An External Review of WIPO Technical Assistance

in the Area of Cooperation for Development

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Summary of Main Conclusions and Recommendations

1. Background

In November 2009, the Committee on Development and Intellectual Property (CDIP), at its 4th Session in Geneva, approved the "Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development"[1] which includes the implementation of Development Agenda Recommendation 41, namely to conduct a Review of WIPO technical assistance activities in the area of cooperation for development.

Deliberations on WIPO's development cooperation activities have been a central component of WIPO discussions since the proposal for the establishment of a Development Agenda for the organization was put forward in 2004.[2] Over the past six years, discussions on the WIPO Development Agenda have highlighted the importance of ensuring that WIPO's development cooperation activities have a clear development-orientation and that they are grounded in national development priorities and needs.[3] The Development Agenda discussions have also revealed a shared interest among the diversity of WIPO's Member States and stakeholders in ensuring the development impact, cost-efficiency, management, coordination, and transparency of WIPO's development cooperation activities.[4]

The purpose of the review as stated in the terms of reference (TOR) was: "to conduct a macro level assessment of WIPO's technical assistance activities in the area of cooperation for development to ascertain their effectiveness, impact, efficiency and relevance. In addition, the review will seek to determine the adequacy of existing internal coordination mechanisms for WIPO's delivery of technical assistance for development, while acknowledging that the review will be conducted during a time when the Organisation is undergoing major changes in the way it operates and delivers services as articulated in the Director General's Strategic Realignment Program (SRP)."

The main objective of the review was stated in the TOR as follows: "within the context of the WIPO Medium Term Strategic Plan 2010-15 (MTSP), the SRP and taking duly into account the WIPO Development Agenda (DA) Recommendations, to identify ways to improve WIPO's technical assistance activities in the area of cooperation for development including ways to develop WIPO's RBM framework to facilitate the monitoring and evaluation of the impact of WIPO's activities on development."

Definitions and Methodology

For the purposes of this review, the definition of technical assistance activities is all activities related to:

- development of national intellectual property (IP) strategies, policies and plans in developing countries (including needs assessments);
- development of global, regional and national legislative, regulatory and policy frameworks that promote a balanced IP system (including related research and support for the engagement of developing countries in global decision-making and dialogue);
- building of modern state-of-the-art national IP administrative infrastructure;
- support-systems for users of the intellectual property system in developing countries;

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[1] WIPO (2009). "Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development (Recommendations 33,38 and 41)," prepared by the Secretariat for the Fourth Session of the Committee on Development and Intellectual Property (CDIP), Geneva, November 16 – 20. CDIP/4/8 Rev.
[2] WIPO (2004).
[3] The External Review also sought to contribute to the assessment, recommended by the third session of the PCT Working Group (see WIPO document PCT/WG/3/14 Rev., paragraph 211bis) as to how well the PCT system has been functioning in terms of realizing its aims of organizing development cooperation activities for developing countries in the area of patents. This supplementary element was addressed by undertaking several dedicated meetings with staff in the PCT division and by ensuring focused coverage of patent-related issues in our review, including by talking with a broader set of WIPO staff working on patent-related issues than for some other issues (e.g., trademarks). The questionnaire for beneficiary countries included a number of patent-specific questions, and four of our six country visits were PCT members.
[4] Marchant and Musungu (2007).

- promotion of innovation and creativity, and access to knowledge and technologies in developing countries (including related research); and
- training and human capacity building in developing countries.

Throughout the report, 'technical assistance in the area of cooperation for development' will be referred to as 'development cooperation activities'.

The review was conducted by two independent external consultants selected by an internal selection committee established for that purpose. The period covered by the Review was the three-year period from 2008-2010. For the more in-depth country visits, the review considered a longer period, i.e. at least six years, in order to facilitate the assessment of outcomes and impact.

The focus of the Review was on generating evidence-based findings and capturing perceptions of WIPO staff, Member States and stakeholders. In line with the TOR for the Review, the process for the collection of relevant data and evidence included the following elements:

- a desk review of relevant WIPO documents and reports;
- interviews with staff from all Programs involved in WIPO development cooperation activities;
- six country case studies (involving field visits to national IP offices and a diversity of government stakeholders);
- consultations with Geneva-based missions;
- a request for comments and input from other stakeholders; and
- a literature review.

Structure of the Report

This report has six Parts. Part 1 sets out the organizational arrangements for the management and provision of development cooperation activities as well as key trends in its distribution. It also provides a descriptive overview of the key elements of ongoing organizational change that are relevant to WIPO development cooperation activities. Part 2 describes and assesses the overall orientation and relevance of WIPO development cooperation activities. Part 3 provides an introduction to the issues of impact. To illustrate and elaborate on findings presented in Parts 2 and 3, Part 4 describes and assesses the relevance, orientation and impact of activities conducted under each of the six pillars (defined above) of WIPO's development cooperation activities. Part 5 describes and assesses the management and cost-efficiency of WIPO's development cooperation activities. Part 6 describes and assesses internal and external coordination in respect of development cooperation. Each Part is followed by a summary of selected recommendations relevant to the issues discussed in that section.

Following is an overview of the Report's key findings regarding the strengths and weaknesses of the orientation, relevance, impact, management, efficiency and coordination of WIPO development cooperation activities for the period under review (2008 to 2010). The findings are followed by a compilation of the Report's recommendations consideration by the WIPO Secretariat, Member States, and the organization's stakeholders.

2. Overview of Key Findings

This section begins with a summary of key trends in WIPO's development cooperation activities. It then summarizes the findings according to each of the core themes for investigation outlined in the Terms of Reference for the External Review, namely: relevance and orientation, impact, management, efficiency and coordination.

