



Outcomes of the Nineteenth Session of the WIPO Committee on Development and Intellectual Property: A Critical Reflection

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Despite the high relevance of the issues discussed in the agenda of the WIPO Committee on Development and Intellectual Property (CDIP), the effectiveness of the CDIP in leading the development orientation of the work of WIPO has diminished remarkably. Under the banner of the implementation of the Development Agenda recommendations agreed in 2007, significant reform was expected, but today much continues as business as usual. This Policy Brief reports on the outcomes of the nineteenth session of the CDIP. It suggests that increased, coordinated engagement by developing countries in the CDIP is needed in order to achieve meaningful outcomes in the CDIP in accordance with the WIPO Development Agenda.

The nineteenth session of the CDIP took place from 15 to 19 May 2017 in Geneva. The session was chaired by Ambassador Walid Doudech from Tunisia.

CDIP Agenda

The CDIP discussed various issues, including WIPO technical assistance in the area of cooperation for development, the independent review of the Development Agenda (DA) recommendations, international technology transfer, South-South cooperation activities in WIPO, and WIPO contribution to the implementation of the Sustainable Development Goals (SDGs). In addition, the

CDIP considered proposals for new activities and projects, and continued discussion on long pending issues related to the improvement of the coordination mechanism between the CDIP and other relevant WIPO bodies and the implementation of the third pillar of the mandate of the CDIP related to IP and development.

Real progress or low expectations?

The CDIP has been unable to agree on whether the coordination mechanism applies to all WIPO bodies or only to certain bodies that are “relevant” for the purposes of the Development Agenda, as regarded by the developed countries, which has effectively excluded the Program and Budget Committee (PBC) of WIPO which approves the programmatic and strategic priorities of WIPO and reviews annual performance from the scope of the coordination mechanism. On technical assistance or technology transfer, the scope of the discussions continued to be restricted by the terms of proposals from developed countries such as the informal proposal from Spain on technical assistance and the joint proposal from the United States, Canada and Australia on transfer of technology. The topics for future work as agreed in the CDIP do not include any discussion on South-South cooperation, given that the CDIP has not discussed the recommendation from the evaluation of the DA project on South-South cooperation for

Major Outcomes

At the conclusion of five days of plenary session and informal consultations, the CDIP approved a proposal for a project on intellectual property (IP) management and transfer of technology. The CDIP also adopted some of the recommendations of the independent review of the Development Agenda Recommendations, and also agreed to include a standing item on IP and Development in the regular agenda of the CDIP, in order to implement the third pillar of the mandate of the CDIP. On all other issues, the CDIP failed to achieve any progress and agreed to continue discussions at its next session.

developing a roadmap for South-South cooperation activities in WIPO.

It is paradoxical then that in spite of this limited progress, this session of the CDIP has been reported by WIPO and external sources as one of the most successful sessions of the CDIP in the recent past.

In addition to the slow progress on the agenda, the level of participation of member States in the CDIP has also been in decline. In marked contrast to the high level of outputs and level of participation in the first years since the establishment of the CDIP, very few member States have been actively participating in the CDIP on critical issues and making proposals. In fact, the plenary hall in the past few sessions of the CDIP have been noteworthy for large sections of empty seats with very few member States being present at all. Even where the CDIP had established processes for receiving written submissions from member States on important issues such as for activities on transfer of technology or implementation of the recommendations of the independent review of the Development Agenda, few developing countries have made written submissions. In a turn of cards, developed countries that have made specific contributions from their perspectives on these issues have successfully steered the discussions away from substance to a mundane exchange of repeated positions. This sharply contrasts with the enthusiasm among developing countries that ushered the Development Agenda into the centre of WIPO work program and the initial years of coordinated effective interventions by them in the CDIP. A number of initiatives in the CDIP that were successfully adopted through concerted participation of developing countries through their regional groups and cross-regional groups such as the Development Agenda Group (DAG) – such as South-South cooperation, the joint DAG-African Group proposal on technical assistance – have been now pushed to the back burner and are not reflected in the agenda of the CDIP.

