

REPORT OF THE AD HOC WORKING GROUP ON AN EXTERNAL REVIEW OF WIPO TECHNICAL ASSISTANCE IN THE AREA OF COOPERATION FOR DEVELOPMENT

1. During the 8th Session of the Committee on Development and Intellectual Property, the Committee considered the document CDIP/8/INF/1, *An External review of the WIPO Technical Assistance in the area of cooperation for development* and agreed to establish an Ad-hoc Working Group on the External Review of the Technical Assistance (CDIP/8/INF/1) to identify recommendations that are redundant or no longer relevant, without any prioritization of recommendations. The *ad hoc* working group also discussed to a limited extent, the other elements of the study in an effort to save time for discussions during the ninth session of the Committee.

Procedural matters

2. The Ad-hoc Working Group held five meetings as per the following schedule and agenda:

- i) 16 March 2012 (focusing on work plan and procedural matters)
- ii) 21st March (focusing on part 2 and 3 of the External Review)
- iii) 4th April (focusing on part 5 of the External Review)
- iv) 10th April (focusing on part 4 and 6 of the External Review)
- v) 26th April (Draft report of the Working Group)

3. The meetings of the Ad-hoc Working Group were co-chaired by Mr. Mathias KENDE from Belgium and Mr. Mokhtar WARIDA of Egypt. The co-rapporteurs were Mr. Ahsan Nabeel of Pakistan and Mr. Juan Camilo Saretzki-Forero of Colombia. The meetings were facilitated by the Secretariat and were attended by the Regional Coordinators and the interested Member State delegations.

4. There was no interpretation provided by the secretariat for the meetings of the Working Group. Many delegations and regional groups expressed their discomfort because of the absence of interpretation in official United Nations languages which was covered under the Rule 12 in conjunction with rule 41 of the Rules and Procedure of the Organization. However some other delegations mentioned, while regretting the unavailability of interpretation, that since the mandate establishing the working group had outlined that there would be no financial implications associated with the Working Group therefore there could be no interpretation provided for and that as per the principle of 'lex specialis derogat generalis', the ToRs of the Adhoc working Group had precedence over the rules of procedure. Therefore there was absence of consensus on the issue of interpretation. In order to facilitate the understanding of the report for non-English speaking member states, the Coordinators of African Group and GRULAC on behalf of their regional groups requested the secretariat to make available the entire External Review report (document CDIP/8/INF/1) in all UN official languages.

5. This report contains the main topics raised during the discussions held on the document CDIP/8/INF/1 and the Management response of the Secretariat. This report only serves as a tool to expedite the discussions on this matter within the CDIP. The record of the sessions of the five meetings of the Working Group, prepared by the co-rapporteurs, is without prejudice to the actual interventions and positions, and is being made available to all WIPO Members.

Substantive matters - redundant or no longer relevant recommendations

6. Discussions were held with regard to the various substantives issues. Records of the sessions provide background on these issues. Some of those issues are as follows:

a) *Definitions and implications of the terms "redundant" and "no longer relevant"*

There were divergent opinions and perspectives with regard to the definitions and implications of the terms "redundant" and "no longer relevant". Due to lack of agreement of the working group on this issue, the Co-chairs mentioned that it was not for the Working Group to resolve that specific issue.

b) *Classification of recommendations by the secretariat in the Management Response*

Some delegations supported the categorization of the recommendations into A, B and C categories and agreed with the secretariat on such classification. However, some delegations considered that the classification of the recommendations by the secretariat in the Management Response into A, B and C categories, especially the double classification of some recommendation under two different categories without explanation, led to confusion and certain problems and it would be better to merge the A and B categories into one category. Some delegations also requested clarifications and explanations for the reasons Secretariat had considered recommendations under Category C as raising concern and therefore, could not be considered for implementation. Some delegations, after listening to the Secretariat's response on several recommendations with double or triple classification in the Management Response, expressed their satisfaction with their answers. There were divergent opinions in the working group on these points.

c) *Comments on the External Review and Management response*

The Working Group considered the External Review and the Management Response with regard to the redundant or no longer relevant recommendations. Some delegations considered the "External Review" as a very important step since it implied the goal of identifying ways in which technical assistance activities of WIPO in the area of cooperation development could be improved. Some members of the Working Group considered the External review not as a critic to WIPO's work but rather as an opportunity to improve an area of crucial importance for the WIPO Member States. Some other delegations considered that the recommendations of the External Review were the views of the authors and highlighted that many of the recommendations were outdated due to the period of activities under consideration and/or already under implementation by the Secretariat. Other delegations considered that many of the recommendations deserved attention, response and action of the Member States and the secretariat. Some delegations considered that the mandate of the working group was to concentrate on redundant and no longer relevant recommendations.