Trends in WIPO Development Cooperation Activities

The Review Team found significant shortcomings in WIPO's internal processes for defining, measuring and monitoring the distribution of its budget and expenditure for development cooperation activities. This constrained the Review Team's ability to present a comprehensive picture of trends in the composition of WIPO's development cooperation activities, assess progress in development-orientation over time, or conduct a detailed assessment of impact or cost-efficiency.

For the period under review, the WIPO Secretariat was not able to produce a summary of its development cooperation activities by country, region, topic, objective or expected result with an accompanying breakdown of expenditure. Systematic internal processes for evaluating and reporting on impacts of particular categories of activity were absent. While there is regular reporting on Programs to Member

States in the form of WIPO Program Performance Reports, this occurs at a high level of abstraction and aggregation. Although WIPO has devised an on-line database of its technical assistance activities, this remains at the preliminary stage of implementation and suffers numerous shortcomings (detailed below under Management).

The available estimates from the WIPO Secretariat suggest that the organization's overall spending on development increased marginally in real terms and as a percentage of WIPO's budget during the period under review. However, estimates of the development share of WIPO's activities during the period under Review were based on a vague definition and methodology for calculating what counted as a development cooperation activity. Indeed, during the period under review, there was no common understanding or agreed definitions across the organization of terms such as 'technical assistance', capacity building, development activity or 'development cooperation activity'. As noted also by a 2011 Internal Audit of WIPO Cooperation for Development Activities, conducted by WIPO's Internal Audit and Oversight Division (IAOD) it is thus not certain whether the actual budget share of development cooperation activities is in fact higher or lower than the available estimate.[5]

An examination of WIPO's regular Program and Budget alone does not reflect the totality of resources available to the WIPO Secretariat for its development cooperation activities. While the primary financial source for WIPO's development cooperation activities is the income derived from WIPO's treaty-related services (a portion of which is channelled through WIPO's regular Program and Budget to development activities), additional sources of finance include extra budgetary resources (such as Funds-in-Trust (FITs) for activities in donor countries and third countries) as well as in-kind support and the leveraging of resources through partnerships. There was also an appropriation from WIPO reserve funds for the implementation of the WIPO Development Agenda.[6] Drawing together available evidence, the Review Team total estimated that the total budget that WIPO devoted to development activities from 2008/09 to 2010/11 was over CHF 284 million (see Box 1.2 in Part 1 of this report).

The budget allocations associated with the implementation of CDIP projects represent a growing portion of WIPO's overall budget for development cooperation activities. The financial resources devoted to the 19 approved CDIP projects amounts to CHF 21.9 million (although, as noted in Part 1 of this report, the total figure may be higher if all personnel related costs to these projects are counted).[7] While an important sum, this represents less than 10% of the total WIPO budget for development cooperation activities. From 2008/09 to 2010/11, FITs represented 13 percent of the total estimated budget for WIPO's development activities (i.e., the financial resources for FITS activities are greater than those specifically allocated for Development Agenda projects approved by WIPO's Committee on IP and Development (CDIP)). For some of WIPO's Programs and activities, extra-budgetary FITs were a significant, equal or greater source of resources than those allocated from WIPO's regular Budget. In the period under review, however, none of the extra-budgetary resources associated with FITS were reported in an integrated way alongside or as part of the WIPO Program and Budget, nor was there any systematic reporting to Member States about how FIT-financed activities contribute to the organization's objectives or expected results in the area of development cooperation. Whilst there are efforts underway to leverage new additional extra-budgetary resources and to seek contributions to WIPO or to Member States from other potential donors, such as bilateral development agencies or private philanthropic sources, the Review Team found that these have not yet yielded concrete contributions.

Importantly, WIPO's development cooperation activities are conducted throughout the organization. Indeed, beyond the Development Sector, all of WIPO's seven Sectors are either directly involved in the planning or implementation of some development cooperation activities or indirectly play a support role. Similarly, all but a handful of WIPO's 29 Programs are involved in some aspects of its development cooperation activities. The growth of CDIP activities is also associated with a growing role for WIPO's substantive Sectors in the delivery of development cooperation activities. That said, the Review Team found that the greatest share of the WIPO regular budget that is allocated for development cooperation activities goes toward the activities of Program 9 (e.g., for the work of the Regional Bureaus). The proportion of total resources available to the Regional Bureaus is even higher if the allocations from FITs are added. The regional Bureaus also have the greatest number of staff posts overall devoted to development cooperation activities. As noted above, however, the WIPO Secretariat is not able to produce a total breakdown of region-by-region expenditure that also includes the activities of its other 28 Programs at the regional level.

Development Cooperation amidst Organizational Change

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[5] WIPO (2011), Executive Summary, Draft IAOD Internal Audit Report: Review of Cooperation for Development Activities, WIPO: Geneva.
[6] These funds were originally from the regular WIPO budget. However, internal financial arrangements meant that these could not be carried over to the subsequent biennium, and so they were placed in reserve funds for use in the next fiscal period.
[7] This figure does not include the additional project approved during the 7th session of the CDIP in May 2011.

