

YALE ISP WHITE PAPER

*WILL THE DEVELOPMENT AGENDA REMAIN  
UNDEVELOPED?*

*PROCESS AND PROCEDURE IN THE WIPO COMMITTEE ON  
DEVELOPMENT AND INTELLECTUAL PROPERTY*

BY ELIOT PENCE



YALE INFORMATION SOCIETY PROJECT  
[HTTP://ISP.LAW.YALE.EDU](http://isp.law.yale.edu)

JUNE 23, 2008

## EXECUTIVE SUMMARY

This Yale ISP White Paper critically analyzes the first session meetings of the newly formed Committee on Development and Intellectual Property [CDIP]. It explores the overlooked subject of process and procedure at the World Intellectual Property Organization [WIPO]. In doing so, it tries to advance the Committee's efforts to create individualized activities for implementation of the 45 recommendations contained in the Development Agenda [DA], by refocusing attention back on reforming the mechanism through which that objective is achieved, namely a work-plan methodology. Specifically, it looks at discussions pertaining to two agenda items during the first session meetings (Agenda Item 4 and Agenda Item 5), and proposes a new classification and clustering method for considering the 45 recommendations. It concludes by suggesting that further attention to methodological issues and other "roadblocks," such as the role of the Secretariat, the level of transparency and the sequence of budgeting and financing in the discussions, are as integral to the success of the Development Agenda as the discussions over the activities themselves.<sup>1</sup>

---

<sup>1</sup> The author wishes to thank Jack Balkin, Laura Denardis, Lea Shaver, Sisule Musungu, Eddan Katz, Madhavi Sunder and other members of the Information Society Project at the Yale Law School for their invaluable comments on this paper.

## CONTENTS

I. Introduction .....	4
II. Background to the Committee on Development and Intellectual Property .....	4
III. A Procedural Analysis of WIPO .....	6
A. WIPO's Mission Erosion and the Trend Away from WIPO .....	6
IV. The Committee on Development and Intellectual Property .....	9
A. From Recommendations to Implementation.....	9
B. From Agenda to Activity.....	10
V. Draft Agenda for the CDIP .....	11
A. Agenda Item 4: Rules of Procedure .....	11
B. Agenda Item 5: Consideration of Work Program .....	13
C. The 19/26 Work-plan Methodology.....	15
D. Working Towards an Alternative to 19/26 .....	15
VI. Classifying the Recommendations: A Three-part Approach.....	16
A. Interpretation to Implementation .....	17
B. Operational Clustering vs. Subject Area Clustering .....	17
VII. Other Roadblocks for the CDIP .....	18
A. Finances and Budgeting.....	18
B. The Role of the Secretariat.....	19
C. Transparency .....	20
VIII. Conclusion .....	20



## I. INTRODUCTION

Until recently, the processes and procedures through which international law and international norms are formed have generated very little debate. In a lecture at The Hague Academy in 1958, the international legal scholar, A.J.P. Tammes, remarked that the “rules [and] organizational structures” of international committees are “doomed to be buried in archives...leaving behind nothing but the living results.”<sup>2</sup> But the agreements or “living results,” of international committees and conferences are necessarily linked to the “organizational structures” that facilitate them.<sup>3</sup> They are interdependent, even reflective of each other.<sup>4</sup> Without these processes and procedures, international organizations, and the agreements they create, would not be able to carry out their function. This paper is in part a modest attempt at reclaiming the processes, procedures and “organizational structures” from the archives. It situates both in the center of the debate considering one such consensus: the Development Agenda [DA], currently taking form in the Committee on Development and Intellectual Property [CDIP] at the World Intellectual Property Organization [WIPO].<sup>5</sup>

## II. BACKGROUND TO THE COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY

In 2005, the *Geneva Declaration on the Future of the World Intellectual Property Organization*,<sup>6</sup> a document signed by over 500 prominent members and organizations of the international community, claimed that the Development Agenda “would profoundly refashion the World Intellectual Property Organization.”<sup>7</sup> The DA, the authors reasoned, was a “long overdue and much needed first step toward a new WIPO mission and work program.”<sup>8</sup> It sought in large part to change *what* the organization did: promote intellectual property [IP] across the world; a mission it saw as outdated and unsubstantiated. But, it was also deeply critical of *how* it pursued this objective.

The statement marked the highpoint of disillusionment with the global IP system across a number of party lines: civil society, multi-national corporations and member-state delegations. WIPO, and the treaties, conventions and norms it had helped establish and

---

<sup>2</sup> Tammes, A.J.P. “Decisions of International Organs as a Source of International Law,” 94 RCADI (1958), p. 306

<sup>3</sup> Ibid., p. 306.

<sup>4</sup> As one observer notes: “It must be stated...that procedural decisions are usually a reflection of the political reality...” Sabel, Robbie. *Procedure at International Conferences: A Study of the rule of procedure at the UN and inter-governmental conferences* (2<sup>nd</sup> Ed). Cambridge University Press: (2006). p. 5.

<sup>5</sup> The Draft Report of the first meeting of the CDIP, held 3/3/2008 – 7/3/2008 is accessible here: [CDIP/1/4 PROV.](#)

<sup>6</sup> “Geneva Declaration on the Future of the World Intellectual Property Organization.” *Future of WIPO*. 12 April 2008: Accessed at: <<http://www.futureofwipo.org/futureofwipodeclaration.pdf>>

<sup>7</sup> “Geneva Declaration.” [www.futureofwipo.org](http://www.futureofwipo.org)

<sup>8</sup> “Geneva Declaration.” [www.futureofwipo.org](http://www.futureofwipo.org)

were now responsible for administering, was increasingly criticized from all sides. Members of civil society, including those who signed the Declaration, saw in the international IP system, with WIPO as its nucleus, an unbalanced, vastly complex web of privileges aligned exclusively towards advancing owners' interests at the expense of users'. Industry leaders, for their part, bemoaned the inadequacy of the laws it passed and became increasingly apoplectic over lazy enforcement of them. Those in the Majority World<sup>9</sup> empathized with both views. Some saw the IP system as incomplete, identifying in it gaps in which their own "traditional knowledge"<sup>10</sup> had no legal expression. Others warned against the social and human costs of a system that saw IP as an end in and of itself, and which failed to take into consideration the multivariate national contexts of the "Global South."

Amidst the tumult, WIPO itself had ceded to other institutions, organizations and forums much of its own influence. A warren of intricate legal statutes, over which it held interpretive and administrative control, fast became irrelevant. These political agreements had previously legitimized WIPO's claim as the international organization for intellectual property but now threatened to drown it in their insignificance. And as WIPO's mission – "to promote intellectual property worldwide" – was called into question in both practice (failing to enforce IP even as it promoted it) and in theory (increasing IP didn't necessarily lead to increasing innovation), the political consensus on which its mission was based eroded rapidly. Its mission erosion firmly established, WIPO's institutional irrelevance came near in tow.

