

**The Changing Global Innovation and
Intellectual Property Policy Landscape:
Present Challenges and Future Directions**

WIPO DA+10 and beyond

September 18-19, 2014

I thank the ICTSD for this excellent initiative and for inviting me to speak. This is a timely event. I hope the proceedings of this workshop will contribute to a deeper reflection on all sides as to how the global intellectual property system has to be carried forward.

As you know, I have been presiding over the Committee on Development and Intellectual Property (CDIP) for the last five sessions. This period of 2 ½ years has been a rewarding experience for me. I have acquired a better understanding of the issues surrounding the IP system and its intersection with other issues such as Trade, Health, and Environment, to name a few. At the same time, I have been able to understand the different, and often differing, perspectives and positions on the various aspects of IP. And the most important for me has been to facilitate the CDIP process and try and reconcile those differing and divergent positions.

At the expense of stating the obvious, I would like to recall the mandate of the CDIP, the work done by the committee so far, the areas of agreements and disagreements, and the outstanding and open issues. I would then provide my views of the situation and invite you to collectively assess the future direction of the Development Agenda in WIPO.

The CDIP was established in 2008 with a mandate to:

develop a work-program for implementing the 45 adopted Development Agenda recommendations; monitor, assess, discuss and report on the implementation of all recommendations adopted; and for that purpose to coordinate with relevant WIPO bodies; and discuss IP- and development-related issues as agreed by the Committee, as well as those decided by the General Assembly.

My reading of the Development Agenda implementation suggests that the organization, the member states and the secretariat alike, lacked a clear direction as regards translating the 45 DA recommendations into concrete activities. In that situation, introducing the thematic project approach by the newly elected management of the organization in 2009 was a welcome step.

In fulfilment of the first part of its mandate, the CDIP thus spent a significant amount of time in approving the DA projects, and substantial and significant progress has been achieved. Some member states also took the initiative of proposing projects for the committee to discuss and approve. The committee also defined work in other areas such as flexibilities in the international legal instruments. I will leave it for Irfan to provide you with the details of the activities.

The progress on the implementation of the projects and other activities was regularly reported by the secretariat to the committee. In fact, each year, the Director General also presented a report on the implementation of the DA across the organization. For the last few committee sessions, the committee has also reviewed reports by independent evaluators on the implementation of the DA projects. In brief, this has been the second part of the Committee's mandate.

Work has also advanced on other areas which do not fall under the above two categories. One example of that work is WIPO's contribution to the Millennium Development Goals (MDGs). Whether such an activity contributes to the third part of the committee's mandate or not, is a subject of different opinions, and I will come to that later.

While there have been difference of opinions among delegates in defining and approving the projects, overall, the committee has worked well in delivering the mandate assigned to it by the WIPO General Assembly. Certain issues however have been a source of polarization. I would list them as follows:

1. Independent Review of the Implementation of the Development Agenda Recommendations. The coordination mechanism adopted by the CDIP and subsequently endorsed by the WIPO General Assembly, stipulates an independent review of the implementation of the DA by WIPO. In spite of a clear mandate and a time frame by the GA, the committee has been unable to define the terms of reference for this work to commence.
2. General Assembly decision of CDIP matters. In 2013, the GA took a decision, inviting CDIP to consider two issues, namely the establishment of the third part of the committee's mandate as an agenda item for the committee and the report by the relevant WIPO bodies on the implementation of the DA. The committee discussed these matters during its previous two sessions but could not reach an agreement.
3. The International Conference on Intellectual Property and Development. Following disagreements over the list of speakers for the conferences scheduled to take place last year, I was compelled to request the Director General to postpone the conference. Unfortunately, to date, there is no concrete progress as to how to resolve the differences.

4. Consideration of the Recommendations of Report on the External Review of WIPO Technical Assistance in the Field of Cooperation for Development. This report was produced by two external experts in the framework of the DA project on the enhancement of the results based management framework. The experts made a large number of recommendations. Some recommendations were discussed and their implementation was approved. However, there have been disagreements on the future of the remaining recommendations.

During the previous CDIP session, the Director General in his opening remarks advised delegates to break the cycle of disagreements and let multilateralism prevail. Independently, I also expressed similar views. In my view, the lack of agreement in the CDIP is a reflection the general climate of disagreement in WIPO.

The adoption of the Development Agenda was realized in the midst of high expectations amongst developing countries and LDCs. The CDIP continues to be viewed as the key committee that has the potential to respond to the needs of developed, developing countries and LDCs. Some may challenge this perception and argue that all the programs of WIPO contribute to development. Although this view on the CDIP is not unanimous among Member States, it is important for developing countries to see this process continue.

The global IP system cannot be a static set of rules. It must evolve as societies progress, as new technologies emerge, and as new challenges for the protection of human intellect and their commercial benefits arise. It is natural that in the developed world where technological development has been fast, requires a faster development of norms than a large number of developing countries. Developing countries must recognize this need and without compromising on their vital socio-economic interests, extend support for new and innovative means to meet the needs of the developed countries. In this respect, WIPO as the custodian of the interest of its membership should think of new and innovative ways of meeting the interest of its entire membership.

I am a firm believer of the multilateral system. The system by definition is the name of give and take. Rigid positions do not help and the longer delegations stand firm on their rigid positions, the deeper the divisions shall become. It would therefore be very important for senior diplomats to get involved in the DA matters in particular and WIPO issues in general to resolve the outstanding issues.