This External Review occurred at a time when WIPO was undertaking a number of organizational change initiatives. For instance, to implement WIPO's Strategic Realignment Program (SRP), the WIPO Secretariat was working to better align its Programs, organizational structure, internal processes, and resource allocation to increase responsiveness to customers and stakeholders, deliver greater value for money, take stronger responsibility for its performance, and work in an ethical manner. The Review also took place amidst WIPO's efforts to implement and mainstream the WIPO Development Agenda. As such, the many WIPO development cooperation activities are under revision or in a pilot phase. The Review Team notes that the purpose and Recommendations of the WIPO Development Agenda go well beyond WIPO's development cooperation activities to focus on a broader cultural change in how WIPO works across its entire suite of activities and in the balance of the global IP system. This report has not, however, sought to explore the development-orientation of WIPO's other activities, such as norm-setting, or their alignment with the Development Agenda Recommendations. (The CDIP has called for a separate review of the mainstreaming of the Development Agenda throughout WIPO's work at the end of the 2012/13 biennium.)

3. Findings by Theme

Orientation

The overall orientation of WIPO's development cooperation activities is set out in its biennial Program and Budget documents, which rely on input from Member States and the Secretariat and are approved by WIPO's Membership. The approved range of activities thus reflects a combination of the varying priorities of the cross-section of WIPO's Member States as well as the Secretariat. The Secretariat has room, nonetheless, for discretion in the interpretation and implementation of the mandate contained in the Program and Budget, particularly when it comes to designing the substance, format and prioritization of particular activities and workplans for their implementation. The Review Team found that the orientation (and impact) of WIPO's development cooperation activities is also a function of the interest, absorptive capacity, and engagement of beneficiary Member States, as well as their approach to managing their interaction with the WIPO Secretariat. Consultations between the Secretariat and individual Member States in the course of designing and implementing country-specific activities also affect the final orientation of activities.

During the period 2008 to 2010, the Review Team found that WIPO's senior management increased its focus on integrating the WIPO Development Agenda Recommendations into the organization's development cooperation activities. Since 2008/09, for instance, there have been improvements in the degree to which subsequent WIPO Program and Budgets – and the development cooperation activities described therein - reflect attention to the WIPO Development Agenda and its Recommendations, as well as to WIPO's nine Strategic Goals and its results-based management (RBM) framework. There are also a number of respectable plans and efforts at the Program and individual level to improve the development-orientation of some development cooperation activities, spearheaded by the 19 approved CDIP projects. The Review Team also found that the Secretariat is undertaking efforts to achieve an appropriate level of funding for the Development Agenda, although these have not yet translated into additional extra-budgetary resources.

However, the Review Team found that significant challenges remain to translate into action the various plans, principles, stated intentions and expected results in terms of stronger development-orientation. At least four different kinds of challenges were identified.

First, at the institutional level, the Review Team found that WIPO has not yet incorporated a sufficiently clear and broad understanding of the overall purposes of WIPO's development cooperation activities. Nor is there an adequate definition of what 'development-oriented' assistance, as called for in the Development Agenda Recommendations, actually means. To facilitate its own analysis, the Review Team proposed the components of a possible definition, which incorporated and expanded upon elements set out in the TOR for this Review (See Box 2.2 of the Report). According to the TOR, WIPO's assistance is meant to ensure 'that developing countries and least developed countries are able to benefit from the use of IP for economic, cultural and social development.' The TOR for this Review further stated that WIPO's development cooperation activities '…aim at contributing towards the reduction of the knowledge gap and the greater participation of the developing and least-developed countries (LDCs) in deriving benefits from the knowledge economy.' Importantly, the Review Team's analysis of the expected results detailed in the 2010/11 Program and Budget revealed that a relatively small proportion of expected results related to these two objectives. Moreover, according to analysis conducted by the Review Team, less than 15% of WIPO's total proposed budget in the proposed 2012/13 WIPO Program and Budget is allocated for activities related to these two objectives (see Part 3 of this Report on Relevance and Orientation).

The Review Team also found that the culture of collaboration, public engagement and openness to different perspectives on the IP system necessary for improved development-orientation is not yet

institutionalized within WIPO, but rather depends on the particular efforts of individual staff. Many staff interviewed by the Review Team view WIPO's primary role as being the guardian of the international IP system. While this role is clearly one of the organization's core functions, it is also responsible for the pro-IP institutional culture observed within WIPO. While that uncritical pro-IP culture is being tempered by greater consideration of development concerns, the Review Team still found that many staff interpret the Development Agenda narrowly. There needs to be greater guidance and leadership from WIPO Member States and the Secretariat that the WIPO Development Agenda – and the associated calls for shifts in the orientation of development cooperation activities – include, but go beyond, 'IP for development'. The organization should indeed show how IP can work for development, and help countries to achieve that, but it should also not lose sight of the broader intention of the Development Agenda, namely to render WIPO a more effective multilateral forum for critical discussion, debate and problem-solving on issues at the intersection of IP and development and a source of greater assistance to countries in designing, implementing and benefiting from a more balanced framework at the global, regional and national level. In this regard, the Review Team found that while some of the necessary improvements in the development-orientation of WIPO assistance are underway and simply require more time for progress to be realized, there are still areas where more structural and underlying problems in terms of understanding, awareness, openness to different perspectives, and staff motivation need to be addressed.

Second, in terms of the overall balance in the orientation of WIPO's development cooperation activities, a comparison of the 2008/09 Program and Budget and the proposed 2012/13 Program and Budget reveals that the overall orientation of activities and budget allocations for development cooperation activities is shifting. Weaknesses in the way WIPO's Program and Budget document is structured and presented (see Part 1 of this report) meant that the Review Team was not able to clearly establish the relative distribution of resources across the development cooperation activities undertaken by WIPO Programs, Sectors, and divisions. It was not possible to establish where the majority of the development cooperation budget goes and thus to assess whether this distribution adequately reflects the degree of priority particular issues/activities deserve from the point of view of development. This challenge was exacerbated by the fact that a significant proportion of the overall development spending is allocated to Program 9, where the description of activities contained in the Program and Budget documents does not provide any classification or summary of budget allocation by the Bureaus according to particular issues, objectives or expected results.