Use of existing alternative forums, such as the World Trade Organization [WTO] and the World Health Organization [WHO], to deliberate on global IP policy issues in focused forums helped confirm the trend away from WIPO. "Forum shopping,"<sup>11</sup> and "strategic nesting"<sup>12</sup> by various member-state delegations took the rug out from under WIPO's feet, while "forum proliferation"<sup>13</sup> ensured that if it ever was to regain its mission, WIPO's significance as the center of global IP policy would be much diluted. The Development Agenda, the plenary committee meetings on the development agenda [PCDA] and the current forum, the CDIP, were all products of this sequence of events<sup>14</sup> and have now, to some degree, reinstated WIPO as the center of gravity in international IP politics.

---

<sup>9</sup> The term "Majority World" rather than "Third World" or "Developing World" is more applicable here because it captures more accurately and with less bias the variety of social, cultural and economic circumstances that predominate outside of the West.

<sup>10</sup> "Traditional Knowledge" as defined in: "Intellectual Property and Traditional Knowledge: Booklet No. 1," Geneva: World Intellectual Property Organization Secretariat, 2004.

<sup>11</sup> Helfer, Laurence. "Regime Shifting: The TRIPS Agreement and New Dynamics of International Intellectual Property Lawmaking," *Yale Journal of International Law* 29 (2004): 1.

<sup>12</sup> Helfer, Laurence. "Nesting and Complexity in the International Intellectual Property Regime: A Memo." Woodrow Wilson School, Princeton University, Princeton, New Jersey. Accessed online on 28 April 2008: < <http://www.princeton.edu/~smeunier/Helfer%20memo.pdf> >

<sup>13</sup> Helfer. "Regime Shifting" p.1.

<sup>14</sup> The DA's predecessor was WIPO's Cooperation for Development Program [CDP], which aimed to: "establish or strengthen intellectual property offices or related institutions; provide legal advice and assistance; promote indigenous innovative, inventive and creative activities; train government officials and representatives of the private sector; disseminate patent information and promoting awareness of intellectual property." It adhered to the orthodox view of IP for development, which had been interpreted to

In 2008, nearly one year since the conclusion of the provisional committee meetings on the Development Agenda and six months after the adoption by the General Assembly of 45 recommendations, there is a need to revisit the mission and work program of the Development Agenda – as they were then, and as they are now - to investigate the extent to which WIPO’s current work program, embodied by the Committee on Development and Intellectual Property has evolved, if at all, to reflect the change the signers of the *Geneva Declaration* had hoped the passing of the Development Agenda would bring.

### **III. A PROCEDURAL ANALYSIS OF WIPO AND THE COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY**

The following section looks at WIPO as an institution and investigates the means and methods through which WIPO achieves consensus. It situates the CDIP discussions at WIPO within a broader global IP framework and explores how developments both within and outside of WIPO will influence deliberations within the CDIP. After having considered the broader context in which the CDIP exists, the paper explores the debates around two agenda items (4 and 5) in the CDIP’s first session and problematizes the Secretariat’s suggested work-plan methodology.<sup>15</sup> It suggests, in conclusion, that evidence from discussions about the agenda items and the Secretariat’s division of the recommendations in the first session demonstrates that an alternative methodology for considering the implementation of the recommendations is needed.

#### **A. WIPO’S MISSION EROSION AND THE TREND AWAY FROM WIPO**

Since discussion began around establishing a specialized unit within the United Nations system to deliberate on issues related to intellectual property in the 1960s, and at an increasingly faster pace since the technological boom of the 1990s, several member-state delegations have dealt independently—and frequently outside of the specialized agency—with issues concerning intellectual property rights. “Forum shopping” or “regime shifting” by states and groupings of states has promoted the use of alternative organizations to deliberate on IP issues. To some degree, WIPO has been successful in becoming more rapid and politically acceptable by offering up alternatives to its traditional practices of treaty creation and binding international instruments or agreements. In 2002, Edward Kwakwa, assistant legal counsel at WIPO, recognized the need for the organization to “adapt its traditional rulemaking processes by adopting more

---

mean more IP was better for development. The DA, in contrast to this logic, has since sought to breakdown some of the institutional, theoretical and political foundation on which this IP evangelism is based. The CDP can be accessed here:

< [http://www.wipo.int/export/sites/www/ip-development/en/pdf/wipo\\_eds\\_inf\\_1\\_rev.pdf](http://www.wipo.int/export/sites/www/ip-development/en/pdf/wipo_eds_inf_1_rev.pdf) >

<sup>15</sup>Agenda Item 4, “Rules of Procedure” and Agenda Item 5, “Consideration of a Work Program”  
Draft Agenda for CDIP 1; ([CDIP/1/1 PROV.](#))

rapid, transparent, effective and politically acceptable means of norm creation”<sup>16</sup> in order to deal more effectively and efficiently with the multivariate “ecology” of global IP.

WIPO’s place in the world of IP is still important: it administers several vital IP agreements, helps facilitate the progression of several more treaties and is the locus for the lucrative Patent Cooperation Treaty, [PCT]<sup>17</sup> on which its budget is almost completely dependent. But the legal landscape which it oversees is increasingly complex, swiftly changing, not well-suited to international regulation and underutilized by the developing world.<sup>18</sup>

WIPO’s extensive domestic political and legal requirements preclude it from being swift and comprehensive at the same time. The protracted political requirements of WIPO’s treaties have led in part to “forum proliferation”<sup>19</sup> in which competing legal regimes and overlapping mandates have politically validated those countries who choose to “jump ship” during the proceedings of a negotiation. In extreme cases, this has undermined WIPO’s institutional mandate, such as when the Dispute Settlement Mechanism within the World Trade Organization [WTO] (brought into existence along with TRIPS) directly paralleled a mirror mechanism in WIPO (the Committee on the Settlement of Intellectual Property Disputes between States), which had been in the drafting/ratification stage for several years.<sup>20</sup> In other cases, it has simply spawned the creation of independent judiciaries and political forums with relatively limited but nevertheless important subject matter purviews, such as the Convention on Biological Diversity [CBD<sup>21</sup>]. In still more cases, like the WTO TRIPS agreement, it has led to the wholesale abandonment of WIPO’s functional purpose.

Forum proliferation, forum shopping and regime shifting have led to an explosion of legitimized jurisdictional forums and have changed the fundamental working methodologies for achieving political agreement. Over the last several years, deliberations concerning different aspects of IP—from the old issue areas of copyright and patents to the newer emerging forms of traditional knowledge—utilized, with ranging degrees of success, different procedural practices.<sup>22</sup> The indirect effect has been to strain institutions’ capacities—especially those, like WIPO, that are charged with deliberating

---

<sup>16</sup> Kwakwa, Edward. “Some Comments on Rulemaking at the World Intellectual Property Organization.” *Duke Journal of Comparative & International Law* 12: (2003): p. 179.

