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COMMITTEE ON DEVELOPMENT AND
INTELLECTUAL PROPERTY (CDIP)

Fifth Session
Geneva, April 26 to 30, 2010

DEVELOPMENT AGENDA GROUP GUIDING PRINCIPLES PAPER

Document prepared by the Secretariat

1. By a Note verbale of April 26, 2010, the Permanent Mission of the Arab Republic of Egypt to the United Nations Office and Specialized Institutions at Geneva and other international organizations in Switzerland, while referring to a newly constituted *Development Agenda Group*, has communicated a request from the eighteen members of that Group, namely, Algeria, Brazil, Cuba, Djibouti, Ecuador, Egypt, Guatemala, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, Philippines, South Africa, Sri Lanka, Sudan, Uruguay, and Yemen, to make available the attached *Development Agenda Group Guiding Principles Paper* as an official document to the fifth session of the CDIP.
2. The above-mentioned Note verbale and Guiding Principles Paper is reproduced in the Annex to this document.
3. *The CDIP is invited to take note of the information contained in the Annex to this document.*

[Annex follows]



Permanent Mission of Egypt to the United Nations
and other International Organizations in Geneva

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The Permanent Mission of the Arab Republic of Egypt to the United Nations and other International Organizations in Geneva presents its compliments to the Secretariat of the World Intellectual Property Organization (WIPO) and has the honor to refer to the convening of the Fifth session of the WIPO Committee on Development and Intellectual Property (CDIP), during the period from 26 to 30 April 2010.

In this regard, and coinciding with the launch of the newly constituted Development Agenda Group (DAG) within WIPO, the Permanent Missions of the Member States of the Development Agenda Group – Algeria, Brazil, Cuba, Djibouti, Ecuador, Egypt, Guatemala, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, the Philippines, South Africa, Sri Lanka, Sudan, Uruguay, and Yemen – kindly request that the attached "*Development Agenda Group (DAG) Guiding Principles Paper*" be made available as an official numbered document of the Fifth session of CDIP.

The Permanent Mission of the Arab Republic of Egypt avails itself of this opportunity to renew to the Secretariat of the World Intellectual Property Organization (WIPO) the assurances of its highest consideration.



Geneva, 26 April, 2010

Secretariat of the World Intellectual Property Organization,
Geneva,
Switzerland.

cc:

1. Permanent Mission of the People's Democratic Republic of Algeria to the United Nations
2. Permanent Mission of the Federative Republic of Brazil to the World Trade Organization
3. Permanent Mission of the Republic of Cuba to the United Nations
4. Permanent Mission of the Republic of Djibouti to the United Nations
5. Permanent Mission of the Republic of Ecuador to the United Nations
6. Permanent Mission of Guatemala to the World Trade Organization
7. Permanent Mission of the Republic of India to the United Nations
8. Permanent Mission of the Republic of Indonesia to the United Nations
9. Permanent Mission of the Islamic Republic of Iran to the United Nations
10. Permanent Mission of Malaysia to the United Nations
11. Permanent Mission of the Islamic Republic of Pakistan to the United Nations
12. Permanent Mission of the Philippines to the United Nations
13. Permanent Mission of South Africa to the United Nations
14. Permanent Mission of the Republic of Sudan to the United Nations
15. Permanent Mission of the Socialist Democratic Republic of Sri Lanka to the United Nations
16. Permanent Mission of the Oriental Republic of Uruguay to the United Nations
17. Permanent Mission of the Republic of Yemen to the United Nations.