The Review Team's analysis of the narrative sections of the 2008/09 and 2010/11 Program and Budget documents revealed a strong orientation of WIPO's assistance toward improvements in IP administration, public awareness of the IP system, training administrators of the IP system, and the adoption of legislation across the full spectrum of IP issues, as well as promoting understanding of and accession to WIPO treaties. The Review Team found that the range and intensity of activities in the area of industrial property, and budget allocations, was greater than for copyright and related rights, despite the fact that creative and cultural industries represent one of the strongest potential development areas for many developing countries. While there were WIPO activities to address issues such as geographical indications and traditional knowledge, these were less well resourced than other issues. In the case of TK, the Review Team found, for instance, that the diversity of activities underway was broad but the resources available for implementation and follow up were limited. The 2010/11 Program and Budget document suggests that the scale and intensity of WIPO development activities on global public policy issues, rebalancing the IP system to reflect development priorities, research on IP and development, and reducing the knowledge gap through technology transfer and access to knowledge do not yet properly reflect the degree of priority that developing country Member States accord to them (as indicated, for instance, by priorities expressed by those Member States that responded to the Review Team's survey of beneficiary countries).

The Review Team's analysis of the two relevant Program and Budget documents (i.e., 2008/09 and 2010/11) further revealed WIPO's portfolio of activities to be stronger in terms of assisting developing countries to derive broader benefits from the global IP system, than it was to help them with the flip-side of the same agenda – to lower the costs developing countries and their stakeholders face in using the IP system. There were relatively few activities, for instance, that clearly contributed to goals such as: a) the use of TRIPs flexibilities; b) promoting access to medicines and education; c) enlarging the public domain; d) ensuring efforts to address counterfeiting and piracy are aligned with national needs and conditions; e) the alignment of IP laws with efforts to protect natural resources, cultural expressions or TK and genetic resources from unfair use; and/or f) the promotion of competition in the area of IP. There was also a low overall emphasis on development cooperation activities that would directly contribute to the goal of reducing the knowledge gap, such as for instance activities that would help countries to: a) attract, absorb, learn from and produce technologies and/or promote affordable access to knowledge that could contribute to local innovation processes; b) promote the coherence of IP policies and other areas of national public policy; c) make practical use of various exemptions or sui generis legal/policy options that would improve access to foreign technologies and/or manage the degree of protection they receive; d) support developing

countries to protect their knowledge, creative products or technologies in international markets and to enforce their rights in other jurisdictions; and e) establish and use mechanisms that could improve balance in national IP systems, such as those related to pre- and post-opposition to patents.

Third, the Review Team found that weaknesses in the development relevance and orientation of WIPO's activities were closely linked to its planning processes. While beneficiary countries were involved in the design and implementation of activities in their country, the relationship between the country-level planning process (bottom up) and WIPO's organization-wide planning processes (top-down) was weak. Further, for most countries, the Review Team found that there was no systematic process of needs assessment, priority-setting or yearly or strategic multi-year planning of WIPO's activities. In the absence of IP strategies or the determination by beneficiaries of their priorities for WIPO assistance, development activities were undertaken on an ad-hoc, request-driven basis (usually in response to requests from IP offices) or were driven by the workplans of WIPO´s Programs and those associated with WIPO FITs. In 2011, the Development Sector is embarking for the first time on designing a template for use by all the Bureaus for country planning and IAOD will conduct its first country-level evaluation of WIPO's assistance in the form of a Country Portfolio Evaluation (CPE) of Kenya.

The Review Team also found confusion among Member States and within the Secretariat about the meaning of the term 'demand-driven'. *Development-oriented* demand-driven assistance is that which is aligned with national development needs. This in turn requires a dialogue between national beneficiaries and the WIPO Secretariat about national development strategies, priorities and needs and about WIPO's obligations to advance the Development Agenda. Too often, staff interpret the term 'demand-driven' to mean that they are obliged to respond to Member State requests, even where links to national needs or the WIPO Development Agenda are unclear, or where activities are not likely to be cost-efficient or yield impact. 'Request'-driven assistance is not nessarily, however, commensurate with development-oriented assistance. The Review Team found that perceptions among staff that they should 'never say no' to requests contribute to problems of morale and motivation - ranging from frustration to complacency among some staff in respect of their sense of accountability for outcomes. WIPO development cooperation activities should properly be seen by both parties as an ongoing partnership where mutual contributions are required for activities to be successful. The Review Team found that there is inadequate discussion between WIPO staff and Member States on the risks associated with activities or the local conditions and requirements that would facilitate or constrain the success of activities (even where WIPO staff are well aware of the constraints).

The Review Team also found examples where the activities provided resulted from offers or suggestions from the WIPO Secretariat, which was accepted by beneficiary Member States, rather than the other way round. Further, in the case of workshops and conferences undertaken at the regional or sub-regional level, beneficiary countries exerted less influence on the structure and content of the program and speakers, deferring more to the WIPO Secretariat to take the lead on preparation, than was the case for national-level activities. This is not to say that such regional activities were never useful or that the WIPO Secretariat should be prevented from proposing activities. Rather, the point is the need for transparency about the origins of Secretariat proposals for activities at the regional level, a clear relationship to broader strategic planning, results-management and priority-setting processes at the country and organization-level, and opportunities for Member States and stakeholders to provide input to ensure the appropriate development-orientation of activities.

