

Committee on Development and Intellectual Property (CDIP)

Eighteenth Session

Geneva, October 31 to November 4, 2016

DESCRIPTION OF THE CONTRIBUTION OF THE RELEVANT WIPO BODIES TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

Document prepared by the Secretariat

1. The WIPO General Assembly at its forty-eighth session held in Geneva, from October 3 to 11, 2016, considered the document WO/GA/48/ on “Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations”.
2. The WIPO General Assembly took note of the contents of the above-mentioned document and decided to forward the relevant paragraphs from the reports of the various bodies to the Committee on Development and Intellectual Property (CDIP).
3. Accordingly, the description of the contribution of the following relevant WIPO bodies to the implementation of the respective Development Agenda Recommendations is reproduced below from their reports to the WIPO General Assemblies:
 - (a) Report on the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), document WO/GA/48/9, paragraphs 10 and 11;

“10. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, IGC 31 also discussed the contribution of the IGC to the implementation of the Development Agenda (DA) Recommendations.

“11. In this regard, the following statements were made at IGC 31. These will also appear in the initial draft report of IGC 31 (WIPO/GRTKF/IC/31/10 Prov.), which will be made available, as requested by the IGC, by October 28, 2016:

“The Delegation of Nigeria, speaking on behalf of the African Group, acknowledged the various technical assistance and capacity-building activities undertaken by the Traditional Knowledge Division and WIPO in general, to provide regulatory advice and other development-oriented assistance to developing and least developed countries. It emphasized Development Agenda Recommendation 18, which, when adopted in 2007, urged the IGC to “accelerate the process on the protection of genetic resources, traditional knowledge and folklore, without prejudice to the outcome, including the possible development of an international instrument or instruments.” In that context, a resounding and unassailable contribution of the IGC to the implementation of the Development Agenda recommendations was a conclusion of the three-subject IGC negotiations with an outcome of a minimum standard, functional international legally binding instrument that enhanced the transparency and efficacy of the international IP system, promoted and protected tradition-based knowledge, creation and innovation in the modern IP framework (whether commercialized or not), and ensured equitable economic benefits, and as appropriate, moral rights, for the owners of such knowledge. The assistance provided by WIPO in the sphere of IGC-related topics had to be demand driven, development oriented, transparent, and respond to the specific priorities and/or development needs of the demanding country. It was also crucial that such engagements take into account the existing flexibilities in the international IP system. The African Group remained committed to achieving the Group’s objective desire within the IGC and would continue to engage constructively.

“The Delegation of Brazil recalled that the IGC had resumed its activities after a hiatus of more than one year. The existence of the IGC was a condition for the implementation of at least one of the Development Agenda recommendations, Recommendation 18. Other recommendations were also involved in the IGC’s work, namely Recommendations 15, 16, 17, 19 and 22. In 2016, there had been two IGC sessions: IGC 29 and IGC 30, dealing with the relationship between GRs and the IP system, which had contributed to accelerating the IGC process towards a legally-binding instrument. The Delegation was hopeful that the current and future sessions would continue to follow Recommendation 18, as well as continue to implement other relevant recommendations.

“The Delegation of China appreciated the contributions of the IGC to the implementation of the Development Agenda and aligned itself with the statements made by the Delegation of Nigeria, on behalf of the African Group, and by the Delegation of Brazil. The protection of GRs, TK and TCEs reflected diversified aspirations of all countries, and the balance between creativity and tradition. It hoped to continue to pursue the work so as to realize the aspirations of developing countries, particularly least developed countries, in that area.

“The Representative of the Tulalip Tribes, speaking on behalf of the Indigenous Caucus, said that the previous year, the United Nations General Assembly had adopted the Sustainable Development Goals (SDGs), which aimed to eliminate extreme poverty by 2030, and to leave no-one behind in achieving sustainable development. He drew attention to the SDG target under the goal to end extreme poverty, which required States to ensure that all men and women, in particular the poor and the vulnerable, had equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property. For

indigenous peoples, ownership over “other forms of property” included ownership of TK, TCEs and other community intellectual creations. He recommended that Member States of the IGC take cognizance of that SDG target in the course of the negotiations. In order to comply with the Outcome Document of the World Conference on Indigenous Peoples, the United Nations had adopted the System-Wide Action Plan for ensuring a coherent approach to achieving the ends of the Declaration on the Rights of Indigenous Peoples (the SWAP). The SWAP ultimately aimed at contributing to the realization of indigenous peoples’ rights at the country level through reinforced support by the UN system to Member States in that regard. He urged Member States of the IGC to ensure coherence between the instruments being negotiated and other international legal instruments on the rights of indigenous peoples. Any instrument developed by the IGC should not diminish the rights of Indigenous peoples under other international legal instruments.

“The Delegation of India aligned itself with the statements made by the Delegation of Nigeria, on behalf of the African Group, and by the Delegations of Brazil and China. The Delegation had been a major demandeur for addressing the misappropriation of GRs, TK and TCEs. It expected that the work of IGC would result in a legally binding instrument(s) to protect and promote GRs, TK and TCEs, thereby addressing various Development Agenda recommendations. The Delegation appreciated and encouraged the work of WIPO in the mainstreaming of the Development Agenda in its work.”

