

Committee on Development and Intellectual Property (CDIP)

Twenty-Third Session
Geneva, May 20 to 24, 2019

Evaluation Report of the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II

prepared by Mr. Daniel Keller, Consultant, Leubringen, Switzerland

1. The Annex to this document contains an independent Evaluation Report of the Project on *Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries - Phase II*, undertaken by Mr. Daniel Keller, Consultant, EvalCo Sàrl, Leubringen, Switzerland.

2. *The CDIP is invited to take note of the information contained in the Annex to this document.*

[Annex follows]

TABLE OF CONTENT

LIST OF ACRONYMS	2
EXECUTIVE SUMMARY	3
RECOMMENDATIONS	5
1. INTRODUCTION	6
(A) PROJECT BACKGROUND AND DESCRIPTION	6
(B) SCOPE, PURPOSE, METHODOLOGY AND LIMITATIONS OF THIS EVALUATION..	7
(i) Scope	7
(ii) Key purpose	7
(iii) Methodology	8
(iv) Key evaluative steps.....	9
(v) Main limitations to this evaluation	9
2. FINDINGS AND ASSESSMENT	10
(A) PROJECT PREPARATION AND MANAGEMENT	10
(i) Project preparation	10
(ii) Use of project planning tools (at the planning stage).....	10
(iii) Project Management.....	11
(B) RELEVANCE	11
(i) Policy relevance	11
(ii) Relevance to beneficiaries.....	12
(C) EFFECTIVENESS.....	13
(i) Seminars, workshops, trainings and study visit.....	13
(ii) Feasibility study	14
(iii) Training material	15
(iv) Assessment of quality of outputs	15
(v) Initial outcomes observed	15
(vi) Impact.....	16
(D) EFFICIENCY.....	16
(i) Financial implementation	16
(ii) Assessment of approach	16
(iii) Synergies with other activities conducted by the Secretariat.....	17
(E) LIKELIHOOD OF SUSTAINABILITY OF RESULTS	17
3. CONCLUSIONS	18
4. RECOMMENDATIONS	21

LIST OF ACRONYMS

BBDA	Bureau Burkinabè du droit d'auteur
CDIP	Committee on Development and Intellectual Property
CEMAC	Central African Economic and Monetary Community
CHF	Swiss Francs
DA	Development Agenda
DAC	Development Assistance Committee (of the OECD)
DACD	Development Agenda Coordination Division
FESPACO	Panafrican Film and Television Festival of Ouagadougou
IP	Intellectual Property
IPR(s)	Intellectual Property Rights
KECOBO	Kenya Copyright Board
KFC	Kenya Film Commission
LDCs	Least Developed Countries
OECD	Organization for Economic Co-operation and Development
RBM	Results-based management
SABAM	Belgian Association of Authors, Composers and Publishers
SMART (indicators)	Specific, Measurable, Achievable, Relevant and Time-bound
SME(s)	Small- and Medium-Sized Enterprises
SODAV	Société Sénégalaise du Droit d'Auteurs et des Droits Voisins
ToRs	Terms of Reference (of this evaluation)
UEMOA	Union économique et monétaire ouest-africaine
UN	United Nations
UNEG	United Nations Evaluation Group
WIPO	World Intellectual Property Organization

EXECUTIVE SUMMARY

This independent final evaluation (“the Evaluation”) covered the project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II” (Project Code DA DA_1_2_4_10_11) under the Development Agenda (DA), “the Project”. The Evaluation was conducted from January – May 2019 by Daniel P. Keller, Senior evaluator, Evillard/Leubringen in close coordination with the Development Agenda Coordination Division (DACD) and resulted in the following conclusions:

Conclusion 1 on project preparation and management: Overall, the Project was well prepared and managed. Resources constraints and external factors led to delays in delivering some activities.

Preparation benefitted from experience and lessons learned during a first phase. A thorough scoping study of excellent quality was instrumental in understanding the African audiovisual sector, its challenges and ways to address them. Broader project objectives and intervention logic are generally clear. The project document includes an intervention strategy, describes planned activities and provides a timeline of implementation. The rate of disbursement indicates that the budget was accurate. Planned personnel input needed (time allocation) was however not commensurate with the complexity of the Project and the number of activities. This contributed to delays (including for example finalizing the WIPO distance learning course). While beneficiary countries appointed focal points, no formal management structure between the Secretariat and beneficiary countries was set up. Missing is a phase-out strategy with specific measures on how to ensure a continuation of project benefits (sustainability) beyond WIPO’s support.

Management selected the right experts and ensured the quality of support provided. Beneficiaries highlighted the responsiveness of the Secretariat to their needs.

The Project applied WIPO’s planning and reporting templates. Unlike most other development actors, WIPO does not use logical frameworks for project planning, monitoring and evaluation.

Conclusion 2 on relevance: The Project was timely and met beneficiaries’ needs. It was fully aligned with strategic priorities defined by the Member States.

The audiovisual sector is among the most creative intellectual assets of the knowledge economy and a critical sector for Africa’s economic growth and development. African film makers, most of them small, face challenges to realize the full economic potential of emerging new technologies. Working at the interface of digital technology with copyright protection systems, the Project provided a timely and appropriate response to the challenges of the African audiovisual sector.

The CDIP’s approval through consensus evidences the Project’s strategic relevance for Member states. The Project responded well to those DA Recommendations it aimed to address.

Project objectives were also coherent with the objectives of Program 3, which calls for enhanced capacities and skills for the effective use and management of copyright and related rights in the financing and legitimate exploitation of audiovisual content, to support the development of the local audiovisual sector in the digital era, with a view of promoting economic, social and cultural development. Although to a lesser degree, the Project potentially also contributes to the objectives of Programs 9 (focus on Africa), 11 (the planned distance learning course for the audiovisual sector), 15 (some considerations to the IT infrastructure for collecting societies) 16 (feasibility study on enhancing the collection of economic data) and 17 (one training on dispute resolution, including mediation and arbitration).

Conclusion 3 on effectiveness: All planned outputs except the distance learning course have been completed. While it was too early to assess broader outcomes, the Evaluation recorded some initial positive developments towards a professionalization of the sector.

The Project promoted the use of IP within the audiovisual sector to improve the valorization of intellectual assets in the five target countries (Burkina Faso, Côte d'Ivoire, Kenya, Morocco, and Senegal), with the ultimate objective to make the sector more viable.

Support included advice on improving the legal framework, strengthening the capacities of copyright offices and collecting societies to better serve the needs of the audiovisual sector, and direct capacity building to SMEs, mainly on improving IP provisions in legal agreements. Moreover, a workshop in Kenya covered alternative dispute resolution (prevention of disputes, mediation, arbitration).

Activities included workshops in all beneficiary countries, on site audit and training for SODAV in Senegal, a feasibility study on enhancing the collection of economic data and one study visit. The planned distance learning course, which will be provided through the WIPO Academy, is expected to be completed by June 2019. Otherwise, planned outputs were delivered timely and in good quality.

While it is too early to assess expected outcomes, beneficiaries reported that awareness on the use of IP within the audiovisual in their countries had increased. They also recorded an initial positive trend towards a professionalization within the film industry, including in terms of formalizing contractual relationships and considering IP aspects. WIPO's input also contributed to revised legislation in Burkina Faso, Morocco and Senegal and a film policy in Kenya.

Conclusion 4 on efficiency: Overall, the Project applied an appropriate approach. The cost-benefit relationship (output level) is comparable with similar WIPO projects.

The mix of activities (primarily seminars and workshops) suggests that a significant part of the non-personnel costs was related to the organization of seminars, workshops and one study visit. The use of workshops for capacity building provided through headquarter missions is obviously a costly way of know-how transfer. Creating an initial momentum, a network, facilitating the exchange of experience and dialogue through multi-stakeholder however does require physical meetings. In terms of technical input, the combination of IP with commercial expertise was important. Important was furthermore to identify bottlenecks along the entire audiovisual value chain and the attempt to address them in a holistic way.

Through the Project, some promising examples of south-south know-how transfer within the West African French speaking countries emerged. Despite some efforts made, exchanges between them and Kenya were more limited, mainly due to language issues and differences in the legal systems (common law in Kenya, civil law in francophone West Africa).

Initial evidence suggests that, where countries are parts of a common market for productions or artists from different countries typically cooperate on productions, strengthening the audiovisual sector is best addressed through regional interventions, especially where, as within UEMOA, a formal or informal regional cooperation framework a Project can link into, already exists.

While synergies with other functional sectors remained rather limited, no duplications or overlaps were recorded.

Conclusion 5 on sustainability: The continuation of benefits in countries covered requires further support.

An attempt assessing the likelihood of sustainability of results at the country level would be premature, as a continuation of benefits depends largely on a follow-up by the respective IP

Offices. Capacities and resources of the copyright offices and Ministries of Culture in charge of the audiovisual policies in target countries are mixed.