Fourth, the Review Team found that progress in mainstreaming of the Development Agenda Recommendations is uneven at the implementation level, particularly in terms of the design of Program workplans and the conduct of concrete development activities. While the 19 CDIP projects underway represent a key force for change (which is not surprising given that they emerge from CDIP discussions intended to help guide the transformation of WIPO's overall development orientation), they account for only a small proportion of the overall budget devoted WIPO's development coopration activities and, at the time this review was completed, it remained too early to judge their outcomes. Following is a selection of examples of challenges at the implementation- and activity-level derived from the Review Team's Pillar-by-Pillar examination of WIPO development cooperation activities (see Part 4 of this report).

In regard to WIPO's assistance to countries for the formulation of national IP strategies, for instance, the Review Team found that the Secretariat does not yet use a satisfactory methodology for assisting developing countries to assess their development needs, IP capabilities and appropriate strategies.[8] While WIPO is concurrently developing at least two such methodologies (see Part 4.2 of this Report), both remain in the early stages of implementation. Meanwhile, beyond the pilot strategies being pursued as part of a CDIP project on IP Strategies, an ad hoc approach to support for IP strategies exists. The Review Team

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[8] WIPO has developed and used an 'Audit Tool', which is essentially a questionnaire for IP offices to assess their needs, but this has not been comprehensively used.

found several shortcomings in the development orientation of the tools that form the basis of the CDIP project, but noted that the responsible staff demonstrate a strong commitment to revising the methodology in light of lessons learned as the project unfolds. The Review Team observes that the development-relevance of the two IP strategy projects will demand active engagement with a diversity of external stakeholders and expert (e.g., including, for instance, the WTO, WHO, UNCTAD, development agencies, and NGOs) and consistent internal coordination on the substantive and procedural aspects of each project.

In terms of WIPO's support for legislative, regulatory and policy frameworks in developing countries, the Review Team's efforts to evaluate the development orientation of WIPO's legislative advice (e.g., such as evidence of incorporation of advice on flexibilities in international treaties) were thwarted by the confidentiality of WIPO's country-specific legislative advice. The Review Team found that WIPO no longer uses model laws as a basis for its legislative assistance to countries. Evidence gathered by the Review Team showed that support related to legislative systems in developing countries is not only provided through specific legal advice, but also through seminars and through WIPO supported IP plans and strategies. In these cases, the Review Team found that when discussing international treaties, the orientation of plans was toward promoting accession to international treaties administered by WIPO. While the importance of flexibilities was noted, practical and proactive advice on how to use such opportunities was limited. The Review Team found that WIPO provided only sporadic advice, on request, to developing countries on ongoing international negotiations, multilateral or bilateral, or the implementation of bilateral agreements (although some advice is provided with all of the countries' obligations in mind). While some countries did seek and receive advice on the implementation of IP provisions in bilateral FTAs, WIPO did not provide assistance in examining the possible development impacts of these or any other international IP negotiations or implementation options.

In terms of activities to enhance support systems for users of the IP system, the Review Team found that there is a gradual move toward greater support for the use of 'IP for development.' However, the integration of critical development perspective to the conceptualization and planning of such activities is often missing. There Review Team found, for instance, inadequate attention to assessment of the needs of a diversity of potential users and stakeholders at the national level, and to strategic prioritization among them based on development priorities. Without such assessments, the focus remains on promoting the use and usefulness of the system to existing and potential IP right-holders in developing countries. While this may be an important priority for some countries, there is a need also for greater attention to activities that might help governments and other national stakeholders address the challenges of ensuring a balanced and development-oriented IP legislative, regulatory or policy framework.

With regard to WIPO support for the modernization of IP office infrastructure in developing countries, the Review Team found that the focus of WIPO activities was stronger in the area of patents and trademarks, than for areas that some countries indicated were of higher priority, such as copyright and creative industries, traditional knowledge, and industrial designs. Further, attention to modernization activities that focused on supporting collaboration, information-sharing and coordination among developing countries was low as a proportion of the overall activities underway.

A final aspect of orientation considered by the Review Team was the degree and diversity of external stakeholder engagement in the provision of WIPO assistance and as its beneficiaries. The Review Team found that the diversity of recipients at the national level is steadily growing – and include stakeholders ranging from universities and SMEs to indigenous communities and Ministries of Science and Technology. However, the dominant beneficiaries and participants in activities at the national level remained national IP offices and organizations representing the interests of IP-right holders and legal community. Recipients from civil society and NGO communities were much less prevalent. Part 4.2.2 of this Report notes that WIPO's global events predominantly featured speakers from IP offices, IP right-holders, the IP legal community, and other industry-related stakeholders. The Review Team also found individual examples where assistance activites were sub-contracted to consultants and other providers known also to be funded by or to conduct work primarily for the benefit of developed country industry clients. No examples were found of similar arrangements with developing country research institutes or civil society organizations for the provision of WIPO assistance (although the Review Team acknowledge that individual consultants that work with NGOs or developing country research institutes have been contracted for certain activities). In the absence of greater disclosure of the substantive content of particular activities (such as the content of legislative assistance and presentations made in national and global events) or a mapping of the degree to which different stakeholders are involved across the spectrum of WIPO's development cooperation activities, the Review Team could neither confirm nor rule out problems associated with disproportionate influence of particular companies, international industry associations, or right holders organizations on the orientation of assistance.

