

## **Committee on Development and Intellectual Property (CDIP)**

**Ninth Session**  
**Geneva, May 7 to 11, 2012**

### **DRAFT SUMMARY BY THE CHAIR**

1. The ninth session of the CDIP was held from May 7 to 11, 2012. The session was attended by 97 Member States and 38 Observers.
2. The Committee unanimously elected Ambassador Mohamed Siad DOUALEH, Permanent Representative of Djibouti, as Chair, and Mrs. Alexandra GRAZIOLI, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property, who was elected during the previous session, continued as Vice-Chair.
3. The Committee adopted the Draft Agenda as proposed in document CDIP/9/1 Prov. 2.
4. The Committee decided to admit, on an *ad hoc* basis, one non-governmental organization (NGO), namely, COMMUNIA, International Association on the Public Domain (COMMUNIA), without implications as to its status for future CDIP meetings, for a period of one year.
5. The Committee adopted the Draft Reports of the seventh session of the CDIP (CDIP/7/8 Prov.) and the eighth session of the CDIP (CDIP/8/9 Prov.).
6. Under Agenda Item 6, the Committee listened to general statements from Regional Groups. As agreed by Members, delegations were requested to provide national statements in writing for inclusion in the Final Report.
7. Under Agenda Item 7, the Committee considered the Report of the Director General (CDIP/9/12). Delegations appreciated the commitment of the Director General to the implementation of the Development Agenda and the progress made in this regard. The Committee recognized the solid achievements made thus far in the implementation of the Development Agenda. The Director General's Report provided an overview of improvements made in mainstreaming of the Development Agenda, and an overview of the strategic approach adopted in implementation of the Development Agenda. Based on the questions raised, the

Director General seized the opportunity to provide clarifications on the following issues: (i) the parameters of the Organization's work with other United Nations organizations; (ii) the Organization's role in the context of the Millennium Development Goals post 2015; and (iii) the Organization's role in the context of the New Partnership for Africa's Development. The Director General observed that the Secretariat carried out its work by exercising initiative where required, while respecting the fact that it was for the Member States alone to take policy decisions. Suggestions were made to enhance the information contained in future reports. Under Agenda Item 7, the Committee addressed a number of project evaluations, as follows:

- a) Project Evaluation – Development Agenda Recommendation 2: Conference on “Mobilizing Resources for Development” (CDIP/9/3).
  - b) Project Evaluation: Intellectual Property Technical Assistance Database (IP-TAD) (CDIP/9/4). The Committee noted the role of this Project in ensuring transparency in the delivery of technical assistance, and the need to continue to provide comprehensive and updated information through the Database.
  - c) Independent Evaluation Report of the Project on Specialized Databases' Access and Support – Summary (CDIP/9/5). The Committee expressed its support for the Project in view of the positive outcomes for developing countries.
  - d) Independent Report on Evaluation of the Pilot Project for the Establishment of “Start-Up” National IP Academies (CDIP/9/6).
  - e) Independent Report on Evaluation of the Pilot Project on Intellectual Property and the Public Domain (CDIP/9/7). The Committee agreed that there was a need to ensure that the Project output relating to tools and guides might be delivered in future through Member States' guidance in specific areas of intellectual property.
  - f) External Independent Evaluation Report of the Project on Intellectual Property and Competition Policy (CDIP/9/8). Some delegations posed questions about a Project objective that had not been delivered. The Secretariat's significant contribution was aimed at improving the institutional framework so as to facilitate the accomplishment of the objective, and that contribution had been delivered.
8. Also under Agenda Item 7, the Committee discussed the Description of the contribution of the relevant WIPO Bodies to the implementation of respective Development Agenda Recommendations (CDIP/8/6 Rev.). Delegations expressed their support for the initiative by the Chair of the WIPO Assembly to facilitate an agreement on the “relevant bodies”.
9. Under Agenda Item 8, the Committee considered a work program for the implementation of adopted recommendations, as follows:
- a) The Committee discussed the Project on Specialized Databases' Access and Support – Phase II (CDIP/9/9) and approved the second phase of the Project. The Secretariat took note of comments made by delegations, in particular with respect to training of trainers.
  - b) The Committee discussed A Pilot Project for the Establishment of “Start-Up” National IP Academies – Phase II (CDIP/9/10 Rev.) and approved a revised version of the second phase of the Project contained in document CDIP/9/10 Rev1. The Committee agreed that the second phase of the Project should give priority to the needs of least developed countries to the extent possible.
  - c) The Committee discussed the Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8 (CDIP/9/11), and agreed on the

importance of WIPO's work in the field of flexibilities in the IP system, and the need for the Committee to undertake this work efficiently and without duplication of the work taking place in other committees and forums. The Committee agreed on the element in 2(f) to provide information submitted by Members on their practical experience in the implementation of flexibilities through a database.

d) The Committee also discussed two documents on patent-related flexibilities: Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II (CDIP/7/3 and CDIP/7/3 Add.). Some delegations raised the importance of Article 27 of the TRIPS Agreement in the context of flexibilities, while other delegations noted that this issue was being addressed in other committees and forums.

