its remit with each of the four intellectual property attachés: Tom Duke in China, Sheila Alves in Brazil, Anshika Jha in India and Christabel Koh in South East Asia.

Programme Review

Scope of business support

Attachés support UK businesses across a range of business sizes, and a broad range of organisations are keen to make use of attaché support.

While around 80% of our survey sample had prior experience with attachés, all worked in foreign markets and had IP to protect there. They came from a range of business types and sizes, from single individual operations to large multinationals, and from manufacturing to publishing to the creative arts.

Supporting UK Businesses

Businesses we spoke to told us one of the key values of the attachés is that they are real people, with access to valuable networks; they are valued contacts who have built up trust through proven effectiveness over time.

The attachés are personal contacts, not faceless roles. Businesses all talk of their attaché contacts by name and most view them as close, long-term affiliates. Some even have ongoing relationships via the attachés' previous roles.

Therefore, they are seen as valued relationship builders. Long-term relationships mean businesses trust the attachés to assist them. The attachés are also consistently appreciated for 'knowing the right people'. They are plugged in to local market government and trade contacts, smoothing business dealings.

"The attaché has been good at providing us with legislative developments; the insider, local knowledge is irreplaceable." – Global Trade Association.

"If I ever wanted anyone to project manage anything for me again I would ask the attaché. They absolutely pulled it out of the bag." – Global events.

"With the attaché's support, there is now a mechanism to alert local companies to infringement and they do take action to take these sites down." - Publisher.

The attachés are a first point of contact and a gateway to resources; the attachés can link businesses with both local authorities and potential business contacts.

The attachés are first port of call for IP issues when businesses are aware of them. They are easy to contact, by email or phone. If the attachés can't help on their own, they know the people who can, or the extra support that is needed to achieve an aim.

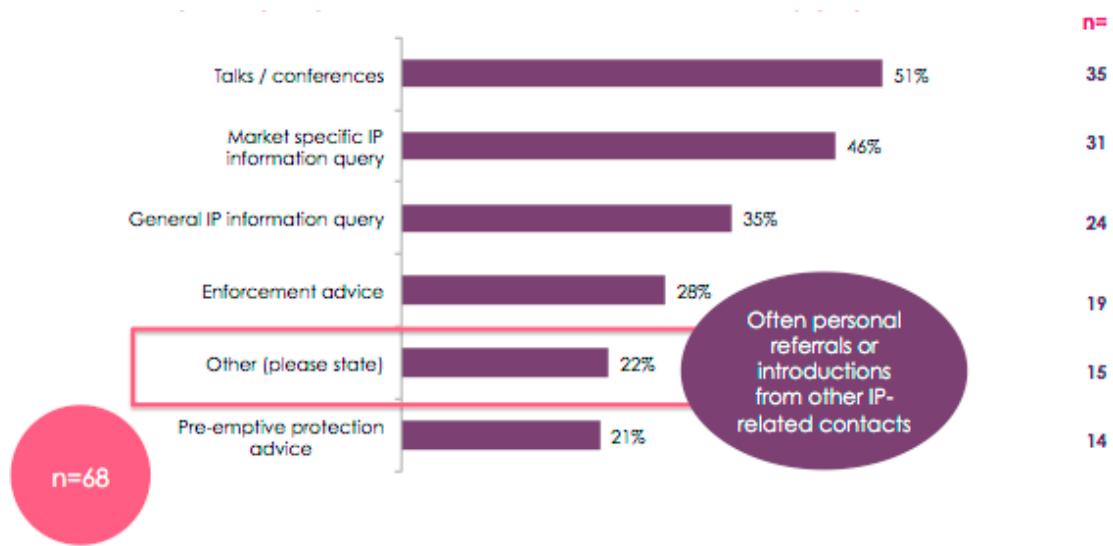
Businesses can access government officials with the attaché's help and the attachés facilitate meetings with in-market officials, where businesses' own actions have proved fruitless. They access higher enforcement potential than would otherwise be possible. British consular 'muscle' via governmental letters is especially valued.

The attachés can also put businesses in touch with potential clients in market. The attachés have advised UK business on local trade bodies that may be able to supply potential business contacts in the area of IP.

"[The value] is really lobbying on specific issues where there are policy issues and it's helpful to have the IP attaché there to make our case. The issues have wider significance, so it's helpful to have the IPO backing us." – Luxury brand.