The Development Agenda Group was formed in 2010 at the fifth session of the CDIP as an open and inclusive cross-regional group which included Algeria, Brazil, Cuba, Djibouti, Ecuador, Egypt, Guatemala, India, Indonesia, Iran, Malaysia, Pakistan, the Philippines, South Africa, Sri Lanka, Sudan, Uruguay and Yemen. The DAG had adopted a set of Guiding Principles (CDIP/5/9 Rev.)

which stressed on the need for WIPO technical assistance to be transparent, neutral and effective and also address the use of available flexibilities, exceptions and limitations, preserving national policy space in norm-setting activities, developing appropriate solutions, guidelines and instruments for the transfer of technology, establishing an effective and independent mechanism for coordination, monitoring assessment and reporting on the implementation of the Development Agenda, and reforming WIPO governance, addressing public policy and development priorities in the area of IP enforcement. The DAG advanced a number of important proposals in the CDIP and played a major role in pursuing the CDIP to adopt important decisions. In the wake of the diminishing participation of developing countries in the CDIP, it is critical that the Development Agenda Group is revived and its membership is expanded.

Discussions in the nineteenth session of the CDIP

Adoption of the agenda

The CDIP adopted the agenda for this session after some discussions on a suggestion by Brazil for a including a specific agenda item on implementation of the sustainable development goals (SDGs) and WIPO contribution to the same. Brazil explained that the issue of implementation of SDGs is in line with the third pillar of the mandate of the CDIP to discuss IP and development issues and hence it should be considered under a separate agenda item rather than as a sub-item on the agenda relating to coordination, monitoring mechanism. However, the CDIP did not include a separate agenda item as suggested by Brazil, as it could not arrive at a shared understanding.

General statements

In their general statements, developing countries stressed on the importance of WIPO making effective contribution to the fulfilment of the Development Agenda goals and the SDGs, the need for dedicating financial and human resources for development projects, and the need for resolving the outstanding issues relating to the implementation of the mandate of the CDIP on IP and development and the effectiveness of the coordination mechanism between the CDIP and other relevant WIPO bodies through the General Assembly. The African Group hoped that the CDIP would achieve tangible results

on pending issues, particularly the coordination mechanism, technical assistance and transfer of technology. Stressing on the universal and indivisible nature of the SDGs, the group stressed on the important role of WIPO in respect of all the 17 SDGs. It also expressed support for the proposal by Brazil for a standing agenda item on SDGs.

The Asia Pacific group welcomed the recommendations of the independent review of the DA recommendations and said that the CDIP should allow members to make further submissions on the recommendations of the independent review. It also reminded the CDIP that the DA was introduced to ensure that the focus is not predominantly on the positive role of IP but also to touch upon how to address implications of IP protection that developing countries face. It stressed that the focus of South-South cooperation should be promoting full use of IP flexibilities. It also reiterated that the PBC and the Committee on WIPO Standards (CWS) are relevant bodies under the coordination mechanism.

Brazil pointed out that many challenges remain to build an inclusive, balanced and development oriented IP system. The CDIP can add significant value to the implementation of the SDGs by discussing how IPRs can assist the international community to meet the goals of the SDGs. To facilitate this discussion and for more transparency within WIPO, Brazil has proposed a permanent agenda item in CDIP. CDIP can also help to strengthen technical assistance to empower developing countries and LDCs to use the IP system as a contributing factor for achieving their development goals. Technical assistance should focus both on the development of national IP strategies and exploration of the flexibilities contained in the international IP systems. Failure to develop an inclusive, balanced and development-oriented IP system can threaten the legitimacy of the current IP system.

Director-General's report

The CDIP discussed and took note of the report by the WIPO Director-General on the implementation of the Development Agenda. Some developing countries like Brazil pointed to the lack of sufficient detail in the information provided in the report to explain how the reported activities contributed to the implementation of the DA. The general information of the activities reported does

not provide information on how WIPO adds value through these activities. Egypt also pointed to the need for the kind of contribution WIPO has made in various UN fora to assess the extent of its development orientation. Egypt also stressed on the need for policy oriented rather than project oriented discussion, and assessment of how far the tools developed through various DA projects are impacting on the ground. Indonesia observed that the report did not reflect the contribution of WIPO to the UN Secretary-General's High Level Panel on Access to Medicines (UNHLP) and sought more information about the involvement of WIPO Secretariat in the UNHLP. Malaysia also raised this issue. Iran pointed to the need for more programmes on IP related flexibilities, access to knowledge and transfer of technology, and stressed on that mainstreaming of the DA is a constant process which will require all programmes and activities to consider the DA in their activities.