Impact

WIPO's portfolio of development cooperation activities comprises a vast number of individual activities and projects, with a diversity of outputs on a broad number of issues for the benefit of a range of stakeholders. The Review Team's survey results and country visits affirm that most national IP offices consider support from WIPO and other developed country donors to be very important for their operations.[9]

Even where the overall amounts of money spent are small relative to larger scale development agencies, he impact of WIPO's work to modernize IP systems in developing countries is significant, particularly in terms of legislative and regulatory frameworks. In this respect, the level of resources allocated for particular development cooperation activities is not necessarily indicative of the scale of impact they may have on development outcomes. For instance, while the provision of legislative and policy advice generally requires relatively small resources (i.e., compared to activities to modernize IP office infrastructure), the use of such advice may have long-run and deep implications for the distribution of costs and benefits of the IP system within and across countries.

The Review Team's ability to offer an assessment of the impact of WIPO's activities on developing countries was hindered by the absence of systematic monitoring, reporting and evaluation of the impact of WIPO's development cooperation activities against their expected results by category of activity or by country during the period under Review. It was thus also not possible for the Review Team to make any independent comparative assessment of the impact of activities over time.

Evaluation of WIPO's performance in this respect was further complicated by the absence of a systematic information management system where detailed information on the content of projects is provided. While some information was available in the Program and Budget documents, and the Program Performance Reports, these documents do not provide activity-specific information and are at a high level of generality. A further source of information was the annual WIPO report to the WTO TRIPS Council on its activities relevant to the implementation of the TRIPS Agreement. However, neither this report nor WIPO's new Technical Assistance Database provide anything beyond a basic description of information (such as the title, date and location of the activities). Together, these sources still fail to provide the level of detailed information on WIPO's activities by objective, content, expected results, country, region or topic, nor on the related expenditures. In short, there is a limited empirical basis for impact assessment, effective management, monitoring of progress or critical evaluation by the Organization, its Member States or stakeholders.

The Review Team found that WIPO staff increasingly understand the need to measure impact and to demonstrate the development outcomes of their activities, but that the challenges in this respect are high. WIPO generally did not have adequate data from the national level to assess impact in short or long-term. The Review Team also found a lack of clarity within the organization about what 'development impact' means at different levels and for the diverse range of activities in which WIPO is involved.

On this point, the Review Team observes that there are considerable empirical, methodological and conceptual challenges to evaluating the relationship between IP systems and development, and the role of development assistance. The attribution of impact to particular development cooperation activities is fraught with risks of over-attribution as well as under-acknowledgement of unpredicted challenges or circumstances for which the organization is not responsible. Further, for many development cooperation projects and activities, there is not necessarily a direct and straight line relation between particular activities and ultimate impact, and impact can be assessed at many different levels. The focus could be on the macro, sectoral or micro level; the short or long-term; or on the extent to which activities produce concrete impacts on national development indicators at the aggregate level (such as the level of GDP per capita or FDI) or on specific socio-economic indicators (such as access to public health or education levels). There is also a need for different kinds of measures and indicators of impact according to the varying purposes of interventions (e..g., institutional change, balanced legislative frameworks, public awareness, the capacity of users, the quality of national expertise on IP issues, or an enabling regulatory environment for the realization of development goals). To date, the Review Team found that WIPO lacks the relevant diversity of methodologies and tools to help countries measure the impact of changes in IP policies and laws on development and other strategic objectives, or to properly assess how its development cooperation activities may influence the achievement of such impacts.

The Review Team found that the focus of any internal assessments that do take place is generally on the short-term results (e.g., over two years), not long-term or cumulative impact. For instance, in the area of training, although WIPO's training activities appear to be highly appreciated by Member States and the Secretariat is able to list a great number of individuals and institutions that have received training, the ultimate development impact sof these activities is not well explained or monitored. For instance, WIPO conducts a number of trainings to increase in the number of patent examiners in developing countries, but there is no evaluation of whether such training has made a difference in terms of, for example, the ability of

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[9] Deere (2008), and Leesti and Pengelly (2002).

the recipient country to process a broader range of applications or to do so more efficiently. The Review Team's country visits revealed that a number of seminars, professional training and activities, conferences were not properly adapted to the specific needs of recipients, and there was a lack of follow up to ensure usefulness and exploitation of any benefits.

In addition to the challenges that inadequate needs assessment posed to the prospect of development impact, the Review Team found evidence of variation in the degree of local ownership of activities, attention to the sustainability of results, and follow-up on the part of the WIPO Secretariat.

Management

The Review Team found that the management and oversight of development cooperation activities by the WIPO Secretariat and its Member States was poor in the period under review.

As noted above, the WIPO Secretariat was not able to provide meaningful summaries or evaluations of development cooperation activities, budgets or expenditure by country, region or expected results for the period under Review. Further, for the 2008/09 and 2010/11 Program and Budgets, WIPO lacked an adequate definition of what counted as a development cooperation activity for the purposes of the Program and Budget process. Effective monitoring and evaluation mechanisms for development cooperation activities were not in place. Indeed, effective monitoring and evaluation were impossible in the absence of an effective information management system for maintaining an updated, substantive information about the activities completed, underway and planned, the associated budgets and expenditures (personnel and non-personnel) or the content, impacts and evaluation. This poor management frustrated efforts to promote a strong development-oriented results based-framework at the institutional, Program and country level and undermined efforts to improve the development orientation, impact and cost-efficiency of WIPO's development cooperation activities or to monitor progress made in regard to the 19 Development Agenda Recommendations for immediate implementation.