An additional DA project covering the audiovisual sector in the same region or another further follow-up phase after several years of support would be difficult to justify, as DA projects mainly serve the purpose of piloting innovative approaches in using IP for development.

The Project provided a bundle of different services, most of which are already available within the WIPO Secretariat and have thus already been mainstreamed. Other activities, e.g. a more comprehensive support to the “professionalization” of audiovisual sector in Africa beyond IRP-related issues, would exceed the scope of WIPO’s mandate.

This calls for a follow-up within regular programs, although the high demand might require increasing available resources. The planned WIPO Distance Learning Course for the audiovisual sector, which will be comprehensive and targets a broad audience with a professional interest in the audiovisual sector, will be the core element to ensure continuation of capacity buildings and trainings.

The Project only touched upon the topic of alternative IP-related dispute resolution (conflict prevention, mediation, arbitration) in creative industries. Addressing this highly relevant topic sufficiently would need a separate project with the aim of exploring the potential of alternative IP-related dispute resolution in developing countries in general and piloting possible models.

RECOMMENDATIONS

From the conclusions above, the evaluation derives the following recommendations:

Recommendation 1 (from conclusion 3) to the WIPO Secretariat

Complete the WIPO Distance Learning Course for the Audiovisual sector as planned.

Recommendation 2 (from conclusion 5) to the WIPO Secretariat

- (a) Provide follow-up support to the audiovisual industry in Africa through the work of relevant WIPO programs to the degree existing resources and services allow for.
- (b) Explore the option to provide selective follow-on support within the framework of possible new DA projects targeting creative industries in Africa (if any).
- (c) Explore the interest of member countries for a DA project covering alternative dispute resolution (mediation, arbitration, etc.) in developing countries and LDCs. If there is demand, propose a project to the CDIP for consideration.

Recommendation 3 (from conclusions 1 and 4) to the WIPO Secretariat

- (a) When preparing DA projects, the Secretariat should systematically assess management input needed against the existing workload of the project manager.
- (b) Where appropriate, the Secretariat should budget for the recruitment of a Project Officer who is responsible to support the Project Manager in day-to-day project management/implementation.
- (c) To complement the technical expertise of the Project Manager, the Project Officer should primarily be a proven development practitioner with field experience and excellent project management skills.

1. INTRODUCTION

1. This independent final evaluation (“the Evaluation”) covered the project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II” (Project Code DA_1_2_4_10_11) under the Development Agenda (DA), “the Project”, see Appendix I. Within the Secretariat, the Copyright Law Division implemented the Project.

2. Commissioned by the Secretariat, the Evaluation was guided by the Terms of Reference (ToR) dated December 21, 2018 (Appendix II). It was undertaken between January 2, 2019 and May 25, 2019 by an external evaluator¹ in coordination with the Secretariat.

(A) PROJECT BACKGROUND AND DESCRIPTION

3. The resumed 17th session of the Committee on Development and Intellectual Property (CDIP) in Geneva adopted the Project in April 2016². The Project was designed as a follow-up phase to the project on “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries”³ that ended in December 2015 and was evaluated in 2016⁴. Its expected duration was 30 months.

4. Of the overall budget of 540,000 Swiss francs, 430,000 Swiss francs related to non-personnel costs and 110,000 Swiss francs related to personnel costs. The WIPO Secretariat reported that 100% of the budget had been spent⁵.

5. Structured into three main components (research and distance learning, professional development and training, and regulatory and management framework), the Project aimed at accelerating the use of intellectual property (IP) to support the development and professionalization of Africa’s emerging, market-driven audiovisual sector. Covering again the beneficiary countries of the Project’s phase I (Senegal, Burkina Faso and Kenya), two additional countries (Morocco and Cote d’Ivoire) were included into phase II. The selection of these two additional countries was based on their previous participation as observers in Phase I and the advanced stage of development of their audiovisual policy and institutional frameworks, which was expected to enhance cross country exchange of experiences and best practices.

6. Main beneficiaries⁶ included the copyright offices, national authorities in charge of the film and audiovisual industries (which also served as a focal point for the Secretariat), collective management societies, producers, broadcasters, magistrates and lawyers. In addition, the Project also targeted media regulators⁷.

¹ Daniel P. Keller, Evillard/Leubringen, Switzerland. The Evaluator is independent and has never been involved into the preparation or implementation of this or any other project implemented by the Secretariat.

² Project Document: CDIP 17/7, Annex, April 4, 2016, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II” (Project Code DA_1_2_4_10_11).

³ Project Document: CDIP 9/13, Annex, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African countries (Project Code DA_1_2_4_10_11).

⁴ Final evaluation: CDIP 17/3, January 21, 2016, external independent Evaluation Report on the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, undertaken by Mr. Glenn O’Neil, Founder, Owl RE, Geneva.

⁵ Completion cum Self-Evaluation Report, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II (February 25, 2019).

⁶ The Bureau Burkinabé du Droit d’Auteur (BBDA), Burkina Faso; the Kenya Copyright Board (KECOBO), Kenya; La Société Sénégalaise du Droit d’Auteur (SODAV), Senegal; the Ministry of Culture of Senegal, Cote d’Ivoire; le Centre Marocain du Cinéma (CMC), Morocco; the Kenya Film Commission (KFC), Kenya, la Direction de la Cinématographie (Sénégal).

⁷ La Haute Autorité de la Communication Audiovisuelle (HACA), Cote d’Ivoire ; the Communication Authority (Kenya) ; La Haute Autorité de la Communication Audiovisuelle (HACA), Morocco; Le Conseil National de Régulation de l’Audiovisuel (CNRA), Sénégal.

7. Specific project objectives were⁸:

- (a) Advance the development of the audiovisual sector of beneficiary countries through professionalizing, and deepening the creators and artists' understanding of the interplay of the IP system in the sector to effectively manage IP-based assets in the formulation of business plans/strategies in the key stages of the film making process;
- (b) Support local content development and distribution through enhanced skills that will enable SMEs to secure revenue flows in local and international markets;
- (c) Enhance the profitability of copyright-based transactions through improved management skills of IP assets, legal frameworks and improved institutional capacity through notably infrastructure development; and
- (d) Building respect for copyright.

8. Project activities included seminars and workshops in all beneficiary countries, a feasibility study, and a distance learning course for the audiovisual sector, which will be provided through the WIPO Academy.

9. Implementation started in June 2016⁹. Except the distance learning course, which is expected to become available by June 2019, planned activities have been completed.

(B) SCOPE, PURPOSE, METHODOLOGY AND LIMITATIONS OF THIS EVALUATION

(i) Scope

10. The Evaluation covers the entire project duration from June 2016 until October 2018. To ensure consistency among data obtained from different sources, findings until February 28, 2019, the deadline for submission of a draft report, were included. Subsequent developments from 1 March 2019 onwards were not accounted for.

(ii) Key purpose

11. Balancing the need for organizational learning with the purpose of ensuring accountability of the Secretariat towards the Member States, the specific evaluation objectives are two-fold:

- (a) Learning from experiences during project implementation: what worked well and what did not work well for the benefit of continuing activities in this field. This included assessing the project design framework, project management, including monitoring and reporting tools, as well as measuring and reporting on the results achieved to date and assessing the likelihood of sustainability of results achieved; and
- (b) Providing evidence-based evaluative information to support the CDIP's decision-making.

12. Within these purposes, the Evaluator was expected to assess the extent to which the Project has been instrumental in (a) contributing to enhanced use of the IP system for the financing, production and distribution of audiovisual works; and (b) advancing the development of an effective infrastructure for IPR-based transactions and licensing and related skills to enhance financial returns to audiovisual creators and the industry.

⁸ CDIP 17/7, Annex, page 4.

⁹ See: Progress Report: CDIP 18/2, August 15, 2016, Annex VI, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II

13. The ToR provide specific evaluative questions, which were expanded through an iterative process. Information obtained during interviews were validated through subsequent interviews and additional documents.

14. Since no specific roadmap for the way forward in continuing support to the African audiovisual sector is available, the evaluation explored specifically what is needed to ensure sustainability of preliminary results, achieve the broader objectives.

(iii) Methodology

15. The methodological framework is provided by the OECD-DAC evaluation criteria and quality standards¹⁰, to which WIPO's Evaluation Policy¹¹ refers and the ToR. The ToRs essentially requested an assessment of project quality, including its design and management.

16. In line with the ToRs and applying standard evaluation practices, the assessment was conducted based on the following five criteria¹²:

(a) Project preparation and management¹³: The degree to which project preparation and management followed good practices, including applying tools of results-based management (RBM). Management also includes monitoring and self-evaluation, risk mitigation and responsiveness of management to respond to emerging external developments.

