

Committee on Development and Intellectual Property (CDIP)

Tenth Session
Geneva, November 12 to 16, 2012

AFRICAN GROUP CONTRIBUTION TO WIPO CONFERENCE ON INTELLECTUAL PROPERTY AND DEVELOPMENT

prepared by the Secretariat

1. By way of a communication dated November 8, 2012, the Delegation of Egypt on behalf of the African Group has sent to the Secretariat a document containing African Group Contribution for a WIPO Conference on Intellectual Property and Development to be considered by the tenth session of the Committee on Development and Intellectual Property (CDIP).
2. The above-mentioned submission is contained in the Annex to this document.
3. *The CDIP is invited to take note of the information contained in the Annex to this document.*

[Annex follows]

1. BACKGROUND

Development issues have acquired a prominent place in intellectual property deliberations and rule making. In 2004 a proposal was made at WIPO General Assembly for the establishment of a Development Agenda. In advocating the agenda was the underlying consideration that technological innovation, science and creative activity in general are rightly recognized as important sources of material progress and welfare and that despite the important scientific and technological advances and promises made, a significant “knowledge gap” as well as a “digital divide” continue to separate the developed from developing nations.

The proposal and thereafter the 45 recommendations, adopted by the WIPO GA in 2007 under the WIPO Development Agenda, made a strong call to focus action on various dimensions of development, e.g., norm setting in terms of flexibilities, public policy and public domain; technology transfer and access to knowledge; technical cooperation and capacity building; development-oriented enforcement trends; and the role of WIPO as a UN institution.

Since 2007, the Committee on Development and Intellectual Property has addressed the interlinkages between IP and development. It has also initiated a set of projects and activities to operationalize the above mentioned recommendations. The CDIP is also tasked with monitoring the implementation of the WIPO DA recommendations.

Purpose and objectives of the Conference

Against this backdrop, the Conference, in a forward-looking perspective, should consider how the different dimensions of development are currently being addressed and what steps should be further undertaken to fully integrate them in the intellectual property regime at the domestic, regional and international level in the context of the UN MDG and post 2015 Development Agenda. Intellectual property has important implications such as on public health, education, nutrition, the environment and the dissemination and transfer of knowledge in general. The Conference should provide an opportunity to look at these issues with the view to identify and guide future work in these fields.

Preparatory process

Under the guidance of the CDIP, a preparatory process at the national and regional levels comprising seminars and empirical evidence would focus on the different facets of the interface between intellectual property and development. Three regional meetings should be held in Africa, Asia and Latin America. This process should take place with the participation of relevant UN organizations, leading academic institutions and a variety of stakeholders representing different disciplines and sectoral activities in the public and private sector. It should also include studies and research papers with empirical evidence.

The preparatory process should lead to the convening of an International Conference on IP and Development based on the findings resulting from the national and regional meetings. The intention being that developing countries participating in

these events own the process and identify by themselves the achievements, shortcomings and future challenges.

OVERARCHING THEMES TO BE ADDRESSED IN THE PREPARATORY PROCESS ¹

A. Developing and Designing a Development Oriented IP system

Objective: Developing an IP system appropriate to the level of development, to meet national needs and priorities.

Sub-themes:

Discussions and deliberations based on case studies and empirical evidence addressing:

- (i) The design of intellectual property regimes to foster creativity, dissemination and transfer of technology in different fields and under different themes. This segment might consider identifying challenges and shortcomings in addressing development issues using concrete cases and examples.
- (ii) National development-oriented IP strategies and integrating IP and development policy to address national development needs.
- (iii) Technical cooperation and assistance and their impact on development strategies; and
- (iv) Recent empirical evidence on IP, innovation and development (countries/sector).

B. Intellectual Property and public health related issues

Case studies and empirical evidence to facilitate discussions on:

- (i) The use of patent related flexibilities to facilitate access to affordable quality medicines.
- (ii) The treatment of undisclosed information in line with article 39.3, TRIPS and facilitating access to affordable quality medicines; and
- (iii) Facilitating Research & Development collaboration internationally to address diseases that predominantly affect developing countries.

¹The tentative list of themes should respond to national/regional priorities and not necessarily should be addressed in all contexts.

C. Intellectual Property, Education, Creative Industries and other development dimensions

Case studies and empirical evidence around copyright issues particularly in the digital environment addressing:

- (i) Obstacles faced in the use of exceptions and limitations in fostering access, creativity and innovation in particular for libraries, education, research, people with disabilities;
- (ii) Experiences and challenges in dealing with technological protection measures and management rights;
- (iii) The proper functioning of collective societies in national contexts.
- (iv) The role of copyright exceptions and limitations in fostering access, competition and creativity.

D. Intellectual Property, Food Security and Agriculture

Case studies and empirical evidence targeting a better understanding of:

- (i) The relationship between IP and securing or affecting access to food;
- (ii) The impact of plant breeder's protection on food security, farmers' rights, agro biodiversity and the benefits and costs of international treaties such as UPOV; and
- (iii) Experiences of other sui generis systems for plant variety protection (apart from UPOV).

E. Intellectual Property and Environment

Cases studies and empirical evidence addressing:

- (i) Obstacles in accessing climate change technologies;
- (ii) Experience in licensing of climate change technologies;
- (iii) Identifying necessary mechanisms to facilitate affordable access and wide dissemination of environmentally sound technologies.

F. Innovation, creativity, competition, intellectual property

Case studies and experience around:

- (i) The strategic role of IP in the context of national innovation systems;
- (ii) Commercialization of the results of publicly funded R&D;

(iii) Competition policies needed to prevent the abuse of intellectual property rights or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

(iv) Current Intellectual Property Trends: Examining the Impact on Development, Creativity, Competition and Innovation.

(v) Experiences of open collaborative models such as the human genome project and open access initiatives.

G. Additional Themes/Topics²

1. The implementation of the TRIPS and development (IP and Trade);
2. Contribution of the protection of GRTKF towards economic growth and development in developing countries (New forms of IP);
3. Access and diversity of communication technologies for persons with disabilities (IP and ICTs);
4. The role and contribution of intellectual property and its flexibilities in the attainment of MDGs (IP and MDGs); and
5. The evolution of the Internet and development (IP and ICTs/emerging issues).

Themes to be addressed at the Conference

Following the scheme suggested above for the preparatory process and building on that process, the Conference would address the respective reports and recommendations emerging from the three regional meetings in Africa, Asia, and Latin America as well as from meetings taking place in the national context, regarding the above mentioned themes, in addition to the theme on WIPO's work, role and related governance issues.

Suggested Time and Duration

The preparatory process preceding the Conference should take place in 2013. The Conference could be convened in September 2013, in Geneva, for 3 days.

Participation in the Regional Meetings and the International Conference

WIPO Member States, civil society, academia and UN specialized agencies and development programs.

WIPO should provide funding to facilitate capital-based officials' participation in the regional meetings and the International Conference.

²According to regional and national priorities.

Outcome

The material (studies, presentations, reports, recommendations, etc.) produced in the preparatory process and the Conference would be made available in a transparent manner and should contribute to future work of the CDIP. The results of the Conference should be transmitted via the CDIP to the corresponding meeting of WIPO General Assembly.

Title of the Conference

International Conference on Integrating Development into IP Policy-Making

Working languages of the Conference

All six languages

Speakers' list (to be developed in consultation with Member States)

Balanced and be privy to development issues as they pertain to IP

Format

Plenary sessions and two simultaneous sessions reporting to the plenary.

[End of Annex and of document]