<sup>17</sup> Seventy-seven percent of WIPO’s \$194 million budget is supplied by corporations who pay to obtain patent licenses through WIPO’s Patent Cooperation Treaty. (www.WIPO.int, 2005). Ninety-seven percent of all worldwide patents are held by the developed world (United Nations Development Programme 1999).

<sup>18</sup> Of the 277,827 PCT applications filed between 1999 and 2001, less than 2 percent came from developing country (Commission on Intellectual Property Rights 2002; World Intellectual Property Organization Statistics 2005)

<sup>19</sup> It has also led to program proliferation within WIPO itself. In response to the Development Agenda in 2005, the US proposed a new partnership program within WIPO that proposed to increase technical assistance to developing nations to help them establish their own IP protection regimes (Intellectual Property Watch, 2005).

<sup>20</sup> *Ibid.*, 184.

<sup>21</sup> *Ibid.*, 185.

on all of it. Consequently, it is now nearly impossible for WIPO to effectively address new issues with any semblance of international coherence or unity.

Each institution has bitten off a chunk of these new challenges and dealt with them in a way that responds to their constituents' concerns. Since the WTO IP hearings concern the relevance of IP to trade (and increasingly to resolving trade disputes), the forum has constructed procedural and political processes and mechanisms (TRIPS Council, DSM) that best suit those unique set of concerns. Similarly, since the Food and Agriculture Organization [FAO] has focused on biological diversity issues and IP [CBD], they have developed specific work-plans through which consensus and decision making is achieved.

This division of “deliberation labor” has created a global IP system that resembles a constellation (or worse<sup>23</sup>) rather than a unified whole. On the aggregate, this division of labour has inhibited the construction of an effective global IP regime, and built a patchwork foundation of agreements, treaties, negotiations, and recommendations that are disconnected. It has made it easier for member states to shirk on agreements by fostering ceremonial and *à la carte* adherence to various international organizations' rulings on IP. But, seen from a different vantage point, it has also led to the development of best practices for IP deliberation, most of which are rarely utilized outside of the isolated system in which they were created.<sup>24</sup> Within this patchwork there are important examples of procedural best practice for IP deliberation. In order to reclaim order and coherence in the international system, communication and open dialogue between organizations is necessary.

Even if the 45 recommendations contained in the DA achieve consensus in theory within the CDIP, the application of those activities within the international IP system depend on WIPO's acknowledgement of and ability to work with other international institutions.<sup>25</sup> Unfortunately WIPO—the original governing body for IP and its brain trust—is increasingly ignorant of these debates and growing communities of practice. It has seen them as competition rather than beneficial and useful for its own institutional growth. As a result of its broad mandate, but also due to those reasons already mentioned, WIPO has yet to establish fair and balanced procedural mechanisms that ensure it is leading—rather than following—developments in international IP affairs. One way it might do this is by integrating the practices and procedures of other forums into WIPO. Its willingness to

---

<sup>23</sup> Bruce Sterling observed, in a recent interview with Knowledge Ecology International, that the current global IP regime “looks like Somalia, like Baghdad, like the pirate factories of Shenzhen; it's conspiratorial and cruel. IP law enforcement looks like Guantanamo; the majesty of the law is in tatters...”

Taken from an interview with Jamie Love; Online at: <[www.kei.org](http://www.kei.org)>

<sup>24</sup> Though it is not argued here, it is possible that alliances of delegations look to add to the list of agreements on contentious IP issues precisely to tame the effectiveness of others. In this way, it is easy to see how successful ratification of one treaty begets the successful ratification of the next. The result is a number of treaties with conflicting requirements.

<sup>25</sup> One recent example of competing legal mandates is between the WIPO and WTO over the Antigua gambling case where the director of the Copyright Law Division of WIPO, Jorgen Blomqvist, suggested that if Antigua were to abide by a WTO decision (which allowed the country to suspend copyright protection for US goods) it would be violating the WIPO-administered Berne Convention.

<http://www.ictsd.org/weekly/08-01-23/story2.htm>

acknowledge the existence of other political agreements in other fora and its ability to poach from these agreements the procedural mechanisms through which they were reached and adapt them to their own proceedings will increase effectiveness and efficiency in its own proceedings.

WIPO's leadership in the area of procedure, and its dedication to incorporate alternative work-plan methodologies, will determine, as much as the products or outcome of any deliberations, its institutional relevance in the future.

#### **IV. THE COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY**

The first session of the Committee on Development and Intellectual Property—the successor forum to the Provisional Committee on Proposals Related to a WIPO Development Agenda—was held in March 2008. One hundred member states, seven intergovernmental organizations and 30 non-governmental organizations participated in the session. As the WIPO Secretariat notes, the CDIP was established to:

- (a) develop a work-program for implementation of the adopted recommendations;
- (b) monitor, assess, discuss and report on the implementation of all recommendations adopted;
- (c) discuss intellectual property and development related issues as agreed by the Committee, as well as those decided by the General Assembly.<sup>26</sup>

The Committee's first session called for a work-program to advance implementation of the 45 recommendations. The Secretariat's initial review of the recommendations, requested at the GA in September 2007, broke the recommendations into two groups: "immediately implementable,"<sup>27</sup> which consisted of 19 of the 45 recommendations, and the rest, which required further human resource and financial costing.

#### **A. FROM RECOMMENDATIONS TO IMPLEMENTATION**

The CDIP is a more politically contested version of its predecessor, the PCDA, a generally more congenial political environment. Though the PCDA articulated ideas and norms for development, the CDIP is charged with the task of articulating concrete plans and priced-out activities. Evidence from the first session suggests that while the recommendations reflected a general conceptual agreement—a consensus perhaps achieved on the basis of their vague, thematic nature—delegates had different conceptions of what they were going to be conceived of practically. In this way, the CDIP is likely to be more politically divisive round of discussions similar to that of a treaty-making process.

---

<sup>26</sup> CDIP/1/1 PROV. – Draft Agenda for the CDIP; 3/3/2008.

<sup>27</sup> CDIP/1/3 – Initial Working Document for CDIP; 4/3/2008.