Development Agenda Group (DAG)
DAG Guiding Principles Paper

- I. Introduction: WIPO: A United Nations Specialized Agency, Intellectual Property, and Development:
1. The adoption of the Development Agenda (DA) at the General Assembly of the World Intellectual Property (WIPO) in 2007 was a milestone in achieving the historic aspiration of developing countries for a paradigm shift in the international perspective of intellectual property (IP): a shift from viewing IP as an end in itself, to viewing it as a means to serve the larger public goals of social, economic and cultural development. This vision has refuted the universal applicability of 'one size fits all IP protection models' or the advisability of the harmonization of laws leading to higher protection standards in all countries irrespective of the levels of development. This vision also entailed an organizational transformation of WIPO from a technical, treaty-administering body servicing primarily intellectual property right-holders, to a truly representative agency of the United Nations (UN) assisting Member States in achieving their development goals through a balanced and calibrated use of intellectual property.
2. With the centrality of development highlighted as the priority goal and challenge for the international community, the Development Agenda made it incumbent upon WIPO, as a Specialized Agency of the United Nations (by virtue of its 1974 agreement with the United Nations), to be fully guided by the broad development goals of the United Nations, including the Millennium Development Goals (MDGs).
3. While the inception of the Development Agenda through the laudable efforts of the Group of Friends of Development marked a watershed re-balancing of the global perspective on IP, the mainstreaming and implementation of these recommendations presents a considerable challenge. A successful implementation of the Development Agenda recommendations that truly reflects their underlying vision and spirit, requires sustained and multi-faceted approach to the range of activities in WIPO; proactive leadership, continuous commitment, engagement and oversight by Member States; an enduring pro-development cultural transformation within the WIPO Secretariat; a Member-State driven organization; and engagement with other intergovernmental organizations and civil society.
4. Recognizing the importance of the Development Agenda and the historic opportunity it represents not only to all developing countries but also those that are yet to benefit fully from the international intellectual property system, and acknowledging the challenges to its meaningful implementation, the Development Agenda Group (DAG)¹ commits itself to actively contributing to mainstreaming the development dimension in all areas of WIPO's work.

¹ The Development Agenda Group (DAG) consists of WIPO Member States that have accepted this Guiding Principles document in its entirety. They currently comprise the following countries: Algeria, Brazil, Cuba, Djibouti, Ecuador, Egypt, Guatemala, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, Philippines, South Africa, Sri Lanka, Sudan, Uruguay and Yemen. An updated list of members would be periodically presented.

II. The Development Agenda Implementation:

5. The DAG underscores the need for exploring ways and means which would enable intellectual property to make its full contribution and be commensurate with the task of development in developing countries and least-developed countries. This includes the need to ensure that the different elements of IP contribute to economic and social development and enhance growth competitiveness. Acknowledging the links and interaction between IP and development, WIPO should contribute to addressing related developmental challenges and global challenges such as environment, public health, food security, etc.
6. The WIPO Development Agenda is “one of the most- and arguably the most important of the current global initiatives in advancing the realization of the right to development.”² Thus, the way forward for the Development Agenda Group at WIPO is clear: it aims at achieving constant progress in the effective implementation or “mainstreaming” of the Development Agenda. The Development Agenda is broad and horizontal; it addresses WIPO’s work in all its dimensions. Its general relevance is, therefore, not to be limited to any specific body within WIPO. Hence, all WIPO bodies and activities should integrate the “development dimension” into their work, guided by the following principles:
7. Cluster ‘A’: the DAG believes that WIPO’s Technical Assistance and Capacity Building has to go beyond generating IP awareness and capacity building in national IP offices aiming at facilitating more efficient award and protection of IP rights. It should focus on promoting domestic innovation, fostering a development-oriented IP culture and provide balanced advice on appropriate national IP strategies based on available flexibilities, exceptions and limitations. It should ensure the transparency, neutrality and effectiveness of technical assistance and capacity building programs. WIPO should support the development of national scientific and technological infrastructure in developing countries, in accordance with its mandate.
8. Cluster ‘B’: implementing the Norm-Setting, Flexibilities, Public Policy and Public Domain Recommendations of the Development Agenda entails a “development compatible” approach to norm-setting activities; i.e., one that is driven by the different levels of development and varying interests and priorities” of Member States. The work carried out in this regard should permeate all WIPO’s substantive committees and treaty-related bodies including the SCP, SCCR, SCT, SCIT, IGC, the various working groups, including those relating to the Unions, primarily the PCT. Apart from transparency and inclusiveness in norm-setting processes, the principles enshrined in Recommendation 22 should underpin all norm-setting activities and be supportive of the development goals agreed within the UN System. As mandated in Recommendations 19 and 20, WIPO should promote norm-setting activities to facilitate access to knowledge and technology for developing countries and support a robust public domain. WIPO’s agenda should be oriented toward preserving national policy space; i.e. safeguarding national implementation of IP rules and enable countries to devise relevant policies to support their own economic development *Inter alia*, WIPO should continue efforts to bring balance to the international IP system by encouraging full understanding and use of flexibilities, exceptions and limitations as well as special provisions, options or safeguards that are essential to meet the needs of developing countries.

² Human Rights Council, A/HRC/15/WG.2/TF/CRP.1.