"For the first time in 15 years, something is happening. Someone has said 'let's get things going.'" - Publishing.

The attachés are contacted for a variety of IP issues, though talks and conferences are a frequent first introduction.



The attachés help promote British IP practice in foreign markets; UK businesses feel more comfortable operating in a territory with the British agenda on the radar.

The attachés put local dynamics in terms UK businesses can understand. Many businesses employ local legal counsel for IP enforcement advice in the attaché markets, but this is not always fully trusted. The attachés can 'translate' issues, or sense check advice given, based on their own expertise and knowledge of the market.

They also make local authorities take notice of UK needs. In India, Brazil and China, businesses describe how the attachés set up meetings in market to explain UK IP issues or requirements. These have ranged from the grass-roots level (e.g. local law firms) to filter upward, or high-profile (e.g. major conferences or with officials).

They also give UK businesses confidence that the UK Government backs their business. Sharing UK practice with, or giving a UK perspective on, foreign markets means businesses feel listened to and supported.

"The attachés presence in that ecosystem is very useful. The [improved IP] environment gives us the moral high ground and puts pressure on publishers and printers to behave as they should." – Publisher.

"UK companies protect geographic indications superbly. No one in the world can teach Brazilians this better than the UK in terms of IP awareness." – Brazilian IP Lawyer.

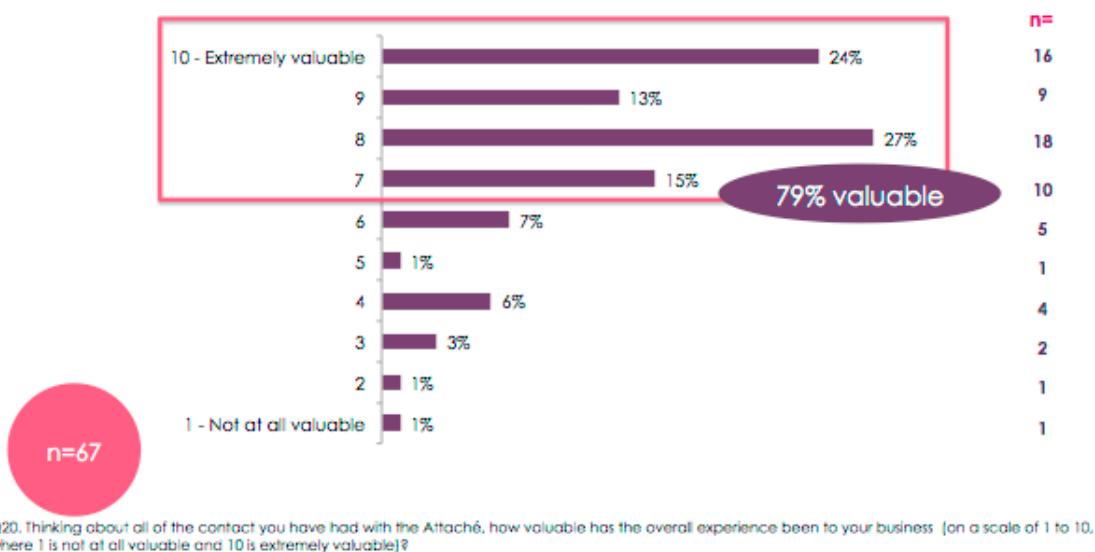
The attachés advice improves efficiency and decision making, while their market knowledge means businesses can think more strategically.

The attachés helped businesses better prioritise their resources to issues that can more likely be addressed. For instance, several UK businesses described issues where the attachés had recommended approaches to IP problems. The advice often takes a long-term view of what enforcement action is or is not likely to be effective, and where issues may be particularly ingrained or endemic (e.g. counterfeiting), the attaché may recommend 'picking battles'.

Furthermore, attachés aid long-term business thinking. Businesses will also use the attaché's advice, and leverage local contacts provided by the attachés, to inform their own strategic decisions.

"In emerging markets there may not yet be a fully developed recognition of the importance of IP protection. We look for support from the attachés for developing base understanding." – Fashion business.

Most businesses believe their contact with attachés was valuable to their business.



Businesses need more market information from the attachés; whether large or small, businesses would value more news on local market dynamics and developments.

Regular information feeds are valuable to all businesses:

- > While newsletters and IP webinars do exist, distribution is patchy and can appear somewhat haphazard.
- > Businesses often feel they need to ask for this information, rather than proactively receiving it.