The Secretariat took note of the request to be more precise in future reports. With regard to measuring the impact of WIPO activities, particularly on technical assistance, the Secretariat shared the concerns expressed and stated that measuring behavioural changes in recipients of technical assistance is very difficult to implement, though the Secretariat intends to move in that direction. On the UNHLP, the Secretariat provided a brief overview of the participation by WHO in the UNHLP and its contribution of activities undertaken by WIPO.

Evaluation report of the Development Agenda project on intellectual property and design management

The CDIP discussed the evaluation report of a completed DA project on IP and design management for business development in developing countries and LDCs. The objective of the project was to promote the strategic use and protection of industrial designs by SMEs in two countries, through raising awareness and enhancing practical knowledge among SMEs on how to protect and manage their design rights, and also through enhancing capacities of IP institutions to support companies in protecting their designs. The project sought to achieve long-term national impact in the pilot countries and also replicate similar initiatives in other countries. The pilot project was implemented in Argentina and Morocco.

The project evaluation report recommended undertaking a second phase of the project to pilot the approach in additional countries from different

regions and assess wider project outcomes in Argentina and Morocco. The evaluation report also recommended that a project be undertaken for the development of specific tools for the planning and implementation of DA projects, including mainstreaming gender dimensions.

During discussions in the CDIP, Indonesia sought clarification whether the recommendations relating to systematically assessing management inputs and mainstreaming gender dimensions can be better addressed through general administrative reports rather than a separate DA project? The Secretariat requested for some flexibility to reflect on the feasibility of a phase II for the project and report back to member States.

The CDIP agreed to the recommendation by the evaluator to undertake a second phase of the project. Accordingly, the Secretariat was requested to assess the feasibility of undertaking the activities recommended by the evaluator either as phase II of the project or as part of the regular work of WIPO, and report back to the next session of the CDIP.

However, the CDIP did not take any decision on the recommendation by the evaluator for a separate project on the development of specific tools for the planning and implementation of DA projects, including mainstreaming gender dimensions.

Joint proposal by US, Canada and Australia on activities related to technology transfer

The Secretariat provided an update on the implementation of activities pursuant the Joint Proposal by US, Canada and Australia on technology transfer that was submitted as a written contribution from these countries at the eighteenth session of the CDIP, for activities that could be undertaken on technology transfer following the conclusion of the DA project on IP and transfer of technology. Apart from this proposal, the only other contribution was a proposal by South Africa for a DA project on IP management and transfer of technology. There was no other submission from developing countries.

The WIPO Secretariat briefed the CDIP about the changes to the webpage on technology transfer to make it more interactive. The Secretariat will also prepare an overview of the activities on

technology transfer by each WIPO sector at the next session of the CDIP. Secretariat will continue to monitor and actively engage on various international fora on technology transfer and prepare an overview of international fora and conferences in which WIPO has participated during 2016-17 biennium for the next CDIP session. The Secretariat is exploring possible actions to promote the usage of the web forum established under the CDIP project on technology transfer. The Secretariat continues to work with member States to develop concrete tangible projects on technology transfer. The Secretariat will develop an overview of the WIPO DA cluster C recommendations addressed by specific technology transfer related services and activities to facilitate a gap analysis, which will be provided to the next session of the CDIP.

The US stated that a study by WIPO of existing national and international platforms to facilitate technology licensing, which was an element of the proposal that was still under discussion, will be useful and could be supplemented by member States' contributions of case studies describing success stories they might have to inspire other countries to develop national or regional technology licensing platforms. Indonesia pointed out that a market based mechanism to facilitate technology licensing can be useful only if a common understanding of technology transfer is followed by CDIP.

Chair pointed out that this element of the joint proposal will have to be addressed in more depth, with some delegations pointing to the need for agreement on what constitutes technology transfer. Chair suggested that a summary or compilation of various proposals in this respect can be considered at the next session of the CDIP. The US asked whether the CDIP could at this stage agree to a study by the Secretariat on national and international experiences and contributions by member States who would like to share their success stories? The US regarded that such a study did not require agreement on the definition of technology transfer. Indonesia sought to see more detail about the terms of reference for such a study.

Three options were proposed during informal consultations on technology transfer. 1) Secretariat will carry out a mapping exercise of all existing national and international platforms as regards services facilitating technology transfer; 2) proposal by India for the Secretariat to carry out a mapping exercise of all national and international platforms as

regards services facilitation mechanisms; and 3) Secretariat to carry out mapping exercise of national and international technology exchanges and technology licensing platforms.