9. In this context, the misappropriation and misuse of traditional knowledge (TK), traditional cultural expressions (TCEs) and genetic resources (GRs) has elicited great concern amongst developing countries. The DAG emphasizes the urgency of incorporating appropriate norms into the multilateral IP system and is strongly committed to establishing a legally binding international instrument(s) that ensures effective protection of TK, TCEs and GRs. In this regard, the DAG also believes that it is important to ensure that the WIPO process does not undermine or prejudice, in any manner, the ongoing negotiations in the UN Convention on Biological Diversity, the WTO, and any other related ongoing negotiations/discussions.
10. Cluster 'C': in Implementing the Technology Transfer, ICTs and Access to Knowledge Recommendations, the DAG believes there is a need to develop appropriate solutions, guidelines and/or instruments, in particular, for the transfer of technology to the benefit of developing countries.
11. Cluster 'D': the DAG emphasizes the need to effectively address the implementation of the Assessment, Evaluation and Impact Studies Recommendations. In support of this, the DAG believes that an effective and independent mechanism for coordination, monitoring, assessment and reporting on the implementation of the Development Agenda is critical for the successful implementation of the DA.
12. Cluster 'E': the DAG believes that a member-driven WIPO whose working procedures and decision-making processes are transparent, democratic and inclusive will enhance trust among Member States as well as the quality of service to be expected from the Secretariat. This is a key requirement for a successful mainstreaming of the Development Agenda. To this end, the DAG believes that WIPO's governance can be further streamlined in the following ways: (i) more effective oversight of WIPO's Budget and Programs; (ii) well-defined and clear rules of procedure for all WIPO bodies that ensure predictability, transparency and consensus building; (iii) well-defined rules of procedure and code of conduct for the committees, chairs, the bureau, and Secretariat, including rotation of chairmanships among the various regions to provide for a member-driven process of deliberation; (iv) equity and balance in composition among different nationalities comprising WIPO's staff to reflect the representative and international character of WIPO as a UN specialized agency; and (v) mainstreaming of civil society participation in the deliberations of the Organization.
13. The WIPO Secretariat performs a critical servicing function in ensuring the effective operation of WIPO as an international organization driven by its Member States, and in this regard, the neutrality of the Secretariat staff must be upheld.
14. The DAG believes that a cornerstone of transparency and good governance is to have an effective and continuing independent external oversight function. The WIPO Audit Committee has been performing an important and effective function in this regard, and must be allowed to continue to perform it without undue interference.
15. Cluster 'F': the DAG attaches importance to a balanced and adaptive approach to the issue of building respect for IP, as presented particularly under DA Recommendation 45. The issue of enforcement of intellectual property should be commensurate with an approach that is informed by other public policy and development priorities. As the nodal

international agency vested with the necessary legitimacy, expertise and competence to deal with IP, WIPO is the forum where all issues related to international enforcement of IP should be deliberated. Towards that end, the WIPO Secretariat should monitor developments in other fora with regard to IP enforcement and should report back on them to the Member States, with a view to bringing WIPO to centre-stage on the important issue of IP enforcement.

III. The Development Agenda Group:

16. The DAG is an open and inclusive group consisting of WIPO Member States that are like-minded in their support for a development-oriented perspective on intellectual property issues. The Group possesses a shared vision and collective aspirations and objectives, as reflected in the totality of this document, with regard to mainstreaming the Development Agenda across all areas of WIPO's work.
17. Membership of the DAG is open to all WIPO Member States that are willing to subscribe to these guiding principles, in their totality, as shaping the Group's positions on the various aspects of implementing the Development Agenda.
18. The DAG adopts a long-trying and highly successful methodology adopted by the developing world in coordinating their positions in intergovernmental fora, and particularly so within the UN System. The coordination of positions among Member States and within regional groups can be complemented by a cross-regional coordination of work that promotes developing country interests and effectively coordinates their positions. The DAG aims at coalition building among pro-development groups and Member States across regions.
19. The Development Agenda Group also appreciates the need to take into account the various interests and priorities of all WIPO Member States. As such, the group believes that only through direct engagement with other viewpoints and interests can consensus be reached. The DAG will aim at building bridges across and between the interests of all WIPO Member States towards reaching consensus in our common work for the benefit of all WIPO Member States. This process will be facilitated through a transparent, effective and neutral management of the Organization.

[End of Annex and of document]