The Working Group exchanged views on some specific recommendations and at the end of the discussions, the group did not come to any decision concerning redundant or no longer relevant recommendations.

d) *Elaboration of the Management Response*

During the meetings, many queries were raised by the Member States with regard to the Management Response to the External review. The secretariat, as much as possible, tried to provide responses to the queries. Some delegations highlighted that the Management Response, while providing very interesting information, shall not limit or be the basis for the discussions in the CDIP on the External Review recommendations.

e) *List of redundant or no longer relevant recommendations*

There was no consensus on a list of redundant or irrelevant recommendations from the External Review.

Other Matters

During the deliberations of the Working Group various delegations highlighted the recommendations from the External Review Report which in their view were important and required implementation. However since the Working Group did not have mandate to work on the implementable recommendations and could only focus on the redundant or no longer relevant recommendations, it was agreed that those delegations could raise that issue in the CDIP.

General statements

African Group Submission

For the *Ad Hoc* Working Group on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development

The African Group would like to thank the co-chairs for steering the five meetings of the Ad Hoc working Group, the co-rapporteurs for their work in preparing the minutes of the meetings as well as this compiled report, and the Secretariat for the clarifications presented in the ensuing discussions during the five meetings on both the External Review Report and the Management Response.

I. Organizational Matter

African Group requested French interpretation for the meetings of the working group in accordance with WIPO rules of procedures, in particular Rule 12 in conjunction with rule 41. African Group expressed regret that the French interpretation has not been provided in response to this request and emphasized that translation of all documents (including the External Review Report and the WG report to CDIP) and interpretation for six UN languages should be ensured in all future WIPO meetings in accordance with WIPO policy on languages and WIPO rules of procedures.

II. Identification of redundant or no longer relevant recommendations

The African Group found that, for the purpose of this Ad hoc Working Group, "redundant recommendations" are those "repeated in several parts of the External Review Report and convey the same content and intent". "No longer relevant recommendations" are those "where there is concrete evidence of WIPO's implementation, and such implementation is complete and adequate". In light of the above, the African group has not identified redundant or no longer recommendations in the external review report.

As for the Management Response, the African Group questioned the generality, ambiguity of its content as well as its arbitrary categorization of the recommendations into three clusters, A, B and C. In addition, the African group found that the Management Response has "double classified" the same recommendation under two different categories without proper justification or explanation, which was confusing. As an example, it could well be the case that category A and category B be merged together because they deal with recommendations acknowledged by the Secretariat for implementation. However such implementation is still a work in progress, in its early stages, and therefore implementation not completed or, in some instances, not yet initiated. As for Category C, the African Group requests clarifications about and explanation for the reasons Secretariat considered they raise concerns, and therefore, can not be considered for implementation.

For all these reasons, the African Group emphasizes that the Management Response should neither limit CDIP discussions nor constitute the basis of considering the recommendations that need to be implemented.

III. Other Elements of the External Review Report Identified

The African Group has identified important issues that merit actions and decisions by relevant WIPO bodies and organs, examples of which include: defining development – oriented assistance; developing guidelines for providing development – oriented assistance; aligning extra-budgetary resources with WIPO Program and Budget; strengthening the management, monitoring and independent evaluation; developing a coherent policy on WIPO engagement with stakeholders; ensuring staff orientation with and knowledge of Development Agenda Recommendations; enhancing process of selecting external experts and consultants and avoidance of conflict of interest; maintain existing UN classification of Member States, and enhancing WIPO internal and external coordination.

Development Agenda Group submission
for the report of Ad hoc working Group on External review on WIPO's
Technical assistance

The Development Agenda Group thanks the co-chairs and the co-rapporteurs for their work, also the Secretariat for its assistance and clarifications throughout the discussions in the Ad hoc working Group. The DAG has taken note of the positions expressed by the regional groups and the delegations on the various recommendations of the External review and the content of the management response.

DAG's members would like to recall the highest importance of the External review on WIPO's technical assistance, for enhancing the role of WIPO in the field of development activities which would allow our Organisation to implement fully and effectively the development Agenda. The DAG has been engaged in the process of the Ad hoc working group in order to facilitate the discussion in the CDIP/9 on how to implement the relevant recommendations of the External review. It is within this context that the DAG would like to clarify its position on:

I. Organizational Matter

The DAG expresses deep regrets and discomfort about the absence of interpretation in the working group. The DAG sees that the interpretation is a standard requirement which had to be met by any international United Nations Organization, especially WIPO which has in its Rules of Procedures, Rule 12 in conjunction with rule 41, a clear provision of interpretation in the conduct of the Working Group.

The DAG emphasizes the need to translate all documents, including the Working Group report and the External Review and recalls the fact that interpretation in all WIPO languages should be ensured in the future WIPO's meetings in accordance with WIPO rules of procedures.

II. Identification of redundant or no longer relevant recommendations

The DAG shares the African Group's definition of redundancy and irrelevancy. We found that, for the purpose of this Ad hoc Working Group, "redundant recommendations" are those that are repeated in several parts of the External Review Report and convey the same content and intent. "No longer relevant recommendations" are those where there is concrete evidence of WIPO's implementation, and such implementation is complete and adequate".

