

WIPO Development Agenda

William New

Intellectual Property Watch

Geneva

wnew@ip-watch.ch



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WIPO Development Agenda*

- Background to Agreement
- 2007 Development Agenda
- Availability of Information
- Implementation
- Coordination
- Future
- Case Study



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Background*

- 1967 WIPO Convention
- 1994 WTO TRIPS Agreement
- 2001 Doha Declaration on TRIPS & Health
- 2004 Original Proposal by Friends of Development
- 2007 Development Agenda adopted
- 2009 Decision on coordination to come



WTO Agreements

- 1994 TRIPS Agreement – flexibilities, dispute settlement
- 2001 Doha Declaration on TRIPS and Public Health – reinforced members' sovereign right to use flexibilities in their public interest, such as compulsory licences



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2004 WIPO Dev Agenda Proposal*

- 14 Friends of Development led by Brazil, Argentina (Egypt among them)
- Restrain developed country bias at WIPO
- Reduce significant 'knowledge gap'
- Curb TRIPS+ activities at WIPO
- IP as a means to end, not an end in itself
- Integrate 'development dimension' at WIPO; align with UN MDGs

2004 Vision – Information Access

- « While access to information and knowledge sharing are regarded as essential elements in fostering innovation and creativity in the information economy, adding new layers of intellectual property protection to the digital environment would obstruct the free flow of information and scuttle efforts to set up new arrangements for promoting innovation and creativity, through initiatives such as ‘Creative Commons.’ »

2004 Vision – Public Interest *

- Treaties must be « balanced and clearly take on board the interests of consumers and the public at large. »
- Important to safeguard exceptions and limitations in existing national laws



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2004 Vision – Open Access*

- « In order to tap into the development potential offered by the digital environment, it is important to bear in mind the relevance of open access models for the promotion of innovation and creativity. »
- Explore « open collaborative projects to develop public goods », like Human Genome Project and Open Source Software



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2004 Vision – Tech Transfer*

- Objective of IP protection to promote tech transfer
- In developing countries higher IP protection has failed to foster tech transfer
- Called for WIPO body to examine measures to ensure effective transfer
- Proposed Treaty on Access to Knowledge and Technology; access to publicly funded research



2004 Vision – Enforcement*

- IP enforcement in context of broader societal interests and development
- WIPO Advisory Committee on Enforcement (ACE) – limit mandate
- ACE focus to include all perspectives (not just rightsholders), competition concerns



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2004 Vision – Technical Assistance*

- WIPO main multilateral provider of technical assistance on IP
- 1995 agreement with WTO to provide TA
- As UN agency, WIPO assistance should include UN development objectives: neutral, impartial, demand-driven
- Teach awareness of flexibilities for developing countries



2004 Vision – Proposed Changes

- Distinguish industry and public interest NGOs at WIPO
- Proposed amendment to 1967 WIPO Convention, Article 3(i): « to promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization, *fully taking into account the development needs of its Member States, particularly developing countries and least developed countries.* »



WIPO Joins UN (1974)

- Article 1 – Recognition
- « The United Nations recognises the World Intellectual Property Organization ... as a specialised agency and as being responsible for taking appropriate action in accordance with its basic instrument, treaties and agreements administered by it, inter alia, for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development. »



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Dev Agenda Background cont.

- 2004 WIPO General Assembly agreed to discuss DA proposal
- 2005 - 3 Intersessional Intergovernmental Meetings (high-level), 8 papers presented on various topics. May 2005 WIPO seminar on IP and development.
- 2005 General Assembly created the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA), which met twice in 2006. 111 proposals submitted for consideration, drawn from 14 proposal papers by various member states.



Dev Agenda Background cont.

- 2005 Chile proposal on exceptions to copyright, 2006 on public domain
- 2006 General Assembly renewed PCDA mandate, met 2 times in 2007
- PCDA narrowed 111 proposals, identified actionable ones
- Agreed on 45 proposals, with understanding more could arise in future

2007 Development Agenda Approved*

- General Assembly approved the WIPO Development Agenda in October 2007
- Established Committee on Development and IP (CDIP)
- *CDIP to:* develop work program for implementation of 45 recommendations
- Monitor, assess, discuss and report on implementation
- Discuss IP and development issues
- Stakeholders like libraries played important role

2007 Development Agenda cont.*

- *45 recommendations put into clusters:*
- Cluster A: Technical assistance and capacity building (first 14 recommendations)
- B: Norm-setting, flexibilities, public policy, public domain (nine recs - 15-23)
- C: Technology transfer, information and communications technologies (ICTs), and Access to Knowledge (24-32)
- D: Assessment, evaluation and impact studies (33-38)
- E: Institutional matters eg mandate, governance (39-44)
- F: Other issues (45)



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How did they do?*

- *Compare 45 recommendations in 2007 to original proposal in 2004. Did they achieve the vision? Look at open access recommendations:*
- A2K and tech (Recs 19, 30)
- Public domain (recs 16, 20)
- Scientific research cooperation (recs 26, 36)
- Digital divide (rec 24)
- ICT for growth and development (27)
- Flexibilities (eg, 14, 17, 22, 25)