## B. FROM AGENDA TO ACTIVITY

Treaty making at WIPO, as Edward Kwakwa has observed, is “slow and time-consuming.”<sup>28</sup> Treaties advance on the basis of a “complicated process” that frequently entails the establishment, initially, of arcane expert committees that, depending on consensus, form provisional or preparatory committees that take the subject matter forward to an official conference where they are adopted in force. The Development Agenda is of course different in one crucial aspect from a treaty: it is not an agreement fundamentally between countries themselves (so as to harmonize laws, for example, that affects the legal jurisdiction in each of them) but rather on the mission, orientation and activities of the facilitating organization itself, WIPO. It does not require individual countries to fulfill domestic requirements, such as those required of the “Internet Treaties,” for the agreement to come into force. But it has the potential drawback of re-orienting or restructuring the institution itself. It is, as Professors Richard Gold and Jean-Frédéric Morin have observed, a process not all organizations survive:

*Any paradigm shift, as represented by the Development Agenda, is daunting and would challenge any large institution attempting to manage it. It took much effort for the World Bank, for example, to transform its initial objective of infrastructure reconstruction in Europe into developing country economic growth and, more recently, from debt management to sustainable development and poverty reduction... steering change at WIPO is an order of magnitude more challenging than the World Bank's transformation. This is so for three reasons: 1) WIPO is not in a position to manage the cultural change required by the Development Agenda; 2) WIPO's principal strength is in administering technical intellectual property treaties rather than in norm development; and 3) WIPO Members have a tendency to say one thing internationally but do the opposite nationally. Given this, WIPO should not be entrusted with implementing its own Agenda.<sup>29</sup>*

Professors Gold and Morin's claim that WIPO “should not be entrusted with implementing its own Agenda” is suspicious of what they call WIPO's “Gortex Syndrome:”

*“[WIPO] repels outside influences – values and beliefs – while breathing out its intellectual airs in the form of educational activities at the WIPO Academy. The normative traffic route is thus unidirectional.”<sup>30</sup>*

---

<sup>28</sup> Kwakwa. “Some Comments” *DJCIL*, p. 179.

<sup>29</sup> Gold, Richard & Jean-Frederic Morin. “From Agenda to Implementation: Working Outside the WIPO Box.” McGill University Centre for Intellectual Property Policy & The Innovation Partnership. 2008. [forthcoming]

<sup>30</sup> *Ibid.*, p. 8.

Even as the incoming Director General of WIPO, Francis Gurry, has noted, that the Development Agenda “is vital to a healthy future for the Organization,” and that “[the DA] should be main-streamed,” there remains a lack of clarity within WIPO about how to do that. WIPO’s syndrome may not be that it repels all outside influences, but that it lacks introspection. Its operations and programs lack the creative impulse engendered by open, transparent and inclusive work-plan processes and procedures, that might allow it to think of the “general and abstract”<sup>31</sup> in a constructive fashion. The European Patent Office’s *Scenarios for the Future Project*<sup>32</sup>, is an example of how an organization, with a comparably large administrative and technical purview, is able to think constructively and outside of its own expertise to imagine and prepare for the future.<sup>33,34</sup>

## V. DRAFT AGENDA FOR THE CDIP

The draft agenda prepared by the Secretariat delineated eight activities for the first session. This brief analysis focuses on two of the more substantive elements of the draft agenda: the adoption of the rules of procedures of the CDIP [Agenda Item 4] and consideration of work program for the implementation of adopted proposals [Agenda Item 5].<sup>35</sup>

### A. AGENDA ITEM 4: RULES OF PROCEDURE

During the first session of the CDIP, the Chair adopted the WIPO “General Rules of Procedure,” [Pub. N. 399 Rev. 3] that is used for all WIPO bodies. The General Rule of Procedure [RoP], last revised in 1998, give broad powers to the Chair to use his or her discretion in conducting any committee hearings. The use of the General Rules is

---

<sup>31</sup> When asked about the Development Agenda by IPWatch, Dr. Gurry lamented the focus on the “rather abstract and general” nature of the DA consensus. “There is a consensus in the Organization’s membership on the need for the Development Agenda, but that consensus is formed around rather general and abstract propositions, which now need to be translated into concrete projects, with measurable outcomes, that can deliver effective assistance.” < <http://www.ip-watch.org/weblog/index.php?p=955#francis>>

<sup>32</sup> The *Scenarios for the Future Compendium* can be accessed on the EPO website:  
<<http://www.epo.org/topics/patent-system/scenarios-for-the-future.html>>

<sup>33</sup> WIPO in 2008 is not much different from the European Patent Office in 2004, when the Scenarios Futures Project was embarked on. Both experienced administrative changes and institutional challenges. After assuming the position in 2004, Alain Pompidou, President of the EPO, said that “one of my first objectives was to initiate a fresh look at the world in which we operate and to see how the forces for change, from both inside and outside the system, might impact on its future.” Incoming Director General Dr. Gurry would do well to follow in Dr. Pompidou’s steps.

<sup>34</sup> One way WIPO might do this is by creating a separate department for the “Development Agenda” that interacts with various NGOs and IGOs. Other organizations have established popular forums to brainstorm about the future and global strategies for it such as the WHO Intergovernmental Working Group on Public Health, Innovation and Intellectual Property (IGWG) which has been tasked to prepare a global strategy and plan of action on essential health research to address conditions disproportionately affecting developing countries.

<sup>35</sup> CDIP/1/1 PROV.

therefore largely dependent on what the Chair chooses to prioritize. During the PCDA, these powers were used to close of the discussions concerning the recommendations to observers. Some of these rules, moreover, have since become outdated and others are challenged by the DA in general.<sup>36</sup>

Defining the rules of procedure is a vital part of the agenda. It gives coherence to the meetings and direction to the Chair, who is charged with ensuring an efficient and efficacious outcome of each session. It also provides important guidance for the CDIP Secretariat and WIPO departments responsible for documenting, summarizing, revising statements, decisions and expert analyses necessary during inter-session periods [IIM]. Defining the RoP for the CDIP is especially important because part of the DA is aimed at improving transparency and openness within WIPO.

During the first session, the Chair, Ambassador Trevor Clark, of the Barbados mission, outlined what he felt the primary target for the CDIP was: “swiftness and comprehensiveness.”<sup>37</sup> The emphasis reflected a particular strength of the Chair, something for which he has become quite well known and to which his re-election to the CDIP from the PCDA might be attributed. His steering of the PCDA meetings resulted in the passing of 45 recommendations in less than four years of discussion; a particularly impressive pace for WIPO in general but even more so considering the polarizing and unorthodox nature of the recommendations in the Development Agenda. But speed should never be the measure of successful deliberations on systemic issues, such as development and IP, for the international community. There should be caution in making it a goal of the CDIP in general. The Chair’s remark is a tacit recognition of WIPO’s lumbering processes, its tendency to become mired in definitional debate and inconsequential detail. It is also a somewhat anxious nod to the controversial nature of the subject matter and a relatively embarrassing admission of WIPO’s historically flawed procedural habits.

It also reflects the fact that swiftness has become the de facto metric on which Chairs’ and Committees’ successes are now based: how quickly matters are resolved as opposed to how methodically they are considered. The sense within civil society that the CDIP has misinterpreted the purpose of its deliberations is already evident.<sup>38</sup> The mention of swiftness may therefore suggest that the CDIP has lost sight of the real purpose of its deliberations: that which IQSensato, in a recent review of the CDIP’s first session, highlighted: “The Agenda will result in discernible *qualitative reforms, changes and improvements in how business is conducted* at WIPO.”<sup>39</sup>

---

<sup>36</sup> Specifically: rule 43 [publicity of meetings], rule 44 [drafting of the report], rule 30 [voting procedures], rule 12 [subsidiary bodies] Publication No. 399 (FE) Rev.3  
< [http://www.wipo.int/edocs/pubdocs/en/2002/wipo\\_pub\\_399.pdf](http://www.wipo.int/edocs/pubdocs/en/2002/wipo_pub_399.pdf)>

<sup>37</sup> Chair Trevor Clarke CDIP First Session 3/3/2008.