e) The Committee discussed the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries (CDIP/9/13) and approved the Project as proposed.

f) Also under Agenda Item 8, the Committee discussed the Report on an External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/8/INF/1). In this connection, the Committee also considered the Report of the *Ad Hoc* Working Group on an External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/9/15), and the Management Response to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/8/INF/1). A number of delegations noted the importance, in a multilateral and multilingual environment, of translation of key documents into all official WIPO languages. The Secretariat identified the recommendations which, in its view, were important and implementable as; the recommendations concerning the Organization's work on national intellectual property strategies, the external review of the WIPO Academy's work, and the recently launched initiative of establishing country plans for more coherent and transparent delivery of technical assistance in consultation with Member States. The Committee underlined the importance of the delivery of technical assistance to the realization of the Development Agenda goals. The Member States agreed to provide their contributions in writing for discussions at the next session. The Committee agreed that the Joint Development Agenda Group and African Group contribution (CDIP/9/16) would be further examined, together with the other documents, at its next session.

g) The Committee considered an Information document clarifying the scope and possible implications of the implementation of recommendations 1(c), 1(f) and 2(a) of the Study on Copyright and Related Rights and the Public Domain (CDIP/9/INF/2). The Committee supported the establishment of a rich, robust and accessible public domain but noted that it should be made clear that any activities in this field should not infringe on the cultural heritage of Member States.

With respect to Recommendation 1c):

Member states supported the description of options and scenarios contained in document CDIP/9/INF/2. However, some Members were concerned that the Study needed to be balanced in catering for the interests of both users and right owners. Moreover, the Study should not promote any specific regime but merely showcase the different approaches implemented in different countries. The language in document CDIP/9/INF/2 would be revised to reflect these concerns. Moreover, proposed terms of reference for a Comparative Study on Copyright Relinquishment will be submitted to the next session of the Committee.

With respect to Recommendation 1f:

Member states supported the description of options and scenarios contained in document CDIP/9/INF/2. Special attention was given to modernization and increased cooperation between public registries at regional level, as well as in regard to the development of international networks of information. However, different views were expressed in regard these issues. It was agreed that a meeting of interested Member States would be organized to discuss their priorities in regard to copyright infrastructure.

With respect to Recommendation 2a):

Member states supported the description of options and scenarios contained in document CDIP/9/INF/2. However, they requested to eliminate from the document any reference to the protection of traditional knowledge and folklore in order to dissipate any concern that the public domain overlaps with this protection. It was agreed that the document would be revised accordingly. The participation of WIPO in the UNESCO International Conference on Memory in the World in the Digital Age: Digitization and Preservation would also take careful consideration of the need to keep both notions separate.

- h) The Committee took note of the document on Using copyright to Promote Access to Information and Creative Content (CDIP/9/INF/3) and agreed to further consider the document at its next session.
- i) The Committee discussed a Revised project paper with redistributed budget and updated timeline of the Project paper on Intellectual Property and Technology Transfer: Common Challenges – Building Solutions (CDIP/9/INF/4), and agreed to the implementation of the Project deliverables in line with the proposed new budget and timeline.
- j) The Committee took note of a Study on Misappropriation of Signs (CDIP/9/INF/5), and agreed to further consider the document at its next session.
- k) The Committee discussed a Study on the Anti-Competitive Enforcement of Intellectual Property Rights: Sham Litigation (CDIP/9/INF/6). The Secretariat agreed to make the changes requested by a delegation.
- l) The Committee took note of the Interface Between Exhaustion of Intellectual Property Rights and Competition Law (CDIP/8/INF/5 Rev.).
- m) The Committee took note of the document on Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II (CDIP/7/3) and the Member State comments contained in document CDIP/7/3 Add.. The Committee requested the Secretariat to undertake similar work in the following areas:
  - n) The Committee discussed a Scoping Study on Copyright and Related Rights and the Public Domain (CDIP/7/INF/2). The Committee expressed diverse views on the recommendations contained in the Study.
  - o) The Committee addressed a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.) and agreed to retain the Proposal on the Agenda for its next session. In the context of discussions on a proposed international conference on Development and IP, the Committee agreed to discuss the modalities of this proposal in the intervening period before the next session with the guidance of the Chair.

10. Under Agenda Item 9 on Future Work, the Committee considered a number of suggestions, and broadly agreed upon the issues to be included in the draft agenda for the next session.

11. The Committee noted that the Draft Report of the ninth session would be prepared by the Secretariat and communicated to the Permanent Missions of the Member States, and would also be made available to Member States, IGOs and NGOs, in electronic form, on the WIPO website. Comments on the Draft Report should be communicated in written form to the Secretariat, preferably eight weeks before the next meeting. The Draft Report will then be considered for adoption at the tenth session of the Committee.

12. This Summary, together with the Summary by the Chair of the eighth session and the Director General's Report to the Committee (CDIP/9/2), will constitute the Committee's report to the General Assembly.

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