

WIPO Members Agree on Development Agenda

Members of the World Intellectual Property Organisation have reached an agreement on recommendations for reforms aimed at ensuring that development concerns are placed at the heart of the work of the UN agency.

In the fourth and final session of the committee dealing with the ‘development agenda’ talks, held in Geneva from 11-15 June, representatives from more than 100 governments successfully negotiated a series of proposals to forward to the 2007 General Assembly, WIPO’s top decision-making body. They also agreed to create a new Committee on Development and Intellectual Property (IP).

Many delegates praised the continuation of a co-operative spirit from the previous session of the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA) in February, where they had managed to agree on a set of initial recommendations. A developing country delegate said a ‘good mood’ prevailed last week, with all members “flexible and constructive towards an outcome.” That the 111 reform proposals submitted by governments over the past two and a half years had been digested into agreed and workable recommendations was widely seen as a giant step forward from the deep divisions a year ago (Bridges Year 10 No.4 page 18).

The recommendations address controversial subjects including WIPO’s provision of technical assistance, as well as broadening the organisation’s focus on issues such as public domain, competition and access to knowledge. However, the US released a statement following the conclusion of the meeting stating that whilst the proposals “reinforce WIPO’s commitment to the needs of developing countries” they also “reaffirm WIPO’s clear mandate as the specialised UN agency that promotes the protection of intellectual property worldwide.”

An African delegate described the accord as “a breakthrough by all standards [that] really reflects the level of conviction among all member states on the need to address the existing imbalance between intellectual property rights and the public interest.”

Brazil and Argentina originally proposed a Development Agenda for WIPO at the 2004 General Assembly (Bridges Year 8 No.9 page 21). They have been joined by 13 other countries – Bolivia, Cuba, Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania, Uruguay and Venezuela – to form a group dubbed the ‘Friends of Development’. The 2005 General Assembly created the Provisional Committee on Proposals Related to a WIPO Development Agenda and charged it with drawing together a cohesive package from the 111 proposals. The committee’s mandate was extended for a further year in 2006 after members were unable to make meaningful progress.

Focus on the Toughest Proposals

The PCDA’s final session in June had the task of working through 71 proposals towards an outcome document that could be forwarded to the General Assembly. These proposals were what remained after the committee’s February meeting, when delegates boiled down 40 of the 111 proposals into 24 recommendations (Bridges Year 11 No.2 page 22). However, the current set of proposals, contained in ‘Annex B’ of a working document prepared by previous General Assembly Chair Ambassador Manalo, addressed more controversial issues, such as access to knowledge, competition and collaborative innovation models.

The proposals in Annex B were divided into five issue clusters on technical assistance; norm setting, flexibilities, public policy, and public domain; technology transfer, information technology, and access to knowledge; evaluation; and institutional matters including mandate and governance. A sixth, on ‘other issues’ present in Ambassador Manalo’s paper, was incorporated into the preamble of the final recommendations. Each cluster was assigned to a different regional group; the co-ordinators were then tasked with preparing draft proposals in advance of the PCDA.

The preamble of the text setting out the recommendations calls for the immediate establishment of a WIPO Committee on Development and IP. The institution’s inconsequential Permanent Committee on Co-operation for Development Related to Intellectual Property (PCIPD), into which the US and other industrialised countries had previously sought to push the Development Agenda, will cease to exist. The Friends of Development were wary that locating their concerns in the PCIPD would marginalise their objective of main-streaming development into all of WIPO’s activities. A final PCDA meeting will be held prior to the General Assembly in September to approve the Chair’s report and a list of proposals for immediate implementation.

Civil society groups expressed delight with an outcome that seemed unfeasible not long ago. James Love, director of Knowledge Ecology International, welcomed a ‘new vision’ for WIPO that promised to consider “a range of topics, including measures to protect or promote access to knowledge, the implications and benefits of a rich and accessible public domain, and strategies for dealing with abuses of rights, or other measures to protect the public interest.”

Although the compromise was reached by watering down much of the final text, it was important to introduce concepts that WIPO had never broached before, a developing country official said. UK delegate Tom Goodwin noted that while the outcome did not give WIPO a new mandate, members had affirmed the validity of development concerns relating to IP and had recognised that WIPO needed strategies to address what he termed ‘an emerging area’.

Immediately after the accord, members got an early indication of the difficult work ahead. In particular, the US renewed its calls for ‘ambitious plans for substantive patent law harmonisation’, progress on which has been linked to the development agenda negotiations. Developing countries are generally reluctant to harmonise patent rules.