The CDIP agreed that the Secretariat will conduct a mapping exercise of all existing national and international technology exchange and technology licensing platforms, and challenges relating thereto for developing countries and LDCs, and report to the next session of the CDIP. However, there was no decision on how to address the need for a more in depth discussion to arrive at a common understanding of transfer of technology.

WIPO contribution to the SDGs

The CDIP discussed and took note of the first annual report by the WIPO Secretariat on WIPO contributions to the SDGs. Iran sought more substantial report on the activities of the Secretariat on implementing SDGs, and also sought information on how the Secretariat can be requested to provide technical assistance for SDGs? Indonesia pointed out that most of the activities reported by the Secretariat pre-date the SDGs and wanted to know whether WIPO is following a business as usual approach in relation to these activities or whether these have been upscaled in the context of the SDGs to contribute to the implementation of SDGs? Indonesia also wanted to know more details about the nature of factual information provided by WIPO in its contributions to various UN fora in relation SDGs? Indonesia also sought clarity on what kind of assistance the Secretariat can provide on SDGs? The African Group also sought clarity on the nature of assistance WIPO can provide on SDGs and the nature of contributions of WIPO in other fora. Egypt stressed on the need to ensure that activities on implementation of the SDGs are in accordance with the WIPO Development Agenda.

Brazil also stressed on the need for more details on the nature and content of WIPO contribution to the SDGs to understand the value addition that WIPO is making on SDG related fora. Countries need to know more about what WIPO can offer and what assistance they can ask for. Brazil questioned the assumption that innovation contributes directly to the SDG goals. Contribution of good health, food security to facilitate innovation to thrive needs to be recognized.

The Secretariat noted that there is need for substantive information for content rather than just listing the activities, and agreed that it is a legitimate point. A lot of ongoing activities may not bear the label of SDGs or explicitly relate to specific SDGs, they do come under the SDGs. The Secretariat said that it is working on making the information easier to understand. Member States do not specifically mention SDGs when making a request for assistance. In the future, the Secretariat could consider a pro-active approach not confined to just noting down the request from countries and inform the CDIP of the nature of the request. The Secretariat stated that the approach of WIPO is “obviously” new and not business as usual, without elaborating how this is so. The Secretariat said that it will revert to member States about indicators to measure the impact of their activities related to SDGs on the ground.

Discussions on ways to address SDGs in future CDIP sessions

Brazil recalled its proposal submitted at the eighteenth session of the CDIP for a standing agenda item on SDGs and said that most of the technical assistance from WIPO is about enhancing countries’ capabilities to enhance their IP system, but it should also be about enhancing the capacity to use the IP flexibilities. The CDIP could discuss the SDGs in a comprehensive and cross-cutting manner. CDIP could discuss how to implement SDG goals, and develop a road map of cross cutting initiatives to be implemented by WIPO organs. All of the SDGs only make sense if addressed collectively. Having a standing agenda item would help member States to have more accountability, enable WIPO to periodically report on SDG implementation, give more clarity and transparency to the discussion, and prevent overlapping and duplication of work, signalling the intent of the CDIP and of WIPO fulfilling the mandate of the GA.

The Brazilian proposal was supported by the African Group, Iran, Indonesia, Uganda, but developed countries opposed the proposal to have a standing agenda item. Discussions will continue at the next session of the CDIP.

Proposal by South Africa for DA project on IP management and transfer of technology

The CDIP discussed a proposal submitted by South Africa at the eighteenth session of the CDIP as a

written contribution for specific activities in the area of transfer of technology. The proposal seeks to undertake a pilot project in four countries including South Africa to assist players in the innovation value chain including funders of research, developers of IP, managers of IP and users of IP to develop clear understanding of IP protection strategies, effective management and enforcement of IP rights, use of IP tools to access relevant technologies, and use IP for concluding commercialization.

The proposal was supported by the African Group, Chile, Ghana, Algeria, China, Namibia, Ecuador, Colombia, Burkina Faso, South Korea, Morocco, Lesotho, Mauritania, Benin. The project was approved after addition of language clarifying the nature of training and capacity building activities to be undertaken under the project, based on a request by the US. The revised proposal was adopted.

African Group proposal for the biennial organization of a conference on IP and development

Senegal on behalf of the African Group introduced a proposal for the consideration of the nineteenth session of the CDIP to organize an international conference on intellectual property and development periodically every 2 years. The topic for each of these conferences will be discussed in the CDIP at its first session in the first year of every biennium. For the 2018-2019 biennium, the African Group proposes the topic "How to make use of the system?"