(b) Relevance: The extent to which project objectives were consistent with beneficiaries' requirements, Member Countries' needs and global priorities and WIPO's policies (especially the DA recommendations).

(c) Efficiency¹⁴: How economically resources/inputs (e.g. funds, expertise, time) were converted into results¹⁵, thus "value for money".

(d) Effectiveness: The extent to which objectives were achieved (including the extent to which the DA recommendations addressed by the Project have been implemented) or are expected to be achieved accounting for their relative importance. The evaluation also considered achievement of expected outcomes or possible positive/negative unexpected outcomes (as far as this was already possible). As a basis, results reported were validated and assessed against key performance indicators defined in the project document.

(e) Sustainability: Assesses the likelihood of continuation of project benefits (outputs, outcomes) after the assistance has been completed.

17. Different evaluation tools were combined to ensure an evidence-based qualitative and quantitative assessment. Data from different sources was triangulated and the plausibility of the results obtained examined. Conclusions and recommendations were derived from evaluation findings (deductive reasoning).

18. The methodological mix included desk reviews, semi-structured individual interviews, and semi-structured interviews of focal groups. Within the Secretariat, in-depth discussions were

¹⁰ DAC Guidelines and Reference Series, Quality Standards for Development Evaluation, OECD Development Assistance Committee (DAC), OECD 2010. The DAC evaluation criteria are internationally recognized as best practice and widely applied by most development actors.

¹¹ WIPO, Revised Evaluation Policy (Second Edition 2016/2020), February 19, 2016.

¹² The ToRs only requested an assessment of effectiveness and sustainability.

¹³ These aspects are sometimes also assessed under the criteria of efficiency.

¹⁴ As requested by the ToR, project design and management, which is sometimes also assessed under the criteria of "efficiency", will be separately assessed.

¹⁵ This is an economic term used to assess the extent to which aid uses the least costly resources possible to achieve the desired results. This generally requires comparing alternative approaches to achieving the same outputs, to see whether the most efficient process has been adopted.

held with management and staff of functional sectors that were involved into or contributed to the Project.

19. Desk study covered the project document, progress reports, mission reports, and the feasibility study undertaken by the Project. Selectively, documents relating to phase I were consulted for reference purposes. The Evaluation also validated beneficiary surveys conducted by the Project through stakeholder interviews.

20. To ensure organizational learning and in the spirit of a participative evaluation process, interviews were structured as open as possible to ensure a free exchange of opinions. The Evaluation balanced the need for organizational learning with the purpose of ensuring accountability of the Secretariat towards the Member States. While maintaining independence, the Evaluator applied a participatory approach, seeking the views of all stakeholder groups. The Evaluation was designed to contribute to continuous improvement. Enrolling key stakeholders in the evaluation process and seeking alignment on key findings, conclusions and recommendations is expected to facilitate organizational learning.

21. The presentation of the evaluation report at the 23th session of the CDIP on 21 May 2019 will ensure information, input to the decision-making process of the CDIP and contribute to accountability of the Secretariat towards its Member States.

(iv) Key evaluative steps

22. Main evaluative steps included desk review of documents, the operationalization of the ToR through an inception report, interviews in Geneva, an intermediate de-briefing on preliminary evaluation results, the submission of a draft report for factual verification, integration of comments received, submission of the final report and its presentation to the CDIP.

(v) Main limitations to this evaluation

23. Experience shows that it takes time before project deliverables, through their use by beneficiaries, translate into measurable effects. An attempt to assess wider outcomes or even impact in terms of broader socio-economic changes within beneficiary countries or beyond would be premature.

24. Data collection was limited to desk study (see Appendix IV) and on interviewing around 30 stakeholders who directly participated in project activities (see Appendix III). No field visits to beneficiary countries were conducted. The WIPO distance learning course was not yet available for review, but an interview with the WIPO Academy and the Project Manager allowed to gain an understanding on its purpose and content.

25. The final cum self-evaluation report (February 25, 2019) only became available after all interviews had been completed.

26. The findings and assessment in chapter 2 below should be understood in consideration that these constraints necessarily limited the scope and depth of the Evaluation.

2. FINDINGS AND ASSESSMENT

This section presents the findings of the evaluation and provides an assessment of project quality against the evaluation criteria.

(A) PROJECT PREPARATION AND MANAGEMENT

(i) Project preparation

27. Preparation benefitted from experience and lessons learned during a first phase¹⁶, including some input from an independent evaluation report¹⁷. A thorough scoping study¹⁸ of excellent quality was instrumental in understanding the African audiovisual sector, its challenges and ways to address them.

28. Broader project objectives and intervention logic are generally clear. The project document describes planned activities in reasonable details and provides a timeline of implementation. Evidenced by the rate of disbursement (100%), the budget was accurate.

29. In contrast, the estimate of personnel input needed (time allocation) was not commensurate with the work needed to implement planned activities. Resource constraints resulted in some delays (including for example finalizing the WIPO distance learning course).

30. Evidenced also by prior evaluations of DA projects, functional experts of the Secretariat are appointed to work as project managers besides their regular responsibilities, without a thorough assessment whether they can absorb these additional responsibilities besides their regular work. Moreover, project managers are highly qualified specialists in their field, but often with little experience in delivering development assistance. Administrative support staff might be able to help with secretarial work and dealing with logistical arrangements, but not for example with planning, preparing, monitoring and evaluating project activities.

31. For more complex projects with many field-based activities, recruiting a project officer for typical managerial tasks (not related to technical input, policy issues) might be an option to consider if DA projects are delivered through the functional sectors. This model seems to have worked well in some DA projects.¹⁹

(ii) Use of project planning tools (at the planning stage)

32. Project preparation used WIPO's standard templates for project preparation. Good practice is to apply logical frameworks as a basis for Results-Based Management of development interventions. Logical frameworks are widely considered as the standard tool or the common language in planning, monitoring and evaluating development assistance within the UN System and by all other important development actors.

33. Logical frameworks include objectives that are separated between deliverables for which the Secretariat is responsible (outputs), their effects (outcomes) and the broader changes they are expected to contribute (impact). Assumptions and risks should identify the external factors

¹⁶ Project Document: CDIP 9/13, Annex, project "Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African countries (Project Code DA_1_2_4_10_11).

¹⁷ Final evaluation: CDIP 17/3, January 21, 2016, external independent Evaluation Report on the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, undertaken by Mr. Glenn O'Neil, Founder, Owl RE, Geneva.

¹⁸ See CDIP 12/INF3, Scoping Study on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, undertaken in the context of the Project CDIP/9/13, prepared by WIPO Consultants Bertrand Moullier and Benoit Muller.

¹⁹ As an example, see project structure of "Pilot Project on Intellectual Property (IP) and Design Management for Business Development in Developing and Least Developed Countries", (Project Code: DA_04_10_02), evaluation report CDIP 19/4, 2 March 2017, prepared by Mr. Daniel Keller, Consultant, Leubringen, Switzerland.

that are relevant for translating outputs into outcomes and outcomes into impact²⁰. Objectives at all levels are linked to indicators to measure their achievement. Good indicators are specific, measurable, ambitious, relevant and time-bound (SMART). For each indicator, the means of verifications (surveys, statistics etc.) need to be defined. If data collection requires resources, they need to be budgeted for.

34. Logical frameworks are of course not a success guarantee. But they allow to identify possible flaws in the project logic (results chain), which otherwise may be overlooked. Logical frameworks might be difficult to apply where project documents are negotiated wording.

35. While beneficiary countries appointed focal points (within copyright offices), no formal management structure between the WIPO Secretariat and beneficiary countries was set up. Coordination with focal points was however ensured through regular meetings.

36. A clear phase-out strategy, which would spell how to ensure a continuation of project benefits (sustainability) beyond WIPO's support, was not defined.

(iii) Project Management

37. Project management was overall satisfactory. Management performed well in selecting the right experts and in ensuring quality of support provided. WIPO mobilized around 40 experts. African expertise and national expertise were prioritized where available.

38. Resource constraints within the Secretariat, occasional slow response by the copyright offices and some other external factors (the security situation in Burkina Faso, delays in appointing national focal points²¹, changes of focal points during the project) caused occasional delays in delivering activities. Reporting to the CDIP (Member States) was accurate and clear.

39. Beneficiaries interviewed highlighted the good cooperation with the Secretariat and project management, including the responsiveness of the project team to their needs.

(B) RELEVANCE

40. Relevance assesses the extent to which project objectives were consistent with beneficiaries' requirements, member countries' needs, global priorities and WIPO's policies.

(i) Policy relevance

41. The CDIP's approval through consensus shows the Project's strategic relevance for Member States. Various IP-related topics that need to be in place for the protection and valorization of intellectual assets in the audiovisual sector were covered. The idea was not a holistic support to the development of the audiovisual sector in target countries, as this would exceed WIPO's mandate and the scope of a limited intervention.

