

No. 486/05

The Permanent Mission of Brazil in Geneva presents its compliments to the International Bureau of the World Intellectual Property (WIPO) and, on behalf of the delegations of the Group of Friends of Development (Argentina, Bolivia, Brazil, Cuba, Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania and Venezuela), is honored to transmit to the International Bureau the annexed "Draft Decision of the Inter-sessional Intergovernmental Meetings (IIMs)" The Mission, on behalf of the Friends of Development, requests the distribution of the annexed Draft Decision as an official document of the 3rd Inter-sessional Intergovernmental Meeting on a Development Agenda for WIPO, which will be held from July 20 to 22, 2005.

The Permanent Mission of Brazil avails itself of this opportunity to renew to the World Intellectual Property Organization the assurances of its highest consideration.

Geneva, 20 July 2005

DRAFT DECISION OF THE IIM

The IIM recommends that the WIPO General-Assembly should:

1. Renew the process of inter-sessional intergovernmental meetings (IIMs) with a view to addressing effectively the issues raised in the proposals to establish a Development Agenda for WIPO. In this regard, three additional 3-day IIMs will be organized until July 2006, which shall report back to the 2006 General-Assembly on necessary and appropriate action to be taken with regard to the above-mentioned proposals.
2. Adopt a declaration affirming WIPO's mandate under the 1974 Agreement with the UN, which states WIPO is a specialized agency of the UN system with the responsibility for "taking appropriate actions in accordance with the basic instruments, treaties and agreements administered by it, inter alia, for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to developing countries in order to accelerate economic, social and cultural development, subject to the competence and responsibilities of the UN and its organs...".

The declaration should point out that nothing in the 1967 WIPO Convention prevents WIPO from undertaking any initiatives to consider various models of innovations other than intellectual property. It should also stress that attempts to pursue upward harmonization of laws on intellectual property protection, without proper consideration of the potential social and economic costs for developing countries and LDCs, runs contrary to WIPO's UN mandate.

3. Approve the formation of a WIPO Evaluation and Research Office (WERO) and initiate a process, under the direction of the GA, for determining the operational structure of the Office with a view to bringing the Office into operation by the end of 2006.
 4. Adopt at its next session Principles and Guidelines on norm-setting, as proposed in the annex to this Decision.
 5. Adopt at its next session the Principles and Guidelines on Technical Assistance as proposed in the annex to this Decision, and immediately initiate a process to develop a code of conduct for technical assistance provision.
 6. Immediately initiate a process to consider measures designed to improve the participation of civil society and public-interest NGOs in WIPO activities.
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ANNEX:

PRINCIPLES AND GUIDELINES FOR NORM-SETTING IN WIPO (See document IIM/1/4))

1. Member-driven and Transparent Work Plan and Strategic vision, as well as Individual Initiatives
2. Comprehensive Assessment and Justification in Terms of Sustainable Development
3. Recognition of Different Levels of Technological, Economic and Social Development
4. Recognition of the Rights of Different Stakeholder Groups and the General Public as users of the Intellectual Property System
5. Compatibility with and Support for the Objectives and Provisions of other International Instruments

PRINCIPLES AND GUIDELINES FOR THE PROVISION OF PRO-DEVELOPMENT TECHNICAL ASSISTANCE

In order for WIPO's technical assistance to be useful in the long-term, and for there to be a basis for objective review and improvement, the Organization's activities and programmes in this field should be guided by pre-agreed principles and guidelines. Among others, the principles and guidelines could include:

1. Development Focused Technical Assistance

The provision of technical assistance should have as its objectives the fulfillment of the development goals of the recipient countries and broader development goals such as the United Nations Millennium Development Goals (MDGs). In designing, delivering and evaluating technical assistance, the different levels of development of various countries should be taken into account.

2. Comprehensive and Coherent Assistance Programmes

Special attention shall be paid to developing the technical capacity of countries to fully use in-built flexibilities in international agreements to advance national pro-development policies. Coherence and mutual supportiveness with other relevant international instruments must also be promoted. The use of model intellectual property laws without careful evaluation of their effects should be discouraged.

3. Integrated Approach

The intellectual property system cannot work in isolation from competition policy and other related regulatory regimes. In designing technical assistance programmes, there is a need to expand its coverage to include matters related to the use of competition law and policy to address abuses of intellectual property and practices that unduly restrain trade and the transfer and dissemination of technology.

4. Neutral, Unbiased and Non-Discriminatory

The provision of technical assistance should be neutral and of advisory nature based on actual and expressed needs. The assistance should not discriminate among recipients or issues to be addressed and should not be perceived as being a reward system for supporting certain positions in WIPO negotiations.

5. Tailor-made and Demand-driven

The technical assistance programmes and activities should ensure that intellectual property laws and regulations are tailored to meet each country's level of development and are fully responsive to the specific needs and problems of individual societies. The assistance should correspond to the needs of various stakeholders in developing and least countries and not just the intellectual property offices and rightsholders.

6. Independence of Providers

WIPO technical assistance staff and consultants should be fully independent and potential conflicts of interest should be avoided.

7. Continuous Evaluation as to Effectiveness

WIPO's technical assistance programmes and activities should be continuously evaluated both internally and independently to ensure its effectiveness.

8. Transparency

All information about design, delivery, cost, financing, beneficiaries and implementation of technical assistance programmes as well as the results of internal and external independent evaluation should be publicly available.