The proposal was supported by Uganda, Algeria, Morocco, Iran, GRULAC, Lesotho, Brazil, Asia Pacific group, Nigeria, Tunisia, Chile, Namibia, Egypt. However, the developed countries from EU, CEBS and Group B opposed the proposal. The US suggested at best half a day events during the CDIP may be considered on specific topics. The CDIP agreed that discussions will continue on this proposal at the next session.

WIPO General Assembly decision on CDIP related matters

This agenda item was about the DA coordination mechanism, and the mandate of the CDIP to discuss issues of IP and development. Since 2013 the General Assembly has consistently requested the CDIP to discuss this matter and report back to the

GA. Essentially, the issues at stake are whether the Program and Budget Committee and the Committee on WIPO Standards (CWS) are relevant bodies for the purposes of reporting to the GA on their contribution to the implementation of the Development Agenda, and whether the CDIP should introduce a new standing agenda item on IP and development to address implementation of the third pillar of its mandate to discuss IP and development related issues as agreed by the CDIP, or by the GA?

During this session of the CDIP, 2 days of informal consultations did not achieve any progress. GRULAC suggested that a proposal by the Chair may be a way forward on this matter. Chair requested for specific proposals from delegations.

Following informal consultations the CDIP decided to recommend to the GA to add a new item to the agenda of the CDIP named IP and Development to discuss IP and development-related issues as agreed by the CDIP as well as those decided by the GA. It also reaffirmed the right of member States to express their views in all WIPO committees. The decision also recommends the GA to take note of the conclusions of the discussions on this issue.

Thus, it seems that the CDIP is inviting the GA to note that discussions on the coordination mechanism have been concluded with the reaffirmation of the right of member States to express their views in all committees and the decision to establish a standing agenda item on IP and Development. However, the CDIP has been unable to resolve the critical issue of which bodies are relevant for the purposes of reporting to the GA on their contribution to the implementation of the Development Agenda. The fact that member States have the inherent right to express their views in all committees does not necessarily mean that those committees are regarded by all members as relevant for the purpose of reporting to the GA under the coordination mechanism. It will be critical for the General Assembly to seek clear decision from the CDIP on this issue.

Independent review of the implementation of the DA recommendations

The CDIP discussed the report from the Secretariat on the recommendations of the independent review of the implementation of the DA recommendations that were addressed to the Secretariat, and also the only written submission from Group B on the implementation of all the recommendations of the

independent review. There was no written submission from developing countries on the independent review recommendations.

Indonesia on behalf of the Asia Pacific group said that the CDIP should provide opportunity to member States to make further submissions on the recommendations of the independent review of DARs. Iran hoped to see submissions from other stakeholders. How the role of the DA coordination division can be strengthened? On linking the DA to the expected results in the program and budget, the Secretariat should make concrete proposals. No reference has been made in the review about the coordination mechanism issues as unnecessary. The Secretariat stated that it would need categorical decision from the CDIP to take further action on the recommendations. The Chair sought the views of the CDIP on each of the recommendations. The CDIP adopted recommendations 3, 4, 6, 7, 8, 9, 10 and 12 of the independent review. Discussions on recommendations 1, 2, 5 and 11 of the independent review remained inconclusive and will continue at the next session of the CDIP.

On recommendation 1, Group B suggested sharing sessions should be conducted among member States during the CDIP sessions. In group B's view a high level of debate in the CDIP means sharing of experiences among members on IP and development issues at the level of the CDIP. Indonesia regarded this recommendation can be addressed through implementing the third pillar of the CDIP mandate on IP and development. The US pointed out that according to the review group a higher level of debate meant discussions on emerging issues in the CDIP.

On recommendation 2, Group B stated that outstanding issues relating to the CDIP mandate and coordination mechanism must be resolved. Group B read selectively conclusions from the report to regard that further discussion on this is not necessary. Iran regarded that the coordination mechanism or the third pillar of the mandate has not been addressed adequately.

Developed countries from Group B did not support recommendation 5 for WIPO to consider linking DA recommendations to Expected Results contained in the Program and Budget. It stated that DA recommendations provide strategic guidance to WIPO work and that is sufficient. DA

recommendations are mostly integrated in the program and budget cycle.