42. The Project responded well to the DA recommendations²² it was expected to address. Specifically, DA recommendation 4²³ calls for tailoring WIPO's technical cooperation to the needs of SMEs, which were closely involved into project activities. The support to awareness training and capacity building activities in partnership with the national Copyright Offices

²⁰ Hypotheses about factors or risks, which could affect the progress or success of a development intervention (OECD, Glossary of Key Terms in Evaluation and Results Based Management, 2010).

²¹ All national focal points were appointed by the end of 2016 except for Morocco, which nominated its focal point in July 2017, due to some internal changes.

²² See: The 45 Adopted Recommendations under the WIPO Development Agenda by the General Assembly of WIPO Member States, 2007.

²³ Recommendation 4: Place particular emphasis on the needs of SMEs and institutions dealing with scientific research and cultural industries and assist Member States, at their request, in setting up appropriate national strategies in the field of IP.

responds well to DA recommendation 10, which emphasizes on the strengthening of national IP institutions.²⁴ Project objectives are furthermore relevant to DA recommendation 11 to strengthen national capacity for protection of domestic creations, innovations and inventions.²⁵

43. Project objectives were coherent with WIPO's Strategic Goals and Programs²⁶.

(a) The Project responds to Goal III.2 Program and Budget 2016 – 2017, which calls for enhanced human resource capacities able to deal with the broad range of requirements for the effective use of IP for development in developing countries, LDCs and countries with economies in transition.

(b) The Project mainly linked into Program 3²⁷, which is also the implementing program, and calls for enhanced capacities and skills for the effective use and management of copyright and related rights in the financing and legitimate exploitation of audiovisual content, to support the development of the local audiovisual sector in the digital era, with a view of promoting economic, social and cultural development.

(c) Although to a lesser degree, the Project potentially also contributes to the objectives of Programs 9 (focus on Africa), 11 (the planned distance learning course for the audiovisual sector), 15 (some considerations to the IT infrastructure for collecting societies) 16 (feasibility study on enhancing the collection of economic data) and 17 (one training on dispute resolution, including mediation and arbitration).²⁸

(ii) Relevance to beneficiaries

44. According to the scoping study²⁹ undertaken by the Secretariat under Project CDIP/9/13 (phase I), the audiovisual sector is among the most creative intellectual assets of the knowledge economy and a critical sector for Africa's economic growth and development³⁰. The audiovisual sector presents unique opportunities for socio-cultural transformation through infrastructure development, tourist attraction, investment and employment creation.

45. The study further highlights that new technologies have stimulated a new generation of motivated independent film makers to enter global market places but has also affected the value of different IP rights in the industry. At the same time, the African audiovisual market is facing tremendous challenges, evidenced by the far-reaching implications of the digital television migration, which will support throughout the continent a dramatic increase in the number of channels and the growth of new audiovisual services such as online video on demand (VOD) or Internet Protocol TV services (IPTV) including services designed for smart phones.

²⁴ Recommendation 10: To assist Member States to develop and improve national IP institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promoting a fair balance between IP protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with IP.

²⁵ Recommendation 11: To assist Member States to strengthen national capacity for protection of domestic creations, innovations and inventions and to support development of national scientific and technological infrastructure, where appropriate, in accordance with WIPO's mandate.

²⁶ See Program and Budget 2016/2017, applicable at the time the Project was designed.

²⁷ Program and budget 2016 – 2017 (relevant at the time the Project was designed), Approved by the Assemblies of the Member States of WIPO on October 14, 2015.

²⁸ Program 9: Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, LDCs; Program 11: the WIPO Academy; Program 15: IT Solutions for IP Offices; Program 16: Economics and Statistics; Program 17: Building Respect for IP.

²⁹ Scoping Study on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, undertaken in the context of the Project CDIP/9/13, prepared by WIPO Consultants Bertrand Moullier and Benoit Muller (CDIP 12/INF/3).

³⁰ As also evidenced by the Dakar Declaration on Intellectual Property for Africa, adopted at the Ministerial Conference held in Dakar, Senegal from November 3 to 5, 2015.

http://www.wipo.int/edocs/mdocs/africa/en/ompi_pi_dak_15/ompi_pi_dak_15_declaration.pdf.

46. While the new digital infrastructure is creating new opportunities for local content, practitioners have been concerned about the sustainability of this evolving market, which is still dominated by small and medium sized enterprises (SMEs), a stagnant advertising market and small audiovisual companies, unable to license their content at sustainable market prices due to poor skills and lack of supporting infrastructures.

47. The scoping study concludes that the digital transition is an opportunity to re-energize the local film and audiovisual content economy and integrate it into development policies. But efforts are needed to protect the interests of their audiovisual industries, based on recognized practices to foster investment confidence and enable the creative community to maximize the value of their creative assets.

48. The Project was a timely response to the challenge of rapid technological developments and the interface of these new technologies with copyright protection systems. Digital technology, the Internet and mobile applications are fundamentally changing creative industries.

49. The increasing number of commercial transactions in the audiovisual sector led to a shortage of specialized skills from the judiciary and qualified lawyers. This was addressed through specialized trainings.

50. The Project also addressed expressed needs of beneficiary countries to enhance their regulatory framework (legal advice) and to improve services of IP Offices to IP users.

51. All stakeholders interviewed confirmed that the content of WIPO's assistance fully met their needs. Generally, the Project targeted countries with a strong audiovisual sector and within the sector, the right stakeholders.

52. All national stakeholders interviewed expressed a high degree of enthusiasm and a strong dedication. Their ownership and commitment were instrumental to the achievement of initial positive developments presented in chapter 2.C.

(C) EFFECTIVENESS

53. Due to the limitations explained above, the focus was primarily on assessing planned against delivered outputs and directly attributable outcomes. Overall, the evaluator endorses the latest progress report presented to the 22nd session of the CDIP³¹ based on a validation through desk review of reports, internal surveys and interviews. Missing information was completed through interviews with the Project Manager, copyright offices or relevant ministries in charge.

(i) Seminars, workshops, trainings and study visit

54. The following activities were delivered:

(a) Workshop on the new "Code de la Communication" of Senegal, which provided a platform for discussion of and input for new Senegalese draft law (January 27-28, 2017);

(b) Seminar "Les Nouveaux Enjeux de l'Audiovisuel", Université de Saint Louis du Sénégal, February 3, 2017;

(c) Seminar on the contributions of copyright to finance the audiovisual sector (February 27, 2017), FESPACO, Ouagadougou, Burkina Faso;

(d) Kenya: Industry Roundtable on Independent Production, March 24, 2017;

³¹ Progress Report: CDIP 22/2, September 14, 2018, Annex V, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II.

- (e) Seminar on Copyright, Development, Financing, Regulation and Marketing in the Audiovisual Sector, organized with the Kenya Copyright Board (KECOBO) and the Kenya Film Commission (KFC), Nairobi, April 11-12, 2017;
- (f) International Conference on Copyright and Regulation of the Audiovisual Sector in the Digital Age, Abidjan, Côte d'Ivoire, May 15-16, 2017;
- (g) Strengthening the "Société Sénégalaise du Droit d'Auteurs et des Droits Voisins (SODAV)", Dakar, Sénégal, June 27-30, 2017;
- (h) A seminar on legal protection of broadcasters and digital content providers organized together with the "Union Africaine de Radiodiffusion (UAR)" with support of the Ministry of Culture of Senegal, Dakar, December 12-13, 2017;
- (i) Seminar for magistrates, Senegal, December 14-15, 2017;
- (j) Training on collective management in the audiovisual sector in Morocco, January 9-10, 2018;
- (k) Workshop on copyright and economics of audiovisual series in Africa jointly organized with "Série Séries" and the "Bureau Burkinabè du droit d'auteur" (BBDA), Burkina Faso. February 2018;
- (l) Arbitration Workshop on time and Cost-Efficient Alternative Dispute Resolution of Film and Media Disputes, March 26, 2018 (Nairobi, Kenya);
- (m) Policy Roundtable on Kenyan Film Policy at Kalasha Film Market on March 27, 2018;
- (n) Workshop on the revision and validation of a new law, 19 April 2018, Burkina Faso. Originally planned in on March 1, 2018, the event was postponed to April for security reasons;
- (o) Training of Lawyers on Audiovisual Contracts, Abidjan, Côte d'Ivoire, July 2018;
- (p) Seminar "Formation sous régionale sur la copie privée et la reprographie", Dakar, 11-13 September, 2018;
- (q) A training visit for officials to the Belgian Association of Authors, Composers and Publishers (SABAM), for which no report and no participant survey was available. One participant interviewed expressed the view that the choice of Belgium was not adequate, as too different from the Moroccan context. SABAM was not interviewed.