<sup>38</sup> “PROPONENTS: SLOW BETTER THAN POOR FOR WIPO DEVELOPMENT AGENDA,” *IP Watch*. 21/3/2008. < <http://www.ip-watch.org/weblog/index.php?p=977>>

<sup>39</sup> Italics are mine. From: “WIPO Development Agenda Implementation: Commentary on the Initial Working Document for the Implementation of Agreed Proposals.” IQSensato. 30 March 2008  
<[http://www.iqsensato.org/wp-content/uploads/IQsensato\\_Working\\_Paper\\_2-March2008.>](http://www.iqsensato.org/wp-content/uploads/IQsensato_Working_Paper_2-March2008.>)

Focusing too heavily on pricing out activities, on results or ends, rather than the process through which they are considered is to interpret the Development Agenda and its 45 recommendations in the same way that signatories of the Geneva Declaration accused WIPO of seeing IP in general: as an end in and of itself.

There are broader issues at stake than just the creation of activities. Whatever emerges as the procedural metric for the CDIP might itself be the example for WIPO as a whole. RoP that mandate continuous analysis of its operations and encourage revision, rather than hasty progression, would lead to both a more comprehensive end product and more rapid process of deliberation. In this light, the RoP for the CDIP should not be treated as singular or specific to one set of discussions. It should embody how WIPO intends to change how it “conducts business” in the future.

## **B. AGENDA ITEM 5: CONSIDERATION OF WORK PROGRAM**

Agenda Item 5 concerned<sup>40</sup> the development of a work-plan methodology for considering the implementation of the 45 recommendations. At the conclusion of the PCDA hearings, it was agreed that the Secretariat, in consultation with Member States, would prepare a draft work program document which was intended to address the extensive financial and human resources requirements of the 45 recommendations for inclusion in WIPO’s budgetary planning process. Two documents were prepared: a preliminary report with respect to 19 proposals identified for immediate implementation (effectively, those recommendations that to a greater degree already existed within the scope of current WIPO activities or programs, or that could be easily grafted onto the operational, programmatic and budgeting profile of existing WIPO programs) and an initial working document regarding the implementation of the 26 agreed proposals which would require more financial and human-resources costing by the Secretariat.<sup>41</sup>

The delegations tentatively agreed to addressing recommendations one by one, starting with those contained in the list of 26 recommendations.<sup>42</sup> After discussing all of the 26 recommendations in Cluster A,<sup>43</sup> the Committee would shift its attention to Cluster A in the list of 19 recommendations for immediate implementation, prior to returning to the list of 26 recommendations to discuss Cluster B<sup>44</sup> recommendations.<sup>45</sup> A visual representation noting the differences between the 26-recommendations processes and the 19-recommendations process is below.

---

<sup>40</sup> CDIP/1/1 PROV. – Draft Agenda for CDIP 1

<sup>41</sup> A further four documents were distributed which outlined suggestions of activities for the implementation of the WIPO DA recommendations by the Central and Baltic European States, the Group of Friends of Development and the Republic of Korea. The Draft Report can be accessed here: CDIP/1/4 PROV.

<sup>42</sup> CDIP/1/4 PROV

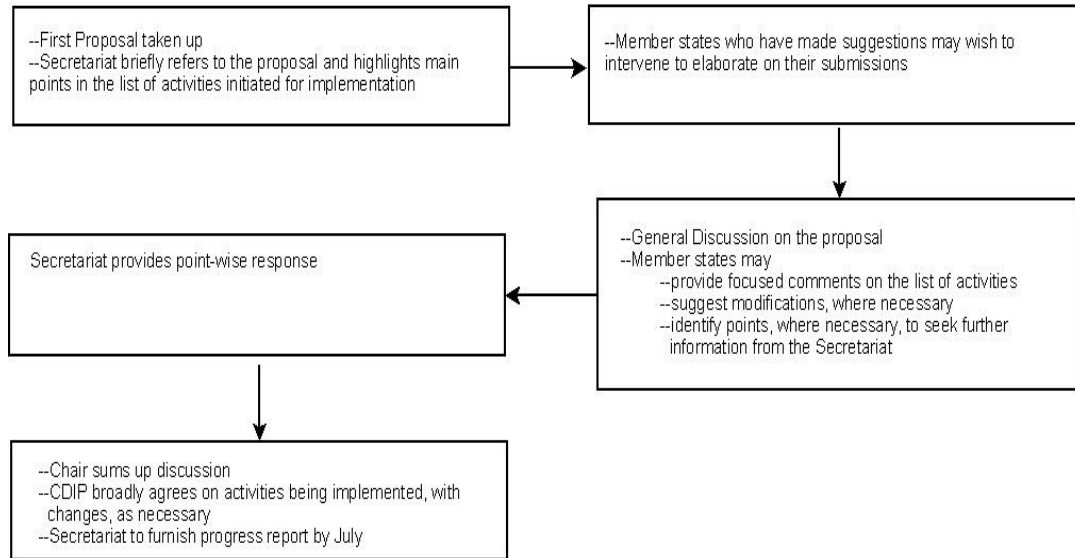
<sup>43</sup> “Cluster A” (which concerned Technical Assistance And Capacity Building) refers to the Clusters (A,B,C,D,E,F) used in the PCDA.

<sup>44</sup> Cluster B: Norm-Setting, Flexibilities, Public Policy And Public Domain