"Newsletters would be great because it gives me an idea of what's happening, what issues there are, who contacts are, different areas of focus..." - Creative Enterprise.

Small and Medium Enterprise (SME) IP awareness development is critical; they are not legally and financially set-up to deal with IP infringement.

Early knowledge and understanding is critical to keep SMEs from making potentially disastrous mistakes on market entry. SMEs need direction as they begin to enter foreign markets and encounter complexities. They want to understand the specific market dynamics and operations processes. The earlier SMEs are able to acquire knowledge, the earlier they are able to flag any issues.

UKTI teams in local markets have been able to successfully transfer the attaché's information to SMEs; to begin their knowledge and awareness building. Transmission of IP knowledge to SMEs means they are able to move safely, and effectively expand into foreign markets. Information provided by the Attaché Programme can ensure they enter new markets prepared to face any IP issues.

The key issue here is that not all small businesses seek this advice, emphasizing the need to improve communication to focus on getting the most critical information into their hands before it is too late.

"I think the attachés role is becoming crucial in terms of how we work with companies and offer advice." – Business Council.

"Some of the smaller businesses have benefited from an increased awareness of IP issues. In terms of awareness raising, the programme has been invaluable." - UKTI SE Asia.

UK Government Support and Knowledge Sharing.

The attachés keep the UK informed about local IP policy developments and intricacies.

For UK Government staff the attachés' access to local government and local knowledge can initiate meetings and help them to run more smoothly. Similarly, having the attaché as a resource allows UKTI to provide a higher level of support more rapidly than before to businesses seeking IP assistance. Though they are very responsive to incoming requests, the attachés are not as

proactive in their updates and information sharing as their UK colleagues in particular would wish.

The attachés are expected to provide the most up to date policy information; it is essential that the attachés communicate both expected developments and actual changes.

Policy makers expect the Attaché Programme to be the bridge between themselves and local officials or enforcement teams.

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The Attaché Programme has particular value in its ability to identify 'key players' in local IP decision making. Policy stakeholders are trying to develop the effectiveness of IP systems globally. They need to forge contact with key local policy decision makers and central governments.

Proactive input from the attaché helps UKTI stakeholders drill-down on the areas of policy needing the most attention. UKTI uses such information to communicate with UK companies looking for international growth and investment. They are better informed to highlight any specific legal barriers which have the potential to impact foreign investment.

"With the attaché's help I've been able to develop fact sheets for UK stakeholders, identifying which laws could be barriers for development in China." - FCO Beijing.

The attachés help UKTI colleagues transmit increasing amounts of IP information back to businesses; they use the attachés as a source of information and re-direct businesses with IP problems to them.

Bridging the IP information gap for in-market UKTI colleagues has increased the depth of advice provided to UK businesses. Previously, IP policy knowledge sharing was quite disjointed. There was a standard paragraph in the UKTI business guide to advise UK companies on IP issues; any further information businesses required meant 'a point in the right direction' to a local IP office or an internet search.

UKTI is now able to advise and refer to the specific attaché with confidence; UK organisations thus have much more information regarding how IP issues affect their new market opportunities. The attachés are providing clear and succinct information regarding local market policy. However, not all UKTI colleagues are connected to or are aware of the attachés' work. Communicating the remit of the Attaché Programme would be very useful.

"90% of our interaction with the attaché is helping us deliver briefings to UK companies; from pedestrian to complex IP claims." - UKTI SE Asia

The attachés have helped improve local knowledge and access for the IPO and colleagues in the UK; the Attaché Programme has increased the depth and nuances of knowledge among IPO colleagues.

The Attaché Programme is able to give very specific market intelligence and local IP developments; adding much more detail to UK IPO knowledge.

Regional reporting is excellent, when it is communicated, as it ensures colleagues feel 'one step ahead' in their IP knowledge. Having an understanding of market IP intricacies ensures IP knowledge building and helps advance strategies for refining enforcement processes.

Specific training activities are particularly appreciated.

- > In the Chinese and Indian markets, training and knowledge building initiatives ensure the IPO and UK colleagues are exposed to nuanced, local IP information.
- > Webinars, presentations, newsletters and training sessions with the attaché have all aided in fostering this increased knowledge.

"It's mainly the intelligence gathering side we're interested in, helping decide what we can and can't do. Being told that there's a problem: we have to then ask ourselves what we need to do in market." - IPO Enforcement.