For the period under review, many Programs had not yet devised appropriate expected results and the monitoring of such results was frustrated by poor data gathering at national and institutional level. Even where data on the results of activities was gathered, there were methodological challenges in discerning the causal links between WIPO's specific activities and immediate results, and measuring the relationship between such results and longer-term development impacts. The Review Team also notes that WIPO has not yet devised RBM frameworks for its development activities at the country or regional level.

While the WIPO Member States approved WIPO's Program and Budgets during the period under Review, they were not provided an adequate strategic overview of WIPO's development cooperation priorities, activities and budget allocation. In light of weak reporting, monitoring and evaluation, the Review Team found that it was not possible for WIPO Senior Management or Member States to provide effective oversight of WIPO's development cooperation activities. Transparency and accountability were thus weak. For the period under review, WIPO Member States could and some did provide input to the WIPO Secretariat on development activities through the Program and Budget Committee's processes, such as through feedback and comments on the draft Program and Budget documents and on Program Performance Reports. However, there was (and remains) an absence of clarity about the appropriate forum and opportunities for Member States to perform an oversight function of WIPO's development activities on an ongoing basis. WIPO's Program and Budget Committee is invited to comment and provide input on WIPO's draft Program and Budget, and the Program Performance Reports, but these do not provide specific reference or details on development assistance as a whole, whether by region, country, topic or orientation. Moreover, a review of Program and Budget Committee meeting records reveals, however, that there was little substantive discussion of the overall strategic direction and content of development cooperation activities in the Program and Budget Committee. Similarly, while the CDIP discusses issues related to the alignment of WIPO's development cooperation activities with the Development Agenda Recommendations, and has approved specific projects, it is not involved in the planning or assessment of the development cooperation activities of the organization as a whole on a regular basis (although it did call for this External Review). The Review Team notes that some WIPO bodies (such as the PCT Working Group) are discussing how and where to best review the organization's patent-related development cooperation activities.

Important efforts to improve WIPO's RBM framework and its implementation were underway in the latter part of the period under Review and represent a significant step in the right direction. At the organizational level, the Review Team found evidence of a comprehensive and serious effort on the part of the organization's Senior Management to boost consistency between strategic outcomes and outcome indicators at the organizational level. Similar efforts were underway at the Program and Budget level in terms of the quality of expected results, performance indicators and baselines. Some of these efforts at the Program and Budget are reflected in the proposed 2012/13 Program and Budget. As the organization's work to implement its results-based framework advances, there will be an ongoing need for the WIPO

Secretariat, its Member States, stakeholders and experts to refine and update expected results and appropriate baselines and performance indicators for their measurement. Given the outstanding challenges with the overall orientation of WIPO's assistance described above, this task must be recognized as being about more than incremental improvements or cosmetic changes in language or buzz-words used, but needs to be associated with substantive shifts in thinking among staff and with external collaborators on how to design and implement long-term activities that will improve the development-orientation and outcomes of IP systems. Addditional challenges remain in terms of strengthening the RBM framework to monitor performance and results at the evaluation level and to devise appropriate tools for reporting to stakeholders at the end of the results chain.

The Review Team also found inadequate use by the WIPO Secretariat of project management tools for planning, design and implementation of activities. Beneficiaries of WIPO assistance were not necessarily experienced with the use of project management and monitoring tools. Indeed, such tools sometimes overwhelm the capacity of offices charged with using the diversity of tools deployed by different donors to review the relevance and impact of projects. On the Secretariat side, the introduction of Progress Reports on individual WIPO CDIP Projects represent important foundations for building a culture of greater accountability for results within the organization and should be more widely adopted across the organization.

The Review Team found evidence of problems with the timely implementation and completion of WIPO development cooperation activities. These difficulties highlighted inadequate assessment and discussion by the WIPO Secretariat and beneficiary Member States of the risks associated with proposed development cooperation activities, country preparedness, institutional and resource constraints in beneficiary countries, and absorptive capacity. Although many recipients at the national level reported that they enjoy good communications with the WIPO Secretariat, the Review Team found that this interaction too rarely involved frank exchanges and dialogue on potential challenges with activities, thus limiting the scope for these to be foreseen or anticipated at the outset. The Review Team also found that the effectiveness of projects was undermined by short time-frames for implementation. Many activities were either one-off or were conceived on a 1 to 2 year time-frame, whereas they should properly have been designed as part of a longer term 3-5 year process, with several phases.

In some areas, the Review Team found that WIPO was trying to do too much with too little staff, capacity or expertise. While some use of outside expertise may be appropriate, particularly where specific local knowledge or technical skills are needed, the Review Team found an over-reliance on consultants to fill gaps where the organization should properly be investing resources in more appropriately qualified staff and that the organization does not always have the ability to properly supervise the quality or orientation of consultants' work.

The Review Team found uncertainty on the part of Member States about the appropriate contact people within the Secretariat for development cooperation activities. Conversely, it also found uncertainty on the part of the WIPO Secretariat about the appropriate national focal point in beneficiary countries. For many of WIPO's development cooperation activities, national IP offices were the core beneficiaries. Indeed, IP offices have traditionally been WIPO's core interlocutors and remain their main focal points in Member States' capitals. The Review Team found that WIPO Secretariat staff widely favoured focusing their interactions on national IP offices as their core 'clients', which they consider to be 'closest to the ground' and to national needs, particularly compared to Geneva-based missions charged with representing national interests. That said, the Review observed that WIPO is working to broaden its relationships at the national level, particularly by reaching out to Ministers at the national level and Geneva-based Ambassadors.