<sup>45</sup> CDIP/1/4 PROV

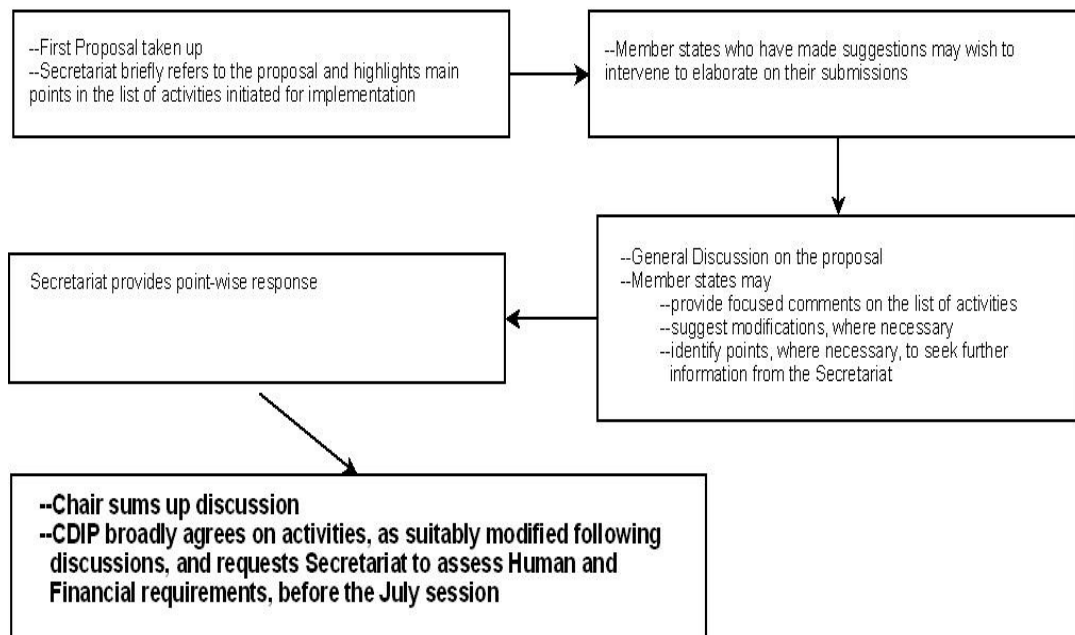
**FIG 1.**

Cluster-wise discussion of Proposals: List of 19 "immediate implementable" proposals



**FIG 2.**

Cluster-wise discussion of Proposals: List of 26 proposals



### **C. THE 19/26 WORK-PLAN METHODOLOGY**

By procedurally separating the 19 from the 26, the Secretariat de-contextualized the recommendations, misinterpreting the holistic nature of the DA. Rather than seeing the recommendations as linked to one another, as part of a larger Agenda, this separation explicitly de-linked them so as to expedite their implementation.

Several delegations suggested alternative methods for considering the recommendations in a systematic way. One delegation, for instance, suggested a functional categorization of the 45 recommendations so as not to lose the “interaction among the 19 and 26 recommendations.” Other delegations offered alternative methodologies for considering the recommendations. Little time was given to exploring these alternative options, however, because the Secretariat—on request by the GA—had already produced a draft work-plan document for use at the first session of the CDIP.

The session was concluded with a decision to continue consideration of the work program. While it was agreed that the Chair would organize informal consultations it is yet unclear, to what degree broad-based procedural matters, such as those as important for the rest of the deliberations like work-plan methodology, can be settled on during these often sparsely attended inter-sessional meetings. Some delegations have already expressed their disinclination to attend. Others have seen the inter-sessional meetings as make-work since any or all of what is discussed must be ratified in fully attended and official meetings of the CDIP. Ultimately, the issue of creating a work-plan methodology was not adequately explored and may lead to further road bumps if not dealt with now.

The following is an effort to build on the discussion on work-plan methodology, and to sketch out two alternative mechanisms for interpreting the recommendations and show how they might lead to a better working methodology for the CDIP.

### **D. WORKING TOWARDS AN ALTERNATIVE TO 19/26**

As mentioned, despite the tentative passing of a work-plan methodology in the CDIP, there remains widespread disapproval of the Secretariat’s initial grouping of the recommendations into 19 and 26.<sup>46</sup> Among other criticisms, already mentioned, the division of the recommendations was intended to simplify and reduce the activity-creation process by grafting on to existing programs and budgets 19 “immediately implementable” activities. Along with reducing and simplifying, this process brought the new activities under the broader, historically more “maximalist”<sup>47</sup> institutional practices of WIPO, rather than what they should have been, which is a challenge to those practices.

---

<sup>46</sup> CDIP/1/4 PROV

<sup>47</sup> In his foundational work, “A Manifesto on WIPO and the Future of Intellectual Property,” Jaimie Boyle suggested that WIPO’s “attempt to promote and harmonize intellectual property laws internationally” led to a “maximalist rights culture that systematically sought to increase intellectual property laws. As a consequence, IP became the benchmark for innovation rather than innovation itself. Boyle’s Manifesto

Not surprisingly, some delegates saw this as an unsuitable process for activity creation. Even as the chair attempted to dispel delegates' worries—"the activities shall be suitably modified by the discussions before going for budgeting"<sup>48</sup>—there remained differences on process. Approaching the recommendations in a different way—not simply on the basis of their relation to existing WIPO activities—may be a good starting point for future discussions concerning work-plan methodologies.

## VI. CLASSIFYING THE RECOMMENDATIONS: A THREE-PART APPROACH

The work-plan suggestions listed in this section are in no way complete or extensively calculated methodologies. Their inclusion here is primarily for the purposes of motivating future discussions on the topic and emphasizing the importance of *how* the activities are considered (rather than simply *what* activities are considered for the recommendations). The suggestions work from the assumption that the way in which the activities are produced depends on how the recommendations are framed, which is itself dependent on how the work-plan is situated within the broader context of the DA.

The recommendations are perhaps better approached using the following metric as a start. Contained in the 45 recommendations are, firstly, recommendations that essentially are "new things for WIPO to do;"<sup>49</sup> secondly, there are "old things WIPO needs to change;"<sup>50</sup> and thirdly, there are hybrid recommendations that are neither exclusively new activities nor changes to the old way of business, but are rather, broadly considered, "mainstreaming"<sup>51</sup> activities: new ways for doing *everything*.<sup>52</sup> Grouping the recommendations within these three categories may offer a more structured and focused way forward.

In implementing recommendations classified on this three-part basis, a number of questions are anticipated: How does WIPO implement activity-based recommendations?

---

refocused the debate back on the "ecology" of the IP system and summoned the reader to focus not only on the institutions that resided within it but on the "cultures" that it subsequently promoted and sustained. His distillation of the problems with a global IP system and the challenges presented to it by the information age remain true today. Perhaps no clearer are these problems seen than in WIPO's own deliberations.

<sup>48</sup> CDIP/1/4 PROV

<sup>49</sup> Such as Rec. 2 and 5 which require the establishment of a trust fund and website dedicated to DA materials.

<sup>50</sup> Such as Rec. 28 which seeks to "explore supportive intellectual property -related policies...."

<sup>51</sup> Due to the hybrid-like nature of some of the recommendations - one part activity, one part mainstreaming, process based - they will likely involve various levels of analysis, between departments and across programs within WIPO each with different limited budgets and existing operational costs. But WIPO has little procedural experience deliberating on matters that concern, for example, "mainstreaming orientations" into its work areas. How - or if - it is able to do that is a matter of importance.

<sup>52</sup> For example, in Rec.3, which states: "Increase human and financial allocation for technical assistance programs in WIPO for promoting a, *inter alia*, development-oriented intellectual property culture, with an emphasis on introducing intellectual property at different academic levels and on generating greater public awareness on intellectual property." Or Rec. 44 which stresses greater openness and transparency.

Here, the Secretariat's grouping is adequate, and in the absence of other alternatives, probably provides the most expeditious implementation of them.

But, how does an institution mainstream recommendations? For those recommendations that are mainstreaming activities, for example, "orientation," "demand driven" or other highly contextualized activities,<sup>53</sup> another method is needed for discussing their implementation.

