

WIPO



IIM/1/3

ORIGINAL: Spanish

DATE: April 1, 2005

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTER-SESSIONAL INTERGOVERNMENTAL MEETING ON A DEVELOPMENT AGENDA FOR WIPO

First Session
Geneva, April 11 to 13, 2005

PROPOSAL BY MEXICO ON
INTELLECTUAL PROPERTY AND DEVELOPMENT

Document prepared by the Secretariat

1. In a communication dated March 29, 2005, the International Bureau received a proposal from the Mexican Industrial Property Institute (IMPI) on intellectual property and development for consideration by Member States at the Inter-Sessional Intergovernmental Meeting (IIM) on a Development Agenda for WIPO, to be held in Geneva from April 11 to 13, 2005.
2. The said proposal is annexed to this document.
3. *The IIM is invited to note the contents of the attached proposal of Mexico.*

[Annex follows]

ANNEX

INTELLECTUAL PROPERTY AND DEVELOPMENT**I. -PRECEDENTS****I.I. UNITED NATIONS**

The eradication of poverty and economic and social development constitute the fundamental priorities for the United Nations. The Millennium Development Goals, derived from the Millennium Declaration, establish a commitment for countries, "to develop a global partnership for development".

Number eight of these so-called "Millennium Development Goals" comprises various tasks, among which the following stand out owing to their relationship with the world intellectual property system:

- Develop further an open, *rule-based, predictable and non-discriminatory* trading and financial system, including the commitment to good governance of public affairs and poverty reduction, both nationally and internationally.
- In cooperation with developing countries, develop and implement strategies for decent and productive work for youth.
- In cooperation with the private sector, make available the benefits of new technologies, especially information and communication technologies.

The States which are members of the United Nations have been able, through the 2002 Monterrey Consensus, to produce the Johannesburg Declaration on Sustainable Development and its respective Plan of Implementation which includes *inter alia* the conditions necessary to achieve the Millennium Development Goals, and endorse the priority of development for the international community.

I.II. - World Intellectual Property Organization

As an integral part of the United Nations system and aware that intellectual property is an essential element for the economic, social and cultural development of humanity, the World Intellectual Property Organization (WIPO) has for decades encouraged developing countries in the various geographical regions to establish or modernize intellectual property systems allowing their national states to benefit from such systems.

Through the WIPO Cooperation for Development Program, various activities have been developed to provide specialized legal advice and human resource training, and to send experts to work in countries which, owing to their particular features, have required it, as well as carrying out specific activities designed to create and strengthen national intellectual property systems.

During the working meetings held by WIPO, the problem of the development of nations and the activities conducted by the Organization in support of developing countries have been recurrent themes, and the contributions made by the Member States have undoubtedly enriched the national and international agenda of the participants through the input of various points of view.

In this context, during the meetings of the WIPO General Assemblies, held in 2004, document WO/GA/31/11 was included in the agenda and contained an official proposal from Argentina and Brazil relating to the establishment of a new program for the Organization's development. Following a brief presentation of the document and the submission of comments by other members on its content, both in favor and against, the General Assembly decided to analyze the proposal in question.

Aiming to analyze the prospects for the world intellectual property systems and its links to particular subjects such as development, WIPO and its Member States have held working meetings designed to clarify the role played by the Organization and bring it into line with the current requirements of global society¹.

II. -THE WORLD INTELLECTUAL PROPERTY SYSTEM IN DEVELOPING COUNTRIES

II.I. -ESTABLISHMENT OF NATIONAL INTELLECTUAL PROPERTY SYSTEMS

The economic, social and cultural development which society has undergone in the past few decades, supported to a large extent by new technologies, is undeniable; even in developing countries certain sectors of the population have surpassed by far the expectations which, in relation to access to goods, services and wellbeing, could have been foreseen fifty years previously.

In most developing countries, a modern intellectual property system in line with the requirements of the current economy has been implemented only recently. The resources provided by international organizations such as WIPO or national or foreign public or private organizations have been devoted fundamentally to the establishment of national intellectual property offices and to the training of human resources required for the operation of those offices.

The relevant international discussions have led to new subjects being included in national government agendas and, in addition to the traditional fields of inventions and distinctive signs, and irrespective of the maturity of the respective systems, intellectual property offices have been forced to analyze new subjects such as the protection of the knowledge of indigenous societies, and its application in various areas such as medicine, access to genetic resources and also of folklore.

¹Casablanca Meeting

Although most national governments have considered intellectual property to be a priority, resources are not plentiful to supply and must be used rationally even where they come from external sources. International cooperation is of fundamental importance at the regional level.