"The attaché's initiative originally, the first session was a pilot workshop which helped develop the IP training. Since then the sessions have become self-sustainable and continue to propagate key tenets of IP." - FCO Beijing.

Policy Change

The attachés bring the UK into the local IP policy conversation.

The attachés' policy work is able to accomplish significantly more than the consulates were able to tackle before their arrival. The attachés' local connections and focus on IP in market can establish them as a key source of education for local policy influencers, and they keep UK interests front of mind.

It is nearly impossible to judge the extent of impact of the attachés here, as local policy changes are always the result of a multitude of influences. Combined with the fact that such policy change is a work in progress across markets, and often very slow to happen, the link to direct policy changes is difficult to track.

Because of its great successes, there is a desire for the Attaché Programme to extend across the globe; but there is recognition of the limitation and difficulties with the programme operating in certain markets.

The list of desired countries for the Attaché Programme to extend to is vast. Businesses want to feel their investment opportunities are being protected in markets they currently operate in and in their markets of interest, and UK businesses operate everywhere.

However, there is limited consensus about potential new markets. Northern and Central Africa, Russia, South America, the Middle East and the MINT countries (Mexico, Indonesia, Nigeria, Turkey) are called out as specifically desirable. That said, there is a feeling amongst many business owners that while Russia is desirable, a UK Government programme might have little effect.

Bridging the gap between Europe and the Middle East was a favourable compromise for many and Turkey is championed as one of the ‘markets to watch’ in terms of trade and investment.

Conclusions

The Attaché Programme fulfils its business remit with large organisations; the programme improves the perception of the government for UK businesses using it.

The attachés are appreciated for their ability to connect businesses with key local contacts, and with others facing similar issues in the market. The programme makes businesses feel the UK government is taking their IP issues seriously, and makes foreign governments take UK businesses more seriously as well.

While 79% of the Attaché Programme business users say their attaché contact has provided commercial value, precisely defining the impact of the attachés is difficult. This is not only because businesses struggle to measure IP value, but also because what they do acts in concert with so many other actions businesses are taking. One thing most agree on is that the attachés could be more proactive in their assistance, particularly in terms of the range and coverage of information provided across all markets (although many appreciate receipt of newsletters in China). Smaller organisations in particular don’t seem aware of the attachés’ work.

Overall, 86% of businesses have had ‘good’ experience interacting with the attachés, and with a similar percentage of businesses (85%) considering their IP assets important and worth protecting, these attaché interactions are highly valued.

The programme has made an excellent start in knowledge sharing and IP information development for UK government, and within the local market government and policy landscape.

UK government and local governments alike use the attachés as a source of information. They are relied upon for clear and succinct communication of IP information and are a focal point for local IP information. They are often a key linking contact for the local governments as well – particularly when they are seeking education or best practices.

Local market connections are hugely appreciated and the attachés network of well-respected contacts allows them to draw on the right resources for help with specific IP issues, enforcement strategy and policy advancement.

The Programme is delivering value for business and government alike...however, there is always room for improvement!

Proactivity: Across business and policy contacts, the attachés are not felt to be as proactive about getting information out as they could be – their updates and briefings clearly don't reach everyone, and the information provided may be inconsistent between markets.

Clarity: While most people in contact with the attachés clearly understand that 'one man can only do so much', they are often unclear about what support should be available.

Expansion: With more people, the programme could serve even more stakeholder needs, and expansion both within existing markets and into new countries is desired.

Awareness: Programme awareness is currently somewhat haphazard. A systematic way of raising awareness levels amongst target stakeholders would increase reach and effectiveness.

Succession Planning: Succession planning needs to be on the IPO's radar, as so much of what the attachés do is relationship based, and policy service users are already concerned about what might happen when an attaché moves on.

Equally, business users typically feel they have personal relationships with the attachés, and are able to make straightforward, direct contact with them. Loss of the personal contact businesses currently have with the attachés will need careful handling in the event of an attaché moving on.

Appendix: Market Specifics

Our analysis determined that each market operates distinctly, based on local variances. As such, there is no across the board, structured feedback for UK in-market colleagues.

Wide differences appear within the broader remit.

While each attaché has the same basic framework for their role and remit, the situation on the ground in each market differs. These vast differences dictate where their focus is placed and what they are able to accomplish.

For government policy colleagues and businesses alike, there is ambiguity surrounding market-wide policy advancements and the role the attaché can play or influence. Likewise, individual market efforts to get information to stakeholders is of varying success, both between markets and within stakeholders.