## **A. INTERPRETATION TO IMPLEMENTATION**

Once the interpretation of the recommendations is complete, there will be a need to focus more on how that interpretation leads to more effective and efficient implementation. What, then, is the best work-plan methodology for implementing these three types of recommendations? A possible starting point is to identify the 'mainstreaming' or hybrid recommendations. Identifying and condensing these hybrid recommendations would aid in establishing a "principles framework"<sup>54</sup> from which activities for other recommendations might be derived. A Development Agenda "principles framework" or a "responsibilities index" would act as touchstone for interpreting how other concrete activities could be considered. In this way, activities flow from common mainstreaming principles.

Once broad principles have been extracted from the hybrid recommendations, the DA will be effectively divided into two remaining categories: new things WIPO needs to do and old things WIPO needs to change. At this point, in the interest of efficiency, it will be necessary to identify a way to cluster discussions around some similarities. But instead of clustering on the basis of subject area similarities, as was appropriate for the PCDA meetings, or on the basis of 19 "immediately implementable" versus 26 requiring more financial costing, as was suggested by the Secretariat, the recommendations are better considered in light of their particular operational context within WIPO.

## **B. OPERATIONAL CLUSTERING VS. SUBJECT AREA CLUSTERING**

The PCDA recommendations were deliberated and passed on the basis of a clustered or grouped number of recommendations<sup>55</sup> that each had similar parts in relation to the subject matter or development task with which they were concerned, for example:

---

<sup>53</sup> As seen in: "The 45 Agreed Recommendations under the WIPO Development Agenda," World Intellectual Property Organization:

< [http://www.wipo.int/ip-development/en/agenda/cdip\\_recommendations.html](http://www.wipo.int/ip-development/en/agenda/cdip_recommendations.html) >

<sup>54</sup> Sisule Musungu has written extensively on the need for establishing Development Agenda "principles" especially as an aide in establishing a monitoring and evaluating mechanism for the DA.

< [http://thoughtsincolours.blogspot.com/2007\\_07\\_01\\_archive.html](http://thoughtsincolours.blogspot.com/2007_07_01_archive.html) >

<sup>55</sup> PCDA/4/3/2.

“technical assistance,” or “norm-setting.” The recommendations were created like this because it provided a level of coherence. While this clustering mechanism worked well for discussing various recommendations, another method is needed for implementing the recommendations.

The implementation deliberations require division on the basis of operational context. The key question that should be asked is: Where within the institution is the recommendation best addressed? Unlike the PCDA, where the questions were more thematic in nature, such as “What area of development does this recommendation concern?” the CDIP is concerned with practical issues such as “Where, in WIPO, does this recommendation have relevance?” Once recommendations have been categorized on the basis of which department is best suited (in terms of room in budget, size of department, programmatic relevance, capacity and expertise) to implement the specific recommendation, each activity should be priced out considering those parameters. Breaking down which issues concern which departments, which expert committees, which relevant sub groups and which parts of the biannual WIPO budget would provide more realistic and useful limitations within which to consider activities. Clustering on this basis—by operational context—will help ensure that the recommendations are effectively institutionalized rather than simply politically reified.

## **VII. OTHER ROADBLOCKS FOR THE CDIP**

In addition to the flaws outlined in the work-plan methodology, the Committee meetings are vulnerable to a number of possible roadblocks; some of which are new to the Committee and others that remain nagging problems for the broader international IP community. Protracted debate over definitions, rapid advancement in generative technologies<sup>56</sup> that reframe or shift the current “development” paradigm, possible financial and budgeting impasses (including budget limitations, procurement delays or disagreements about where and how activities should be included in the budget), procedural transparency and the role of the Secretariat in dictating and directing the terms on which the DA is discussed all remain large obstacles for the CDIP.

### **A. FINANCING AND BUDGETING**

During the first session meetings, there was no clear consensus on how financing and budgeting should be sequenced into the overall process of the CDIP. Whereas some see the financing and budgeting as vital for providing some practical boundaries in which to discuss activities, others see finances as flowing directly from discussions on activities. It

---

<sup>56</sup> “Generativity” as Jonathan Zittrain has defined the term in his most recent book: “[A] system’s capacity to produce unanticipated change through unfiltered contributions from broad and varied audiences.” *The Future of the Internet -- And How to Stop It*. New Haven: Yale University Press, 2008.

is an issue, ultimately, of the order in which they are taken: Do finances guide/limit activities or are activities guiding the financing? The likely result in the short term is extensive human and financial resource calculation by the Secretariat on “plausible” activities that have yet to be discussed or, alternatively, the creation of an independent funding mechanism with a fairly flexible budget. For the purposes of creating concrete activities, neither is particularly instructive.

## **B. THE ROLE OF THE SECRETARIAT**

The role of the Secretariat is often disregarded as being busy-body work; producing background documents, updating website material, analyzing national reports, producing text from previous discussions and in general servicing the negotiations. But, the Secretariat plays a vital role in setting the tone for a committee. And yet, the Secretariat is likely to be somewhat insulated from criticism and is often a conservative entity within most organizations. By design, it will issue “middle of the road” documents that are reflective of the institutional history, knowledge and expertise.

It is unclear to what degree the Secretariat, in times of institutional change, is able to adequately and fairly assess the shifting political, social and economic landscape. Fearing member state reprisal for interpretations, the Secretariat will likely revert back to ‘what they know:’ the institutional memory. In times of change, Secretariats are also especially vulnerable to pressures from interest groups or member-state alliances. In a letter to Margaret Chan, Director of the World Health Organization [WHO] in May 2008, members of civil society, responding to an abrupt change in the Organization’s publications policy, suspected the alteration was the result of “recent pressures by a few developed countries”<sup>57</sup> on the Secretariat. The consequence of which, they claimed, would be to hamper timely advice on key issues and a tendency in the future towards self-censorship within the Secretariat.

The Development Agenda is a response to much of the institutional orthodoxy of WIPO and therefore to the body that gives voice to it: the Secretariat.<sup>58</sup> The degree to which the Secretariat is able to accurately reflect ongoing debate, be resistant to pressure from special interest groups but inclusive of advice and criticism in a fair and balanced fashion from others and to provide an adequate road map for future discussions will largely determine where the CDIP and the DA will ultimately end up.

---

<sup>57</sup> “CIVIL SOCIETY LETTER TO WHO MEMBER STATES REGARDING WHO’S PUBLICATIONS POLICY,” A2K mailing list, 27/5/2008. <<http://lists.essential.org/mailman/listinfo/a2k>>

<sup>58</sup> In Article 22 of Cluster C, it is stated that the WIPO Secretariat should address matters of the DA deliberations “without prejudice to the outcome of Member States considerations.” While it may not have explicitly prejudiced the deliberations, too much control over how the activities are framed may lead to a situation in which that is the case.