55. Some of the events were organized in partnership with other interested organizations.³²

(ii) Feasibility study

56. The Secretariat commissioned the "Feasibility Study on Enhancing the Collection of Economic Data on the Audiovisual Sector in a Number of African Countries"³³, which was published in March 2018 and covered Burkina Faso, Côte d'Ivoire, Kenya, Morocco and Senegal.

³² Organisation Internationale de la Francophonie (OIF), Confédération Internationale des Sociétés d'Auteurs et de Compositeurs (CISAC), Union Africaine de Radiodiffusion (UAR), Producers Alliance for Cinema and Television (PACT), the European Association of Performers Rights Organizations (AEPO).

³³ Strengthening Africa's audiovisual sector: market intelligence is critical, by Deidre Kevin, Media Consultant, Slovenia, March 2018.

57. Besides highlighting the importance of the cinema and audiovisual industries for the cultural heritage, employment, innovation and economic development, the study concluded the importance of data collection for informed policy decision making. The authors identified a fundamental data gap within the audiovisual sector and identified the reasons for these constraints. Specific recommendations on how to close the gap are included.

58. There was no specific follow-up on the study (how the beneficiary countries intend to address the data gap and/or whether further assistance was needed).

(iii) Training material

59. In close cooperation with the KECOBO, a practical Guide on Copyright for Film makers was produced. Feed-back received on this publication was positive.

60. The Kenya Copyright Board expressed a commitment to continue updating the publication and to make it available to an interested public.

61. The launch of the planned WIPO distance learning course for the audiovisual sector is still pending. Contents have apparently been finalized, except the case studies, which will be provided by the Copyright Law Division. The Project Manager expects that the course will be launched by June 2019. Distance learning is a key element in expanding, mainstreaming and maintaining the knowledge transferred through seminars.

62. For beneficiary countries, this course is a key tool for further capacity building, including for raising awareness within the audiovisual industry and for staff training at the copyright offices. They highlighted that internet connections have improved substantially and are no longer an obstacle to the use of distance learning.

(iv) Assessment of quality of outputs

63. The positive feed-back on project events is evidenced by the Secretariat's internal evaluation, which was validated through interviews of a sample of beneficiaries.

64. Support of local partners to organize the in-country events was instrumental.

65. It would not be appropriate to limit WIPO's contribution in the project to know-how transfer. WIPO's role went beyond technical and financial input. Its reputation, credibility and neutrality as an international organization increased the interest of key stakeholders, including at the policy level. WIPO's convening power was also pivotal in mobilizing the different stakeholders and providing a platform for an effective multi-stakeholder dialogue.

(v) Initial outcomes observed

66. Awareness and knowledge on how to use IP to protect creations in the audiovisual sector seem to have increased in all five beneficiary countries. As a result, cooperation within the audiovisual sector seems to have improved. Some interviewees highlighted a tendency to formalize contractual relationship within the audiovisual value chain, including clear arrangements on IPR issues.

67. A documentation of rights along the entire rights chain is not only important for making audiovisual products internationally marketable. Proof of IPRs is also pivotal for obtaining financing for audiovisual productions. Industry representatives highlighted persistent obstacles to obtain bank loans for productions, maybe due to an ongoing lack of trust in the value of creative assets.

68. The Project contributed to some improvements of the regulatory framework, including in Senegal and Morocco, Burkina Faso and to Kenya for the development of a film policy. Beneficiary copyright offices appreciated WIPO's support.

69. The two IP Offices highlighted a closer link to key IP users through the Project, including through networking at different events. Awareness raising seems to have been successful to inform right holders on the benefits of protecting their copyrights.

70. Although only marginally covered, the training on dispute resolution in film disputes (mediation, arbitration and other measures) attracted interest. Interviewees highlighted the significant advantages of settling IPR-related disputes (not limited to copyright) outside courts, especially also in the judicial context of many developing countries and LDCs.

71. Notwithstanding these initial promising developments, few other specific and tangible outcomes that are directly attributable to the Project have been reported. Initial success stories are promising and provide empiric evidence of positive trends within the audiovisual industry, to which the Project has contributed.

72. There seems to be a strong consensus that sustained further efforts are needed to professionalize the audiovisual industry, including but not limited to IPR-related matters, improve the support to businesses (legal, commercial advice), and create a conducive regulatory and institutional framework for the industry.

(vi) Impact

73. It was too early to assess results at the impact level.

(D) EFFICIENCY

(i) Financial implementation

74. 100% of the budget has been spent.³⁴ A financial report linking expenditures to individual budget lines and outputs was not available. It is thus not possible to analyze funds disbursed by category of costs and per output in detail. The relation between total costs (inputs) to outputs delivered seems to be comparable with other WIPO projects with similar activities.

75. Some efforts of cost savings were undertaken, e.g. back-to-back meetings were organized in the countries and missions combined different purposes.

(ii) Assessment of approach

76. The mix of activities (primarily seminars and workshops) suggests that a significant part of the non-personnel costs related to the organization of seminars, workshops and one study visit.

77. The use of workshops for capacity building provided through headquarter missions is obviously a costly way of know-how transfer. Creating an initial momentum, a network, facilitating the exchange of experience and dialogue through multi-stakeholder however does require physical meetings.

78. Efficiency and sustainability considerations call for a decisive shift from direct trainings to a systematic strengthening of public and private service IP service providers (mesa level), based on an organizational assessment and a clear action plan.

³⁴ See Completion cum Self-Evaluation Report, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II (February 25, 2019).

79. In terms of technical input by the Secretariat, the combination of IP with commercial expertise was important. Important was furthermore to identify bottlenecks along the entire audiovisual value chain and the attempt to address them in a holistic way.

80. Beneficiaries expressed expectations for more WIPO support to additional in-country seminars, trainings and study visits. Designing assistance around planned actions would not be an appropriate approach. Good practice is to agree on objectives and then identify the most efficient intervention strategy to achieve them through a combination of different technical assistance tools (physical meetings, expert missions, distance learning, etc.).

81. Through the Project, some promising examples of south-south know-how transfer within the West African French speaking countries emerged. In contrast, exchanges between them and Kenya were limited, mainly due to differences in the legal systems (common law in Kenya, civil law in francophone West Africa) and language issues.

82. Most activities in West Africa were organized as regional events for all the beneficiary countries. Initial evidence suggests that strengthening the audiovisual sector is best addressed through regional interventions, where countries are parts of a common market for productions or artists from different countries typically cooperate on productions.

83. Due to cultural similarities and a common language, this seems to be the case in French speaking West Africa (eight UEMOA members³⁵).

84. It was not possible to explore the situation in the also francophone CEMAC countries³⁶. Strengthening the regional dimensions of the audiovisual sector is pivotal for the competitiveness and long-term viability of the audiovisual sector in Africa.

85. Finally, WIPO also rightly recognized that where regional bodies provide directives for national IP legislations, which seems to be the case in the "Union économique et monétaire ouest-africaine (UEMOA)"³⁷, their involvement is important.

86. While the Evaluation allowed to draw experience from specific African countries, conclusions on what approach would be appropriate in other regions would be premature.

(iii) Synergies with other activities conducted by the Secretariat

87. The Project sourced support from different Sectors within the Secretariat, including from Program 7 WIPO Arbitration and Mediation Center; Program 11: the WIPO Academy; Program 15: IT Solutions for IP Offices; Program 16: Economics and Statistics. Contact with the African Bureau (within Program 9) was limited to an occasional informal information exchange.

88. While synergies remained rather limited, no duplications or overlaps were noted.

(E) LIKELIHOOD OF SUSTAINABILITY OF RESULTS

89. An attempt assessing the likelihood of sustainability of results at the country level would be premature, as a continuation of benefits depends largely on a follow-up by the respective IP Offices. Capacities and resources of the copyright offices in target countries are mixed.

90. Beneficiary countries expressed a strong wish for a continuation along the same lines, thus for more on-site trainings and seminars. However, an additional intervention benefitting the

³⁵ UEMOA is the West African Economic and Monetary Union (UEMOA), with eight, mainly French-speaking members (Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo).

³⁶ The Central African Economic and Monetary Community (CEMAC): Gabon, Cameroon, the Central African Republic (CAR), Chad, the Republic of the Congo, and Equatorial Guinea.

³⁷ Directive N° 02/2018/CM/UEMOA portant sur l'harmonisation des dispositions relatives au droit d'auteur et aux droits voisins dans le domaine de l'image au sein de l'UEMOA.

audiovisual sector in the same region or a further follow-up phase after several years of support would be difficult to justify, as DA Project mainly serve the purpose to develop and pilot innovative approaches in using IP for development.

91. The Project provided a bundle of services, most of which are already available. Other activities e.g. support to the “professionalization” of audiovisual sector in Africa beyond IRP-related issues would go beyond the scope of WIPO’s mandate.