Group B opposed recommendation 11 of the independent review to put in place a mechanism to report on the agreed recommendations contained in the evaluation reports and on the mainstreamed outcomes of the DA projects. Group B regarded this recommendation as burdensome and counterproductive. It said that project evaluation report discussions offer an opportunity for CDIP to comment and leave it to the Secretariat. Discussing and approving evaluation report recommendations would be inefficient and cause delays. The African Group supported the recommendation.

Iran sought clarification whether adoption of the recommendations precludes member States from making submissions on the recommendations in the future? Chair said that adopted recommendations stand adopted. Senegal sought clarification about the outcome of the document if some recommendations are adopted and others are not? The Chair said that the CDIP cannot arrive at a conclusion unless the discussion is completed. Senegal suggested it would be better to wait for other stakeholders to react to the recommendations. Indonesia reaffirmed its request that the member States be allowed to make further submissions on the recommendations. Group B said that it cannot support extension of the deadline for submissions as it will set a bad precedent. The Chair said either the CDIP can continue adopting agreeable recommendations or transmit the matter to the General Assembly. Indonesia said that it is not asking for extension of the deadline but for the possibility to make additional comments in future.

Developing countries from GRULAC urged for reasonable time for further submissions. Egypt said the report and recommendations should be discussed more substantively within the CDIP. The Chair suggested only recommendations addressed to CDIP can still be discussed in the CDIP. The US stated that the Secretariat should be given flexibility on implementation of the recommendations.

The CDIP also agreed that the Secretariat will report annually on the progress concerning the adopted recommendations addressed to it; seek clarifications concerning how to proceed on the recommendations that need decisions from member States. Further, CDIP will continue to discuss the recommendations still not adopted, discuss modalities and

implementation strategies of adopted recommendations, define reporting and reviewing process, and review progress.

Mapping of South-South cooperation activities within WIPO

The CDIP discussed and took note of a report by the Secretariat containing a mapping of South-South cooperation activities within WIPO. Indonesia mentioned the common challenge of the South in relation to IP is how to make use of the IP flexibilities. The CDIP took note of the report. Indonesia requested that the Secretariat be asked to report back to the CDIP on this matter, but the Secretariat suggested that it would be better to provide mapping reports, if required, annually, as it takes time and effort on the part of the Secretariat. Indonesia pointed to the project evaluation recommendation for a roadmap on South-South cooperation, but agreed that member States should submit a specific request on the same as it is different from a request for a mapping document. Indonesia said it may come up with a proposal to that end in the next session.

Possible improvements to WIPO technical assistance web page

The CDIP discussed a report by the WIPO Secretariat for possible improvements to WIPO technical assistance web page. This report was submitted pursuant to the informal Spanish proposal for activities on technical assistance on the basis of which the CDIP had agreed at its eighteenth session to undertake discussions for the next six sessions. This agreement has effectively closed discussions in the external review report on the WIPO technical assistance in the area of cooperation for development and a joint proposal based on this report that was submitted by the African Group and DAG.

During the discussions on the report from the Secretariat in this session of the CDIP, Indonesia stated that it will be useful to have a separate cluster on flexibilities in the webpage. Brazil supported this suggestion. Chile suggested to establish a database of contacts in various divisions of WIPO to facilitate internal coordination on technical assistance, and also suggested incorporating a database of lessons learnt and best practices. South Africa suggested the need to focus on other aspects of the IP system beyond the current focus

on intellectual property rights and addressed other IP issues such as trade secrets. Egypt also suggested the need for balance between focus of IP rights and development considerations. The Secretariat took note of the comments and stated that more clusters could be added upon further internal discussion. CDIP took note of the report and called upon the Secretariat to take note of the comments from member States and called upon the Secretariat to present a report on improvements to the webpage at the next session of the CDIP.

Oral presentation on WIPO policy for external peer review

The Chief Economist of WIPO gave an oral presentation of the external peer review process conducted by the Office of the Chief Economist. It was pointed out that the existing peer review processes are not uniform and vary depending on the nature of the study. Peer reviewers are selected on the basis of their expertise and independence and are paid an honorarium proportionate to the time spent on peer review. Standard TORs require reviewers to comment on the usefulness, clarity of the analytical approach, accuracy of the data, appropriateness in terms of methodology, suitability of the discussion for the intended target audience. No instance of disagreement between the authors and reviewers has arisen. It was also stated that the WIPO publications board requires a credible peer review. The Secretariat would ensure broad application of the peer review processes to studies on technical assistance. The CDIP expressed its appreciation for the information provided.