The viability and success of the national systems require an international standard - setting framework based on clear, predictable and non-discriminatory rules, as well as minimum protection standards not subject to modifications resulting from the political, economic, social and even cultural changes generated by the members of the international community.

II.II. -INTELLECTUAL PROPERTY AND SOCIETY IN DEVELOPING COUNTRIES

In developing countries the economic and social conditions of the population and the need to provide for basic requirements such as food, health and education, make it essential to establish priorities and on occasion to disregard elements which although important for development do not satisfy immediate requirements. In this context, even in the countries in which a modern intellectual property system exists, it has not been feasible to involve society in intellectual property matters, i.e. there is no appropriate culture of intellectual property use and enforcement.

The lack of knowledge of the system on the part of the population is commonly observed and, in some cases, the population considers the failure to observe the system or infringements thereof as conduct which cannot be sanctioned or is socially acceptable; for this sector the benefits derived from the intellectual property system and the use of the system as a development factor are completely alien. Lack of awareness of the system has become a cause of inefficiency as well as an obstacle to development.

The sanction of conduct which infringes intellectual property is of no use, if it is not complemented by appropriate dissemination and understanding of the system. In addition, ignorance and the failure to observe the system lead to the formation of criminal groups, on occasions of a cross border nature and linked to other unlawful activities such as money laundering.

III. -PROPOSAL BY MEXICO

Whereas:

- The development of nations should constitute an end in itself for governments and international organizations;
- The Member States of the United Nations have reached a consensus establishing commitments to eradicate poverty and promote the development of nations;
- With goal number eight of the Millennium Development Goals contained in the Millennium Declaration, "to develop a global partnership for

development”, there exist tasks directly linked to the world intellectual property system, i.e.

1. Develop further an open, rule-based, predictable and non-discriminatory trading and financial system, including the commitment to good governance of public affairs and poverty reduction, both nationally and internationally.
 2. In cooperation with developing countries, develop and implement strategies for decent and productive work for youth.
 3. In cooperation with the private sector, make available the benefits of new technologies, especially information and communication technologies.
- As a United Nations specialized agency and under the auspices of the WIPO Cooperation for Development Program, the World Intellectual Property Organization has conducted activities designed to establish intellectual property systems or modernize those already in existence;
 - Although it may be improved, an international standard-setting framework exists allowing nations to interact in accordance with a predictable and non-discriminatory system;
 - The resources available to the governments of developing countries and international organizations are limited and should be used rationally;
 - In order for the intellectual property system to be an efficient mechanism and to contribute to development its dissemination in society as a whole and not only among the players directly involved, i.e. governments, owners and system users, is essential; and reiterating that:
 - Intellectual property is an essential mechanism for the development of humanity and a way to achieve balance and stability between developed and developing countries;
 - Intellectual property constitutes a development tool and not a factor harmful to development;
 - Intellectual property constitutes a means of benefit for all people through the expansion of the opportunities resulting from new technologies, fundamentally information and communication technologies; Mexico proposes to the Member States the following:

To include or integrate into the WIPO Cooperation for Development Program activities designed to disseminate directly and immediately the intellectual property system in society in developing countries, highlighting its benefits and the opportunities arising from it.

It is proposed that these activities lead to an assessment being conducted, thereby providing familiarity with the position of national systems, knowledge and use of those systems by society and the level of existing observance.

It is considered expedient for WIPO, as a United Nations specialized agency in the intellectual property sphere, to call a meeting of national governments in the shape of intellectual property offices, intergovernmental organizations, non-governmental organizations and groups representing the various sectors of society, in order to discuss the appropriate regional mechanisms for conducting the assessment referred to in the previous paragraph.

On the basis of the resulting assessment, WIPO and national governments will determine the tasks required for providing the average person with the characteristics and benefits of the intellectual property system, as well as disseminating new technologies, especially in information and communication technologies.

In all the activities to be conducted, the rational use of resources should prevail so as not to have a negative impact on the budget of the parties involved; similarly, priority should be given to regional cooperation.

This program should be considered an essential element in supporting the Millennium Development Goals, derived from the Millennium Declaration and linked *inter alia* to intellectual property, i.e. "to develop a global partnership for development" and the inherent tasks.

Mexico considers it essential to carry out activities allowing the intellectual property system to be fully integrated into society; however, it will support any other initiative designed to promote the development of peoples, provided that this does not entail harm or failure to observe the international standard-setting framework currently in force, or give rise to negotiations in addition to those currently being conducted either in the World Intellectual Property Organization or in various forums such as the World Trade Organization.

[End of Annex and of document]