(b) Report on the Standing Committee on Copyright and Related Rights (SCCR), document WO/GA/48/3, paragraphs 31 to 35:

“31. Further to the WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies a description of their contribution to the implementation of the respective Development Agenda recommendations,” the following oral statements were made as reported from the 32nd session of the SCCR:

“32. The Delegation of Nigeria, speaking on behalf of the African Group, was pleased that the Committee was turning its attention to considering the contribution of the SCCR to the implementation of the Development Agenda recommendations. As in the past, the Delegation hoped that the Committee would provide such information and make a report to the General Assembly. The adoption of the Development Agenda recommendations in 2007 was an acknowledgment by WIPO of its role in facilitating socio-economic development of its Member States, especially developing and least developed countries. To mainstream development considerations in all WIPO activities was also a critical and conscious step by the Organization. Some of the recommendations, especially those included under Cluster B, were essential for helping to foster an inclusive and balanced IP system that took into account the different levels of development of WIPO Member States. The copyright system had an immense, well-documented contribution to make to socio-economic development. According to the Delegation, the SCCR had a very good record in that regard. Reference could be made to progress reached after 2007, such as the Beijing Treaty, the Marrakesh Treaty and potentially a broadcasting treaty. It hoped that the SCCR could change the pace of the negotiations, especially with reference to exceptions and limitations for libraries and archives and educational and research institutions. The African Group had immense concerns on the willingness or level of political commitment that had been demonstrated by Member States to advance on that subject, taking into account the important role played by education, knowledge and access to information for human

and societal development. The Delegation also mentioned the Sustainable Development Goals, including a specific one on education and on providing life-long opportunities for all to learn. It drew the Committee's attention to Development Agenda Recommendation 17, which said that, in its activities, WIPO should take into account the flexibilities of intellectual property agreements, especially those which were of interest to developing countries and least developed countries. The Delegation also referred to Recommendation 22, which said that WIPO norm-setting activities should be supportive of the development goals agreed within the United Nations system, including the Millennium Development Goals that had been succeeded by the Sustainable Development Goals. There was a call to Member States to demonstrate the agreements that were possible within the wider framework of the United Nations system. The Delegation did not see any member of the SCCR that was not a member of the United Nations system and that did not agree to the adoption of the Sustainable Development Goals. Therefore, it hoped that the SCCR could turn a page and show more graciousness, tolerance and inclusiveness in dealing with the work on exceptions and limitations for libraries and archives and for educational and research institutions.

“33. The Delegation of Brazil thanked the African Group for its intervention and for suggesting inclusion of that agenda item in the session. The Delegation highlighted, as presented by the African Group, Recommendations 17 and 22.

Recommendation 17 stated that, in its activities, including norm-setting, WIPO should take into account the flexibilities of international intellectual property agreements, especially those that were of interest to developing countries and least developed countries. Discussions on broadcasting, exceptions and limitations for libraries and archives, exceptions and limitations for educational and research institutions and persons with other disabilities, as well as discussions on the GRULAC proposal on the digital environment (document SCCR/31/4) were good examples of the implementation of that Recommendation. Recommendation 22, for its part, stated that WIPO norm-setting activities should be supportive of the Development Goals agreed within the United Nations system, including those contained in the Millennium Development Goals, since they had a set of common sustainable goals. In that context, Sustainable Development Goal 4 to “ensure inclusive and quality education and promote life-long learning opportunities for all” was of special importance, specifically in regard to discussions for exceptions and limitations for libraries and archives, and exceptions and limitations for educational and research institutions and persons with other disabilities. The Delegation commended the WIPO Secretariat for addressing that Recommendation. In working documents for norm-setting activities and for other activities, there was an inclusion of issues such as potential flexibilities, exceptions and limitations and the possibility of additional special provisions for developing countries and least developing countries, as guided by Recommendation 22.

“34. The Delegation of Greece, taking the floor on behalf of Group B, clarified that the additional agenda item on the contribution of the SCCR to the implementation of the Development Agenda Recommendations was included on an *ad hoc* basis. It underlined that the additional agenda item was not on the agenda in the recent past, and development-related activities in the field of copyright were undertaken by WIPO irrespective of the inclusion of that agenda item. The Group believed that the committees of WIPO, including the SCCR, had to focus on substance in order to comply with their mandates. From that viewpoint, the Delegation reiterated that development considerations formed an integral part of the work of the SCCR, as demonstrated by the subject matter under discussion.

“35. The Delegation of Egypt aligned itself with the comments made by the Delegation of Nigeria on behalf of the African Group, and shared the views raised by the Delegation of Brazil. It emphasized that since the goal was the mainstreaming of the Development Agenda, which had a cluster on norm-setting, committees discussing substantive work should take into consideration development-related objectives and accelerate work in that domain. Otherwise it would be a default on global commitments related to the Sustainable Development Goals and to human rights because many of the issues that were under discussion were cross cutting with some human rights issues. For example, education was not only a Sustainable Development Goal but was also a basic right. That was relevant to the areas under discussion in the SCCR, and it hoped, therefore, that the work could move forward at a faster pace. In addition, there were other activities undertaken by WIPO, also under close observation by Member States, which were complementary and not mutually exclusive.”

4. The Committee is invited to take note of the information contained in this document.

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