Brazil queried why the peer reviewers have not had more frank and open discussions in WIPO? The Chief Economist speculated that it depends on the topics and WIPO does not address most contentious topics. Also, the peer review process is open and not anonymous. For WIPO to move to an anonymous peer review process may be problematic as an inter-governmental organization that has to adhere to transparency and openness. The US called for implementing the peer review process to technical assistance projects.

New activities on the use of copyright to promote access to information and creative content

The CDIP discussed a progress report from the WIPO Secretariat on 6 new activities on using copyright to promote access to information and creative

content, with particular focus on education and research, software development and public sector information (PSI). The report invited member States to voluntarily participate in a project aimed at creating a centralized database that will make IP related education and research resources available on an open access basis. The Secretariat also proposed that the CDIP agree to the organization of a global meeting, aimed at raising awareness to selected LDCs, on topics related to public sector information and copyright.

Group B stated that before agreeing to organize an international conference on management of public sector information in LDCs, it would like to have more information on the current state of management of PSI in LDCs to understand what problems are to be addressed by the conference and what gaps are to be filled by it, over country-specific demand driven assistance, and financial applications of the same. The Secretariat stated that clarity on the conditions for the use of PSI is important. WIPO research reveals that countries approach PSI differently, varying from keeping it in the public domain to treating it as copyright protected information. The purpose of the international conference is to provide a forum for exchange of current practice among member States and raising the general awareness about the importance of copyright to be taken into account while shaping policies on management of PSIs. Greater awareness could generate more requests for technical assistance. The estimated budget is 167000 CHF. Only LDCs are targeted as recommended by the study by the external consultant but such a conference could be beneficial for all countries. CDIP took note of the report and encouraged the Secretariat to continue their activities in this area.

The CDIP took note of the report and agreed to the way forward proposed by the Secretariat.

Future work

On future work, the CDIP agreed that the next session will receive a progress report on the implementation of the DA recommendations, the report of this session of the CDIP, outputs of ongoing projects, report from the GA on the implementation of DA by relevant WIPO bodies, reports on technical assistance activities based on the Spanish proposal (2-3 decisions), report on the joint proposal on transfer of technology (some

points), discussions will continue on how the CDIP should address SDGs in the future and the proposal for having a standing agenda item in the CDIP, convening of a biennial conference on IP and development, report back to CDIP on the decision of the GA on the coordination mechanism and standing agenda item on IP and development, annual report on dissemination of information contained in the database on flexibilities, study by China and Side Event on Green Patents, independent review of DARs and the Secretariat's comments, and possibly a document seeking guidance from the CDIP on implementation of some of the recommendations.

Conclusion

The nineteenth session of the CDIP witnessed a continuation of the recent trend of dwindling participation of member States in the discussions in the CDIP. Even where the CDIP had established interim processes for receiving contributions from member States on specific issues such as the implementation of the recommendations of the independent review of the DA recommendations, the only submission before the CDIP was from developed countries.

There is an urgent need for developing countries to ensure their effective and coordinated participation in the future discussions in the CDIP and to renew engagement on the proposals that they have made in the past. It will be critical for developing countries to take the initiative and regain the ownership of the CDIP.

The agreement in the CDIP to include a standing agenda item on IP and development offers the opportunity to introduce a higher level of debate on IP and development issues, moving beyond a project based approach to implementation of the Development Agenda that has dominated the CDIP. Another critical challenge before developing countries will be ensure that bodies such as the PBC that have so far not reported to the General Assembly on their contribution to the Development Agenda under the coordination mechanism are made accountable for the implementation of the Development Agenda. With regard to the recommendations of the independent review of the Development Agenda, discussions will continue on the outstanding recommendations in the next session of the CDIP and it will be critical for developing countries to make coordinated submissions and ensure large scale participation and intervention from developing countries in support of their proposals.

Similarly, on transfer of technology, technical assistance, guiding WIPO activities in the area of SDGs, guiding WIPO activities on South-South cooperation, it is necessary for developing countries to develop common proposals within and across their regional groups.

The history of the inception and adoption of the Development Agenda, and the adoption of important projects and initiatives that led to outputs suggesting the need for further reforms in areas such as technical assistance, transfer of technology, etc., clearly tells us that the developing countries have been able to achieve the most in the CDIP only when they have worked together in a coordinated manner. The need of the hour in the CDIP is to revive the spirit of the cross-regional Development Agenda Group and expand its membership.

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