92. Looking at what is available, the planned WIPO Distance Learning Course for the audiovisual sector, which will be comprehensive and targets a broad audience with a professional interest in the audiovisual sector, will be the core element to ensure continuation of capacity buildings and trainings. It contains the essence of all physical trainings and seminars. The course will be offered online and supported by tutors. The new Distance Learning Course implemented through the WIPO Academy will be able to satisfy a significant part of the industry-related capacity building.

93. Some practical guides that provide self-explanatory guidance for practitioners (e.g. a guide on contract negotiations) are either already available or under preparation. Moreover, an update of the publication “From Script to Screen, the Importance of Copyright in the Distribution of Films” – Creative Industries No. 6³⁸, is being prepared.

94. Most of the other services (especially policy advice relating to copyright) are part of the regular work of the Copyright Sector. General Training of magistrates is now coordinated by the new WIPO Judicial Training Institute.³⁹

95. Possible new DA projects benefitting other industries within the creative sector might offer the opportunity to complement and consolidate support. They could also fund some additional publications that were suggested but not implemented, including a collection of lead cases relating to the audiovisual sector, mainly targeting magistrates and lawyers.

96. Economic Studies on the creative industries fall under the responsibility of the Creative Economy Section under the Economics and Statistics Division.⁴⁰

97. The Project was only able to touch upon the topic of alternative dispute resolution in the audiovisual industry in Africa. Addressing this highly relevant topic sufficiently would need a separate project with the aim of strengthening alternative IP-dispute resolution in developing countries and LDCs in general.

3. CONCLUSIONS

98. The findings and assessment above led to the following conclusions:

Conclusion 1 on project preparation and management: Overall, the Project was well prepared and managed. Resources constraints and external factors led to delays in delivering some activities.

99. Preparation benefitted from experience and lessons learned during a first phase. A thorough scoping study of excellent quality was instrumental in understanding the African audiovisual sector, its challenges and ways to address them. Broader project objectives and intervention logic are generally clear. The project document includes an intervention strategy, describes planned activities and provides a timeline of implementation. The rate of disbursement indicates that the budget was accurate. Planned personnel input needed (time

³⁸ https://www.wipo.int/edocs/pubdocs/en/copyright/950/wipo_pub_950.pdf (retrieved on 28 February 2019).

³⁹ Office Instruction N° 6/2019 on the WIPO Judicial Institute, 15 February 2019.

⁴⁰ See Office Instruction No. 30/2015 on the establishment of the Creative Economy Section under the Economics and Statistics Division, 13 July 2015.

allocation) was however not commensurate with the complexity of the Project and the number of activities. This contributed to delays (including for example finalizing the WIPO distance learning course). While beneficiary countries appointed focal points, no formal management structure between the Secretariat and beneficiary countries was set up. Missing is a phase-out strategy with specific measures on how to ensure a continuation of project benefits (sustainability) beyond WIPO's support.

100. Management selected the right experts and ensured the quality of support provided. Beneficiaries highlighted the responsiveness of the Secretariat to their needs.

101. The Project applied WIPO's planning and reporting templates. Unlike most other development actors, WIPO does not use logical frameworks for project planning, monitoring and evaluation.

Conclusion 2 on relevance: The Project was timely and met beneficiaries' needs. It was fully aligned with strategic priorities defined by the Member States.

102. The audiovisual sector is among the most creative intellectual assets of the knowledge economy and a critical sector for Africa's economic growth and development. African film makers, most of them small, face challenges to realize the full economic potential of emerging new technologies. Working at the interface of digital technology with copyright protection systems, the Project provided a timely and appropriate response to the challenges of the African audiovisual sector.

103. The CDIP's approval through consensus evidences the Project's strategic relevance for Member states. The Project responded well to those DA Recommendations it aimed to address.

104. Project objectives were also coherent with the objectives of Program 3, which calls for enhanced capacities and skills for the effective use and management of copyright and related rights in the financing and legitimate exploitation of audiovisual content, to support the development of the local audiovisual sector in the digital era, with a view of promoting economic, social and cultural development. Although to a lesser degree, the Project potentially also contributes to the objectives of Programs 9 (focus on Africa), 11 (the planned distance learning course for the audiovisual sector), 15 (some considerations to the IT infrastructure for collecting societies) 16 (feasibility study on enhancing the collection of economic data) and 17 (one training on dispute resolution, including mediation and arbitration).

Conclusion 3 on effectiveness: All planned outputs except the distance learning course have been completed. While it was too early to assess broader outcomes, the Evaluation recorded some initial positive developments towards a professionalization of the sector.

105. The Project promoted the use of IP within the audiovisual sector to improve the valorization of intellectual assets in the five target countries (Burkina Faso, Côte d'Ivoire, Kenya, Morocco, and Senegal), with the ultimate objective to make the sector more viable.

106. Support included advice on improving the legal framework, strengthening the capacities of copyright offices and collecting societies to better serve the needs of the audiovisual sector, and direct capacity building to SMEs, mainly on improving IP provisions in legal agreements. Moreover, a workshop in Kenya covered alternative dispute resolution (prevention of disputes, mediation, arbitration).

107. Activities included workshops in all beneficiary countries, on site audit and training for SODAV in Senegal, a feasibility study on enhancing the collection of economic data and one study visit. The planned distance learning course, which will be provided through the WIPO Academy, is expected to be completed by June 2019. Otherwise, planned outputs were delivered timely and in good quality.

108. While it is too early to assess expected outcomes, beneficiaries reported that awareness on the use of IP within the audiovisual in their countries had increased. They also recorded an initial positive trend towards a professionalization within the film industry, including in terms of formalizing contractual relationships and considering IP aspects. WIPO's input also contributed to revised legislation in Burkina Faso, Morocco and Senegal and a film policy in Kenya.

Conclusion 4 on efficiency: Overall, the Project applied an appropriate approach. The cost-benefit relationship (output level) is comparable with similar WIPO projects.

109. The mix of activities (primarily seminars and workshops) suggests that a significant part of the non-personnel costs was related to the organization of seminars, workshops and one study visit. The use of workshops for capacity building provided through headquarter missions is obviously a costly way of know-how transfer. Creating an initial momentum, a network, facilitating the exchange of experience and dialogue through multi-stakeholder however does require physical meetings. In terms of technical input, the combination of IP with commercial expertise was important. Important was furthermore to identify bottlenecks along the entire audiovisual value chain and the attempt to address them in a holistic way.

110. Through the Project, some promising examples of south-south know-how transfer within the West African French speaking countries emerged. Despite some efforts made, exchanges between them and Kenya were more limited, mainly due to language issues and differences in the legal systems (common law in Kenya, civil law in francophone West Africa).

111. Initial evidence suggests that, where countries are parts of a common market for productions or artists from different countries typically cooperate on productions, strengthening the audiovisual sector is best addressed through regional interventions, especially where, as within UEMOA, a formal or informal regional cooperation framework a Project can link into, already exists.

112. While synergies with other functional sectors remained rather limited, no duplications or overlaps were recorded.

Conclusion 5 on sustainability: The continuation of benefits in countries covered requires further support.

113. An attempt assessing the likelihood of sustainability of results at the country level would be premature, as a continuation of benefits depends largely on a follow-up by the respective IP Offices. Capacities and resources of the copyright offices and Ministries of Culture in charge of the audiovisual policies in target countries are mixed.

114. An additional DA project covering the audiovisual sector in the same region or another further follow-up phase after several years of support would be difficult to justify, as DA projects mainly serve the purpose of piloting innovative approaches in using IP for development.

115. The Project provided a bundle of different services, most of which are already available within the WIPO Secretariat and have thus already been mainstreamed. Other activities e.g. a more comprehensive support to the "professionalization" of audiovisual sector in Africa beyond IRP-related issues would exceed the scope of WIPO's mandate.

116. This calls for a follow-up within regular programs, although the high demand might require increasing available resources. The planned WIPO Distance Learning Course for the audiovisual sector, which will be comprehensive and targets a broad audience with a professional interest in the audiovisual sector, will be the core element to ensure continuation of capacity buildings and trainings.

117. The Project only touched upon the topic of alternative IP-related dispute resolution (conflict prevention, mediation, arbitration) in creative industries. Addressing this highly relevant

topic sufficiently would need a separate project with the aim of exploring the potential of alternative IP-related dispute resolution in developing countries in general and piloting possible models.

4. RECOMMENDATIONS

118. From the conclusions above, the Evaluation derives the following recommendations:

Recommendation 1 (from conclusion 3) to the WIPO Secretariat

Complete the WIPO Distance Learning Course for the Audiovisual sector as planned.