How will world be different w effective DA implementation?*

- WIPO gives balanced advice tailored to local needs, including use of flexibilities, UN development goals
- Competition encouraged despite rights
- Meaningful tech transfer, knowledge access
- Encouragement of robust public domain
- Assessments of impact of IP on development



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October 2008 new implementation phase

- WIPO Development Agenda Coordination Division established
- Project-based methodology applied – clear objectives, timeframes, outcomes, costs, evaluation process
- Project managers appointed
- Thematic approach to recommendations
- Dev Agenda mainstreamed in WIPO activities (revised program and budget 2008-09, 2010-11)

Status of Implementation*

- 19 recommendations being implemented since November 2007
- 9 projects in Cluster A (technical assistance) implementing since early 2009
- Implementation begins on 3 projects in January 2010: IP and public domain (16, 20); IP and competition policy (7, 23, 32); IP, ICTs, digital divide & A2K (19, 24, 27)
- 3 projects up for approval at Nov. 2009

Funding implementation of projects*

- Concerns about DA funding, must be procured along the way
- December 2008 PBC meeting – CHF 8 million for 9 projects
- April 2009 – CHF 2.2 million for 3 projects
- September 2009 PBC – CHF 2.3 million for 3 more projects to be discussed and approved at November CDIP



WIPO office's implementation considerations*

- Process viewed as collective (Secretariat, member states, other stakeholders)
- Must respond to real needs and interests of member states
- Address concerns behind recommendations
- Be member-driven and inclusive
- Equitable geographical distribution of projects
- Projects sustainable, localities committed



WIPO push for IP offices' role

- WIPO DA Coordination Office pushing for national IP offices to be involved
- IP offices may participate in national, international debates on DA implementation
- May contribute to national policy processes arising from DA
- WIPO: « Coordination among the various government offices involved in IP administration and policymaking is crucial for DA to yield tangible results »
- Policy coherence important for governments

Key issues for implementing recommendations*

- For each recommendation, WIPO asks:
- What are key concerns behind it?
- What can WIPO and its members do?
- What are likely challenges or constraints?



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Recommendation 22

- *A key recommendation:* WIPO's norm-setting activities supportive of UN development goals, including those contained in the Millennium Declaration. The WIPO Secretariat, without prejudice to the outcome of Member States considerations, should address in its working documents for norm-setting: safeguarding national implementation of IP rules, competition, tech transfer, flexibilities, exceptions and limitations, and possible special provisions for developing countries.



Open Access Recommendations


19 = access to knowledge and technology

- 16, 20 = public domain
- 24 = digital divide
- 27 = ICT for growth and development
- 30 = WIPO cooperation on advice on access to IP information
- 36 = open collaborative projects and IP models

Public domain recommendations*

- Rec 16: Consider the preservation of the public domain within WIPO's normative processes and deepen the analysis of the implications and benefits of a rich and accessible public domain.
- Rec 20: To promote norm-setting activities related to IP that support a robust public domain in WIPO's Member States, including the possibility of preparing guidelines which could assist interested Member States in identifying subject matters that have fallen into the public domain within their respective jurisdictions.

Specific projects*

- 16,20 Public Domain –
- Series of surveys & studies to analyse good practices and currently available tools for identifying content and preserve it from individual appropriation. Facilitate preparation of guidelines or tools. Four parts: Copyright, trademarks, patents and traditional knowledge/folklore.
- Final approval needed at November  GDIP

Specific projects cont.*

- Rec 10 under IP, ICTs, Digital Divide and Access to Knowledge being implemented:
- Project is to assist in strengthening national institutions and creative industry organisations to enhance their understanding of role of IP. Facilitate establishment of subregional networks for collective management of copyright



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Specific projects cont.*

- IP, ICTs, Digital Divide, A2K – needs final approval in November, to begin Jan 2010:
- First component of project - to provide governments balanced information on opportunities provided by new models of distributing information and creative content, for education, research
- Second – assist govts to digitise paper-based IPR documents, work toward national IP databases with easy access for users



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WIPO Public Hearing on CDIP*

- WIPO just announced 13-14 October hearing for all stakeholders to discuss next projects to be on agenda of CDIP in November.
- Topics: (i) IP and Technology Transfer; (ii) Developing Tools for Access to Patent Information; (iii) Evaluation and Impact Assessment; and (iv) three proposals made by Japan and the Republic of Korea.

Future: e-books*

- Digitisation of books increasing
- Presents issues of access, copyright
- Library of Alexandria scanning 24 hours/day
- Google Book Project



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Google Book Project*

- Breakthrough in human knowledge, scanning books of some great libraries, like Harvard, U. Michigan
- Deal w publishers would create book register
- Private ownership: risk of loss of access, question of library exception
- Can view 20% of copyrighted books, new deal to print books on-demand
- Scanned 8 million books in public domain, pre-20th C.
- Authors, public interest concerns raised by US Justice Dept, possible re-opening of settlement



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Case Study: bookless library?*

- What are the advantages and disadvantages of « going bookless »?
- If it is happening, what precautions would you recommend?



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- Thank you!
- William New
- wnew@ip-watch.ch



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