## C. TRANSPARENCY

One of the key elements of the DA is to encourage WIPO to develop a working style that is more inclusive, open and transparent. It is clear from the Chair's decision to conduct the CDIP in "informal formal"<sup>59</sup> format that there exists an earnest desire to be open and inclusive to members of civil society without unduly delaying the deliberations.<sup>60</sup> But, it is conceivable that if the deliberations become bogged down, the CDIP will revert back to closed discussions. And rather than making these discussions available to accredited observers, it will result in WIPO reverting back to its old practices which were, in a recent study, among the worst of all international organizations.<sup>61</sup>

In such a case, it is unclear to what degree civil society, who have played such a large role in motivating the Agenda and who have contributed feedback to it at every stage, will be able to have their voice heard.<sup>62</sup> The Chair's desire to have discussions be "swift and comprehensive" must also take into consideration the value of critical feedback not simply on the outcomes, activities or recommendations, but also the processes and procedures utilized in achieving them.

## VIII. CONCLUSION

Though WIPO was not conceived of as a 'development organization', the discussions taking place on the Development Agenda and its 45 recommendations in the Committee on Development and Intellectual Property will have a significant and continuing influence on development and governance in the 21<sup>st</sup> century. Once the Committee has agreed on the 45 recommendations and activities that best suit them, it will continue deliberating on issues concerning development in WIPO in the future. The activities for the recommendations it decides on now are therefore only part of its mandate. It is important, during its early sessions, to put in place processes and procedures that look to the future as well as the past. The permanence of the CDIP—and of WIPO itself— will be in its ability to establish adequate "organizing structures" that achieve consensus swiftly and comprehensively on issues that are arguably both the most important and most divisive for the 21<sup>st</sup> century.

---

<sup>59</sup> "Informal Formal" meeting meant that accredited NGOs and IGOs can freely partake as observers in the CDIP hearings but that all proceedings shall not be attributable to any member state outside of the hearings.

<sup>60</sup> Article 15 of Cluster B on norm setting activities states that "activities shall: be a participatory process, which takes into consideration the interests and priorities of all WIPO member states and the viewpoints of other stakeholders, including accredited inter governmental organizations and non governmental organizations..."

<sup>61</sup> Blagescu, Monica and Robert Lloyd, *2006 Global Accountability Report: Holding Power to Account*. London: One World Trust, (2006).

<sup>62</sup> Civil Society has played a vital role in motivating the discussions in other forums as well. In a recent panel, Wend Wendland, head of WIPO's programme on Traditional Knowledge, said civil society had been a major player in enhancing the Organisation's focus. "NGOs Having Major Impact On WIPO Agenda, Panel Says" *IPWatch*. 5/10/2007.

## PRIMARY DOCUMENTS CONSULTED

[CDIP/1/1 PROV.](#) – Draft Agenda for CDIP 1

[CDIP/1/3](#) – Initial Working Document for CDIP 1

[CDIP/1/4 PROV.](#) – Draft Report

Revised Draft Report of the Provisional Committee on Proposals Related to a WIPO Development Agenda, 4<sup>th</sup> Session. PCDA/4/3/2.

[http://www.wipo.int/edocs/mdocs/mdocs/en/pcda\\_4/pcda\\_4\\_3\\_prov\\_2.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/pcda_4/pcda_4_3_prov_2.pdf)

“The 45 Agreed Recommendations under the WIPO Development Agenda,” World Intellectual Property Organization: [http://www.wipo.int/ip-development/en/agenda/cdip\\_recommendations.html](http://www.wipo.int/ip-development/en/agenda/cdip_recommendations.html).

Summary of CDIP by Chair:

[http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_1/cdip\\_1\\_summary.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_1/cdip_1_summary.pdf)

## OTHER WORKS CONSULTED

Blagescu, Monica & Robert Lloyd, *2006 Global Accountability Report: Holding Power to Account*. London: One World Trust, 2006.

“Geneva Declaration on the Future of the World Intellectual Property Organization” Accessed at *Future of WIPO.org* on 12 April 2008:  
<<http://www.futureofwipo.org/futureofwipodeclaration.pdf>>

Gold, Richard & Jean-Frederic Morin. “From Agenda to Implementation: Working Outside the WIPO Box.” McGill University Centre for Intellectual Property Policy & The Innovation Partnership. 2008. [forthcoming]

Grotto, Andrew. “Organizing for Influence: Developing Countries, Non-Traditional Intellectual Property Rights and the World Intellectual Property Organization.” *Max Planck UNYB* 8 (2004): 359-382.

Helfer, Laurence. “Regime Shifting: The TRIPS Agreement and New Dynamics of International Intellectual Property Lawmaking,” *Yale Journal of International Law* 29 (2004).

Idris, Kamil. “Intellectual Property: A Power Tool for Economic Growth.” Geneva: World Intellectual Property Organization, 2003.

“Intellectual Property and Traditional Knowledge: Booklet No. 2,” Geneva: World Intellectual Property Organization Secretariat, 2004.

- “Intellectual Property and Traditional Knowledge: Booklet No. 1,” Geneva: World Intellectual Property Organization Secretariat, 2004.
- Kapczynski, Amy. “The Access to Knowledge Movement and the New Politics of Intellectual Property Law.” *Yale Law Journal* 117 (2008)..
- Kwakwa, Edward. “Some Comments on Rulemaking at the World Intellectual Property Organization.” *Duke Journal of Comparative & International Law* 12: (2003).
- May, Christopher. *World Intellectual Property Organization: Resurgence and the Development Agenda*. New York: Routledge, 2007.
- “Methodology for National Assessment of the Benefits of Intellectual Property Systems in Developing Countries.” Geneva: WIPO, 2003.
- Sabel, Robbie. *Procedure at International Conferences: A Study of the Rules of Procedure at the UN and at Inter-governmental Conferences, 2<sup>nd</sup> Edition*. London: Cambridge University Press, 2006.
- “Scenarios for the Future: A Compendium.” Munich, European Patent Office. 2007.
- “Summaries of Conventions, Treaties and Agreements,” World Intellectual Property Organization Secretariat, 2006.
- Reisman, Michael W. “On the Causes of Uncertainty and Volatility in International Law.” *International Law in the 21<sup>st</sup> Century Conf.*, 27 September 2007. Hague Academy of International Law. Hague, 2007.
- Reisman, Michael W. and Siegrfried Wiesnner and Andrew Willard. “The New Haven School: A Brief Introduction.” *The Yale Journal of International Law* 32 (2000).
- Wilkinson, Angela. “RiskWorld: The Scenarios.” *Journal of Risk Research* 6 (2003).
- “WIPO Development Agenda Implementation: Commentary on the Initial Working Document for the Implementation of Agreed Proposals.” IQSensato. 30 March 2008 <[http://www.iqsensato.org/wp-content/uploads/IQsensato\\_Working\\_Paper\\_2-March2008.pdf](http://www.iqsensato.org/wp-content/uploads/IQsensato_Working_Paper_2-March2008.pdf)>