Recommendation 2 (from conclusion 5) to the WIPO Secretariat

- (a) Provide follow-up support to the audiovisual industry in Africa through the work of relevant WIPO programs to the degree existing resources and services allow for.
- (b) Explore the option to provide selective follow-on support within the framework of possible new DA projects targeting creative industries in Africa (if any).
- (c) Explore the interest of member countries for a DA project covering alternative dispute resolution (mediation, arbitration, etc.) in developing countries and LDCs. If there is demand, propose a project to the CDIP for consideration.

Recommendation 3 (from conclusions 1 and 4) to the WIPO Secretariat

- (a) When preparing DA projects, the Secretariat should systematically assess management input needed against the existing workload of the project manager.
- (b) Where appropriate, the Secretariat should budget for the recruitment of a Project Officer who is responsible to support the Project Manager in day-to-day project management/implementation.
- (c) To complement the technical expertise of the Project Manager, the Project Officer should primarily be a proven development practitioner with field experience and excellent project management skills.

LIST OF APPENDIXES

Appendix I	Project document
Appendix II	Terms of reference
Appendix III	List of persons interviewed
Appendix IV	List of documents

[Appendixes follow]

APPENDIX I: PROJECT DOCUMENT

The Project Document CDIP/17/7 is available at:

https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=330596

[Appendix II follows]

APPENDIX II: TERMS OF REFERENCE

TERMS OF REFERENCE

Title of Assignment:	Project Evaluation: Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II
Name of unit/sector:	Development Agenda Coordination Division (DACD), Development Sector
Place of Assignment:	Evilard (Leubringen), Switzerland
Expected places of travel (if applicable):	During the assignment, you will undertake two missions to WIPO Headquarters; Geneva, Switzerland (dates to be determined)
Expected duration of assignment:	From January 2 to May 25, 2019

1. Objective of the assignment

The present document represents the Terms of Reference (ToR) for the evaluation of the *Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II*, approved during the resumed 17th session of the Committee on Development and Intellectual Property (CDIP), held in Geneva, in April 2016.

This project is a follow-up to the project on *Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries* (document CDIP 9/13), which was based on a proposal by the Delegation of Burkina Faso. The Phase I of the project was completed in December 2015.

The aim of Phase II is to pursue the main objective of the original project and to accelerate the use of intellectual property (IP) to support the development and professionalization of the African audiovisual sector. The project incorporates three main components. The first component covers research and distance learning activities; the second one is focused on professional development and training; and the third component addresses regulatory and management frameworks.

The project was implemented under the supervision of the Project Manager, Ms. Carole Croella, Senior Counsellor, Copyright Law Division.

/...

This evaluation is intended to be a participative evaluation. It should provide for active involvement in the evaluation process of those with a stake in the projects: project team, partners, beneficiaries and any other interested parties.

The main objective of this evaluation is two-fold:

1. Learning from experiences during project implementation: what worked well and what did not work well for the benefit of continuing activities in this field. This includes assessing the project design framework, project management, including monitoring and reporting tools, as well as measuring and reporting on the results achieved to date and assessing the likelihood of sustainability of results achieved; and
2. Providing evidence-based evaluative information to support the CDIP's decision-making process.

In particular, the evaluation will assess the extent to which the project has been instrumental in:

- (a) Contributing to enhanced use of the intellectual property system for the financing, production and distribution of audiovisual works; and
- (b) Advancing the development of an effective infrastructure for intellectual property rights-based transactions and licensing and related skills to enhance financial returns to audiovisual creators and the industry.

(i) Project design and management

1. The appropriateness of the initial project document as a guide for project implementation and assessment of results achieved;
2. The project monitoring, self-evaluation and reporting tools and analysis of whether they were useful and adequate to provide the project team and key stakeholders with relevant information for decision-making purposes;
3. The extent to which other entities within the Secretariat have contributed and enabled an effective and efficient project implementation;
4. The extent to which the risks identified in the initial project document have materialized or been mitigated; and
5. The project's ability to respond to emerging trends, technologies and other external forces.

(ii) Effectiveness

1. The effectiveness and usefulness of the project in contributing to an enhanced use of the intellectual property system for the financing, production and distribution of audiovisual work in the selected pilot countries;
2. the usefulness and effectiveness of the project in advancing the development of an effective and balanced framework and infrastructure for the exercise and management of IP rights-based transactions in the audiovisual sector in the selected pilot countries;

/...

3. the usefulness of the scoping Study for Member States; and
4. the usefulness of workshops, training and distance learning program in providing professional education and working knowledge in relation to audio-visual financing, distribution, management and licensing to sustain local audio-visual development.

(iii) Sustainability

The likelihood of the continuation of work on the Strengthening of the Audiovisual Sector in WIPO and its Member States.

(iv) Implementation of Development Agenda (DA) Recommendations

The extent to which the DA Recommendations 1, 2, 4, 10 and 11 have been implemented through this project.

The project time frame considered for this evaluation is 24 months (June 2016 – June 2018). The focus shall not be on assessing individual activities but rather to evaluate the project as a whole and its contribution in assessing the needs of Member States and identify the resources or the means to address those needs. The evaluation will also assess the project's evolution over time and its performance including project design, project management, coordination, coherence, implementation and results achieved.

The evaluation methodology is aimed at balancing the needs for learning and accountability. To this end, the evaluation should provide for active involvement in the evaluation process of those with a stake in the project: project team, senior managers, Member States and national intellectual property (IP) offices.

The evaluation expert will be in charge of conducting the evaluation, in consultation and collaboration with the project team and the Development Agenda Coordination Division (DACD). The evaluation methodology will consist of the following:

1. Desk review of relevant project related documentation including the project framework (initial project document and study), progress reports, monitoring information, mission reports and other relevant documents.
2. interviews at the WIPO Secretariat (project team, other substantive entities contributing to the project, etc.); and
3. stakeholder interviews, including users and/or potential users of the database.

2. Deliverables/services

The Evaluator will be responsible for delivering the evaluation report as described above in accordance with other details provided in this document.

/...

The evaluator will deliver:

1. An inception report which contains a description of the evaluation methodology and methodological approach; data collection tools (including eventual surveys of beneficiaries and stakeholders); data analysis methods; key stakeholders to be interviewed; additional evaluation questions; performance assessment criteria; and evaluation work plan;
2. draft evaluation report with actionable recommendations deriving from the findings and conclusions;
3. final evaluation report; and
4. comprehensive executive summary of the final evaluation report, structured as follows:
 - (i) Description of the evaluation methodology used;
 - (ii) summary of key evidence-based findings centered on the key evaluation questions;
 - (iii) conclusions drawn based on the findings; and
 - (iv) recommendations emanating from the conclusions and lessons learned.

This project evaluation is expected to start on January 2, 2019, and be finalized on March 15, 2019. The reporting language will be English.

3. Reporting

The Evaluator will be under the supervision of the Director of the DACD. In addition, the evaluator shall:

- (a) Work closely with the DACD and, coordinate with the relevant Program Managers in WIPO as required; and
- (b) Ensure the quality of data (validity, consistency and accuracy) throughout the analytical reporting phases (inception report and final evaluation report).

4. Profile

Mr. Daniel Keller has extensive experience in preparing, managing and evaluating projects, and in conducting institutional assessments both in the public and private sectors. Mr. Keller also has a previous experience with WIPO, he conducted evaluation reports on completed Development Agenda Project, namely the Project on Enhancing South-South Cooperation on IP and Development among Developing Countries and LDCs (document CDIP/7/6), the Project on Intellectual Property and Socio-Economic Development (document CDIP/5/7 Rev.); the Project on Open Collaborative Projects and IP Based Models (CDIP6/6/Rev.) and Project on Intellectual Property and Technology Transfer: Common Challenges - Building Solutions.

5. Duration of contract and payment

The contract will start on January 2, 2019, and will end on May 25, 2019. During this period, the following schedule should be followed:

The inception report should be submitted to WIPO by February 10, 2019. WIPO's feedback shall be communicated back by February 20, 2019. The draft evaluation report shall be submitted to WIPO by March 1, 2019. Factual corrections on the draft will be provided by March 5, 2019. The final evaluation report shall be submitted by March 10, 2019.

The final version of the evaluation report containing a management response in an annex shall be considered by the twenty-third session of the CDIP, to be held from May 20 to May 24, 2019. The Evaluator might be required to present the evaluation report during that CDIP session.

The Evaluator will receive a lump sum of 10,000 Swiss francs, payable in two installments:

1. 50% upon acceptance by WIPO of an inception report; and
2. 50% upon acceptance by WIPO of a final evaluation report.

The payment will be subject to the satisfactory reception of the deliverables as per this ToR and upon completion of the tasks outlined therein.