Brazil:

Businesses and local market contacts agree that Brazil's IP infrastructure is not yet robust, so UK businesses in the market must anticipate the challenges that this creates (e.g. frequent lack of enforcement of IP violations).

It is widely believed by local and UK businesses that IP is not central to the Brazilian government's agenda, though the conversation is taking place.

- > While Brazilian officials are happy to discuss IP and learn from the UK, active improvements are not high on the to-do list.
- > This makes for an environment where even local Brazilian businesses often think the government isn't necessarily on their side.

This lack of focus on IP contributes to a challenging landscape for UK organisations, and they report that:

- > Patents can take up to 10 years to register in the market, and other protections can likewise be slow to materialise.
- > This can lead to operational inefficiencies or deadlock if businesses aren't aware and prepared for the country's challenges.

"It's not a secret that in Brazil IP rights aren't being given any particular importance by the government." - UK Lawyer.

"What we really need is training. The UK can teach us so much, and we in Brazil are not yet as sophisticated about our IP." - Brazilian Lawyer.

"IP is very important to us; we often have to bring to justice other companies infringing our trade marks. But we fight our battles carefully, we want to be 100% sure we will win." - FMCG Brand.

China:

Businesses and local market IP experts report that while IP sophistication is high at a federal level, infringements remain widespread within the market.

- > Government bodies are keen to emphasise concern for intellectual property.
- > While laws are robust and may be enforced, authorities do this inconsistently.
- > Businesses cite many instances of decisions appearing biased against UK companies.

Counterfeit and trade marks are primary concerns for UK businesses.

- > Counterfeit is widespread, both in manufacture and retail of goods, especially online.
- > Many businesses also complain of trade mark squatting.
- > Piracy in publishing is a serious concern.

"The [Chinese] government have been very quick to act in a recent issue. They're learning from civil cases of copyright infringements. Their job is to enforce laws and they've apparently been acting on this and taking certain disputes forward." - Publisher.

"The [trade mark] decision that had been made was out of sync with how the same issue had been decided in other parts of the world and actually...presents a barrier for our company wanting to do business in China." - Fashion business.

"Chinese locals will get these [trade marks] and sit on them, waiting for business owners to come and offer them money... We are powerless to do anything about trade marks that are registered in unrelated [product] classes." - Media organisation.

India:

In India's burgeoning economy, companies report struggles with IP protection, enforcement and counterfeiting.

IP has a haphazard history in India and is not believed to be high on the national agenda.

- > There are very few IP experts in India and finding country specific experts has previously offered little safety for UK businesses.
- > The central government is not focused on the IP issue, though some local organisations are increasingly taking it up.

Vast regional nuances make enforcement difficult for businesses.

- > Organisations working across India find it difficult to manage the variety of IP strategies that are required across geographies.
- > Checking on the progress and successes of implemented strategies can also be met with difficulties.

"At the time there was no IP expert in India, so the trade person had to look after IP issues and helped to design a programme for IP protection...India is an emerging economy and the biggest challenge is turning out to be intellectual property. There are hardly any lawyers that can guide you." – Market support organisation.

"Since the (IP) problem is so big across the country, it needs coordination amongst various departments. We have marketing departments, telecommunications...it takes a lot to get enforcement actions done." - Petrochemical Company.

SE Asia:

Whilst Singapore is on course to become the regional IP capital, wider SE Asia is much more complex, for businesses and government officials alike.

Singapore enjoys advanced IP law and enforcement of those regulations.

- > It is very rare for UK businesses to encounter issues within the IP regulatory framework of Singapore.
- > The wider SE Asian market is more complex with each country operating in apparent isolation.
- > Modes of operation and engagement with legal processes are heavily dependent on interpretation.

Counterfeit and trade marks are large concerns for UK businesses in SE Asia.

- > Counterfeit is a problem, in both manufacture and retail.
- > Ensuring technology patents are protected is of utmost important as the trade of technology patents is big business in Asia.

“Modes of operation, engagement with IP and legal processes are very different across Asia. Language in documents and the interpretation can be so different and cause problems.” - Technology Firm.

“Singapore issues are different as there’s a much better regime there. There is a lot of legislative and specific jurisdiction enforcement.” - Publishing.

“We face a lot of issues when protecting our designs and trade marks. Brand names and designs being copied, as well as retailers selling counterfeit goods.” - Creative Industry.

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