Regarding the management response provided by the Secretariat, the DAG's members found that the categorization of the recommendations in A, B and C, while it provides interesting information, could not neither, orient, nor, be the basis of our work in the CDIP. Actually, DAG is confused by the generality and the lack of evidence in the content of the management response, especially in the category A. we are in the view that though the secretariat had taken some actions in that particular category of recommendation, however the recommendations were not fully implemented and more actions need to be done. As for recommendations in Category C, the DAG requests clarifications about the reasons Secretariat considered they raised concerns or they cannot be implemented.

III. Other Elements of the External Review Report Identified

The DAG, as many developing countries, has identified important issues that merit actions by relevant WIPO bodies and organs, examples of which include: defining development – oriented assistance; developing guidelines for providing development – oriented assistance; aligning extra-budgetary resources with WIPO Program and Budget; strengthening the management, monitoring and independent evaluation; developing a coherent policy on WIPO engagement with stakeholders; ensuring staff orientation with and knowledge of Development Agenda Recommendations; enhance process of selecting external experts and consultants and

avoidance of conflict of interest; maintain existing UN classification of Member States, and enhancing internal and external coordination.

The Commission is aware of the need to ensure that the... (faint text)

The Commission is aware of the need to ensure that the... (faint text)

2. Commission's view

The Commission is aware of the need to ensure that the... (faint text)

The Commission is aware of the need to ensure that the... (faint text)

3. Commission's view on the proposed amendments

The Commission is aware of the need to ensure that the... (faint text)

The Commission is aware of the need to ensure that the... (faint text)

4. Commission's view on the proposed amendments

The Commission is aware of the need to ensure that the... (faint text)

Group B

"The Group B considered the recommendations under category A of the management response to be redundant since they were already reflected in WIPO activities or in ongoing reform programs. Moreover, the recommendations which raised concerns as to their implementation and are therefore classified under Category C of the management response - should not be further entertained. Finally group B understands that the recommendations contained in the Deere Report shall not be implemented unless there is a decision of the Member States to do so (the decision could be a past one justifying implementation under Cluster A, or a future one for Cluster B).

GRULAC

With respect to the External Review of Technical Assistance (CDIP/8/INF/1), the Member States of the Group of Latin America and the Caribbean, stated the following:

- Implementing the Development Agenda is a priority in the activities of WIPO. In this regard, the consideration of *"An External Review of Technical Assistance in the Area of Cooperation for Development"* is a very important step in the discussion of the topic, since it implies the goal of identifying ways in which technical assistance activities of WIPO in the area of cooperation development can be improved. It shouldn't be seen as a critic to WIPO's work but rather the opportunity to improve an area of crucial importance for developing countries; given the fact that they are the main beneficiaries of technical assistance.
- The Member States of WIPO should review the document as a tool to improve the activities of all parties involved. The report should not be used to generate confrontation in the debate or to promote greater disagreements.
- The recommendations contained in the report "Deere Roca" must have appropriate monitoring in the future in order to ensure continuous follow up and evaluation of activities in the framework of existing mechanisms in the Committee on Development and Intellectual Property.
- With regard to the "Management Response", although the initiatives described in the report are positive, the document has not fully explained to what extent these initiatives have been effective in achieving its objectives. Nevertheless, it showed a good level of commitment of the Secretariat to improve their activities and to acknowledge challenges.
- Regarding the proposal to establish "Guidelines for Development" (Rec.5, section 2), the guidelines should not limit the right of Member States to request, make and promote any activity with WIPO technical assistance, based on specific needs.
- Recommendation 7.A (Section 2) states that Funds in Trust (FITs) supported activities should be reflected in WIPO's regular budget, programming and reporting process, and into country planning processes. In these cases, the activities derived from the FITs should be proposed by the concerned countries at any time, without any administrative restraints from the PBC. Therefore, this recommendation should be considered "no longer relevant". Guidelines in this regard should be adopted to promote but not to limit the alignment of FITs activities.
- Concerning the role of Geneva based missions; the Permanent Missions represent the government, so they should be aware of all activities being carried out in the country concerned. To this end, WIPO should report to the Permanent Missions permanently on any initiative.
- Finally, we reiterate the commitment of our countries to continue to support initiatives that help to improve the activities of WIPO in an effective contribution to the development of its Member States.

United Kingdom

Following is the list of Deere/Rocca recommendations which the UK considers as now redundant:

- B5xi, p12: 'Processes by which Member States can guide overall planning and prioritization of WIPO DC activities'

WIPO already has the CDIP and the PBC, so another process or processes is/are not required.

- D6e, p28: 'WIPO's website should be upgraded to serve as a more effective vehicle for communicating with stakeholders, beneficiaries and donors about DC activities:'.

WIPO already has a plan to improve their website, and much has been done since Deere-Roca came out, so this is now redundant.

- D7c, p30: ' WIPO should adopt a code of ethics'

This has been done.

- B5j, p 13: 'Priority should be given to DC activities that enable South-South cooperation, and enhance sharing of experiences/expertise among developing countries'.

Since Deere-Roca came out, CDIP has made progress on this issue, so this recommendation is now redundant.