[Appendix III follows]

APPENDIX III: LIST OF PERSONS INTERVIEWED

1. Mr. Rob Aft, Expert, Compliance Consulting, Los Angeles
2. Ms. Maya Bachner, Director, Program Performance and Budget Division
3. Mr. Irfan Baloch, Director, Development Agenda Coordination Division, Development Sector
4. Monsieur Walib Bara, Directeur Général, Bureau Burkinabè du Droit d'Auteur (BBDA), Burkina Faso
5. Ms. Vera Caastanheira, Legal Adviser, Independent Film and Television Alliance (IFTA), Geneva
6. Ms. Carole Croella, Senior Counsellor, Copyright Law Division
7. Mr. Kevin Deirdre, Consultant, Slovenia
8. Ms. Altaye Tedla Desta, Head, Distance Learning Programme, WIPO Academy
9. Monsieur Aziz Dieng, Conseiller du Ministre de la Culture, Sénégal
10. Mr. Georges Ghandour, Senior Program Officer, Development Agenda Coordination Division, Development Sector
11. Madame Myriam Habil, Attaché audiovisuel Burkina Faso et Côte d'Ivoire, Ambassade de France, Côte d'Ivoire
12. Monsieur Marc Sery Koré, Director, Regional Bureau for Africa, Development Sector
13. M. Ignacio De Castro Liamas, Deputy Director and Head, IP Disputes and External Relations Division, Patents and Technology Sector
14. Mr. Mario Matus, Deputy Director General, Development Sector
15. Monsieur Ismail Menkari, Directeur du Bureau marocain du droit d'auteur, Maroc
16. Mr. Alain Modot, Vice-Président, DIFFA, Sàrl, France
17. Mr. Bertrand Moullier, Senior Adviser Producers, United Kingdom
18. Monsieur Benoit Muller, Director, Copyright Infrastructure
19. M. Jean-Hubert Nankam, Producteur, Martika Productions, Côte d'Ivoire
20. Ms. Marisela Ouma, former Executive Director, Kenya Copyright Board
21. Mr. Timothy Owase, Director, Kenya Film Commission
22. Mr. Edward Sigei, Director, Kenya Copyright Board, Kenya
23. Madame Irène Vieira, Directrice Général, bureau ivoirien du droit d'auteur (BURIDA), Côte d'Ivoire
24. Ms. Michelle Woods, Director, Copyright Law Division

[Appendix IV follows]

APPENDIX IV: LIST OF DOCUMENTS

Evaluation documents

- WIPO, Revised Evaluation Policy (Second Edition 2016/2020), February 19, 2016
- DAC Guidelines and Reference Series, Quality Standards for Development Evaluation, OECD-DAC, OECD 2010
- United Nations Evaluation Group (UNEG) Norms and Standards for Evaluation (latest version: June 2016)

WIPO Programmatic Documents

- The 45 Adopted Recommendations under the WIPO Development Agenda by the General Assembly of WIPO Member States, 2007
- WIPO Programme and Budget, for the 2016/2017 Biennium

Other WIPO Documents

- Actuals Summary Report, Copyright Law Division, printed on 20 February 2019
- Office Instruction No. 30/2015 on the establishment of the Creative Economy Section under the Economics and Statistics Division, 13 July 2015
- Office Instruction No. 6/2019 on the WIPO Judicial Institute, 15 February 2019

Project document and progress report

- Project Document: CDIP 17/7, Annex, April 4, 2012, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II” (Project Code DA_1_2_4_10_11)
- Progress Report: CDIP 18/2, August 15, 2016, Annex VI, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II
- Progress Report: CDIP 20/2, September 20, 2017, Annex IV, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II
- Progress Report: CDIP 22/2, September 14, 2018, Annex V, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II
- Completion cum Self-Evaluation Report, Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II (February 25, 2019)

Project outputs

- Matériel séminaire, Mapping de l’industrie de l’animation en Europe, janvier 2017, Marta Jimenez Puvares, février 2017
- Rapport de mission, Séminaire sur les nouveaux enjeux du secteur audiovisuel, Sénégal, 3 février 2017 (présentation en annexe), Marta Jimenez Puvares, février 2017
- Mémoire interne, Séminaire sur la contribution du droit d’auteur au financement du secteur audiovisuel (et d’autres rencontres) 27 février au 3 mars 2017, FESPACO, Ouagadougou, Burkina Faso, Carole Croella, 31 mars 2017
- Rapport sur la réunion de validation du Code de la Presse et l’analyse et commentaires juridiques du projet de « Code de la Presse » du Sénégal, Maître Gilles Vercken, Paris, France
- Programme, Seminar on Copyright, Development, Financing, Regulation and Marketing in the Audiovisual Sector, organized by the World Intellectual Property Organization (WIPO),

with the Kenya Copyright Board (KECOBO) and the Kenya Film Commission (KFC), Nairobi, April 11-12, 2017

- Survey Seminar in Nairobi, April 11-13, 2017
- Rapport de mission, Mission d'appui technique (conseil et de renforcement des capacités de la Société Sénégalaise du Droit d'Auteurs et des Droits Voisins (SODAV), Dakar, Sénégal, 27-30 juin 2017, Carole Croella, 3 août 2017
- Rapport de mission, Conférence internationale sur le Droit d'auteur et la Régulation de l'Audiovisuel, à l'ère du Numérique, Abidjan, Côte d'Ivoire, 15 et 16 mai 2017, Silvie Forbin, le 7 juillet 2017
- Programme du séminaire, La Protection Juridique des Organismes de Radiodiffusion et le Numérique organisé par l'Organisation Mondiale de la Propriété Intellectuelle (OMPI) et l'Union Africaine de Radiodiffusion (UAR), avec le Soutien du Ministère de la Culture du Sénégal, Dakar, 12 et 13 décembre 2017
- Rapport de mission, séminaire de formation, Union Africaine de Radiodiffusion, Dakar, 10 et 11 décembre 2017 et séminaire pour les juges, Saly, Sénégal, 12 et 13 décembre 2017, Carole Croella
- Rapport de mission, séminaire sous régional sur la gestion collective des droits de l'audiovisuel, El Jadida, Maroc, 9 et 10 janvier 2018, Silvie Forbin, le 25 janvier 2018
- Recommandations du Séminaire sous régional sur la gestion collective des droits de l'audiovisuel, El Jadida, Maroc, 9 et 10 janvier 2018
- Programme de la session « Le droit d'auteur et la structuration de l'économie des séries audiovisuelles en Afrique », organisée par l'Organisation Mondiale de la Propriété Intellectuelle (OMPI) et « Série Séries » et le Bureau Burkinabè du droit d'auteur (BBDA), Ouagadougou, Burkina Faso, le 1er mars, 2018
- Project output: CDIP 21/INF2, March 21, 2018, Feasibility Study on Enhancing the Collection of Economic Data on the Audiovisual Sector in a Number of African Countries, prepared by Ms. Deirdre Kevin, Media Consultant, in collaboration with Ms. Sahar Ali, Media Consultant and Journalist
- Rapport de mission, atelier de validation du projet de la loi portant sur la révision de la loi sur le droit d'auteur, atelier de formation sur le droit d'auteur dans le cadre du marché « Séries-Séries », Ouagadougou, Burkina Faso, du 27 février au 5 mars 2018, Carole Croella, 1 juin 2018
- Mission report on follow up copyright training workshop on "Achieving better profitability of copyright-based transactions in the audiovisual sector: a policy framework"; arbitration workshop; and participation in the Policy roundtable – Kalasha, International TV and Film Market, Nairobi, Kenya, March 23-29, 2018, Carole Croella, June 29, 2018
- Regional Seminar on the Development of Private Copying Remuneration Systems in Africa, September 11-13, 2018 (co-organized by WIPO)

Documents relating to Project CDIP 9/13 (Phase I)

- Project Document: CDIP 9/13, Annex, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African countries (Project Code DA_1_2_4_10_11)
- Progress Report: CDIP 12/2, September 12, 2013, Annex XII, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries; and certain African Countries”

- Progress Report: CDIP 14/2, August 28, 2013, Annex IV, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries; and certain African Countries”
- Progress Report: CDIP 16/2, August 13, 2015, Annex I, project “Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries; and certain African Countries”
- Final evaluation: CDIP 17/3, January 21, 2016, external independent Evaluation Report on the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, undertaken by Mr. Glenn O’Neil, Founder, Owl RE, Geneva
- Project output: CDIP 12/INF/3, Scoping Study on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, undertaken in the context of the Project CDIP/9/13, prepared by WIPO Consultants Bertrand Moullier and Benoit Muller

Other documents

- Directive N° 02/2018/CM/UEMOA portant sur l’harmonisation des dispositions relatives au droit d’auteur et aux droits voisins dans le domaine de l’image au sein de l’UEMOA
- Strengthening Africa’s audiovisual sector: market intelligence is critical, by Deidre Kevin, Media Consultant

[End of Appendix IV and of document]