The Review Team found that country IP offices did not have a clear overview of what support other parts of their governments or national stakeholders received from WIPO. There was often, for instance, weak communication between IP offices on the one hand, and foreign affairs and trade ministries that are often responsible for international IP negotiations and diplomacy at WIPO on the other. Similarly, there were often weak contacts between IP officials and other government officials charged with broader economic development planning either within their Ministry or beyond. In most beneficiary countries, governments lack effective processes for internal coordination on IP decision-making and the quality of stakeholder consultation or engagement varies, although the number of countries establishing committees for these purposes is growing steadily. In the meantime, IP-related development assistance is often requested in a silo, separate from other development cooperation activities.

The Review Team also found that there has been inadequate attention to the broader *public* transparency of the organization's development activities, which is important for the purposes of external evaluation, learning, credibility and accountability. WIPO's website was not, for instance, properly harnessed, maintained or updated to serve either as an effective instrument for communication about WIPOs development assistance activities, as a platform for collaboration or critical evaluation, or as a source of technical assistance and resources for potential beneficiaries.

Cost Efficiency

The Review Team identified a number of factors that unduly raised the cost of WIPO development cooperation activities, including inadequate use of project planning tools, weak attention to cost-considerations, duplication, institutional bottlenecks or procedures, and inadequate access to qualified staff or consultants for some activities. WIPO's financial reporting methodology for the period 2008-2011 did not facilitate an analysis of the extent to which certain modes of delivery of development cooperation activities are used, the relative resources devoted to them, and their cost-effectiveness. The Program and Budget documents and Financial Management Reports during the period under review presented an overview of WIPO's budget 'by object of expenditure.' The categories that defined objects of expenditure were not, however, well aligned with the kinds of modes of delivery used by the organization for its development cooperation activities. The information the Review Team could glean about the proportion of activities offered via particular modes of delivery and their cost-effectiveness was thus minimal.

The Review Team found that many WIPO staff complain of lack of resources (personnel and/or non-personnel) for achieving results. Without an in-depth activity-by-activity evaluation it was not possible to determine how accurate these complaints are and how resources could be better allocated.

Internal Coordination

The WIPO Secretariat faces difficulties ensuring internal coordination of the diversity of development cooperation activities undertaken by different Sectors and Programs of the organization. A core challenge during the period under Review was the limited use of systematic needs assessments, national IP and development strategies, or country plans to set the framework for WIPO's assistance at the country level. Further, the role and responsibilities of the various Programs and Sectors for liaising with Member States, implementing activities, monitoring and evaluating progress toward objectives and expected results, and ensuring follow up were not well defined. In addition, the internal mechanisms for promoting coordination and collaboration were inadequate.

The Review Team's Pillar-by-pillar review of WIPO's development cooperation activities revealed examples of duplication. The Review also revealed equally significant challenges of failures to harness adequately the potential synergies between activities. Shared responsibility for Programs need not necessarily be a problem if roles and responsibilities are clear, and coordination is high. However, there was not often the case in the period under Review. There was too little direct knowledge among staff about the activities of other Programs and Sectors in related areas or about concurrent activities within the same country. The Review Team found inadequate connections between assistance delivered by Regional Bureaus, WIPO's external offices and the substantive Sectors. There was inadequate strategic clarity about the roles, responsibilities and accountability of the external offices in the delivery of development cooperation activities, and whether and what their comparative advantages might be. As noted above, the implementation of CDIP projects has already set in motion a shift toward the substantive sectors in implementation of activities (i.e., the Development Sector does not implement most CDIP projects, although many are implemented collaboratively).

As this Review was being concluded, important efforts were underway in the context of the proposed 2012/13 Program and Budget to streamline planning to clarify the roles and responsibilities of WIPO's Sectors for realising the objectives and expected results of each Program, and of those working on particular Programs in contributing to the Strategic Goals of the organization. The remaining challenge is to put management mechanisms in place to ensure that coordination occurs in practice, both for the design and the implementation of WIPO's Programs.

External Coordination

The Review Team found variation in the degree and effectiveness of WIPO's coordination with other international organizations, donors and stakeholders in regard to its development cooperation activities. Overall, there was inadequate strategic thinking on the part of Member States or the Secretariat on the diversity of external partnerships and collaborations needed to fulfill the Development Agenda mandate. The Review Team did not find evidence of systematic mapping by any Program that undertook technical assistance activities of other relevant actors and potential collaborators, or competitors, in the field.

The Review Team found important examples of collaboration pertinent to advancing the organization's development goals on some issues. Nevertheless, it also found many instances where there was too little effort to benefit from or learn from similar activities underway by other providers of assistance. In the absence of collaborations and partnerships with an adequate diversity of national development cooperation agencies, international organizations, and stakeholders, WIPO has not been able to learn and benefit from their experience, share information, data and expertise or to build synergies with their programming at the national, regional, or issue-level. In short, in its efforts to become more development-oriented, WIPO has

been missing the opportunity to benefit from the experience of the broader international development community. The Review Team acknowledges, however, that WIPO alone cannot be held responsible for cases where coordination is weak, as there is a need for interest in coordination and collaboration to be expressed by other actors.

The Review Team found that even where collaboration with certain international organizations and donors at the institutional level has been improving (e.g., among Secretariats of international organizations on certain global events), this did not necessarily extend to activities at the national level, where a multiplicity of donors, sometimes with competing views, were active in advising or supporting countries on similar areas of activity. Member States with limited absorptive capacity sometimes received a series of disjointed activities from multiple actors. The absence of country plans for assistance, made it difficult for WIPO or the Member State to consult with multiple partners on the appropriate division of labour and/or partnerships on potential activities. Instead, the Review Team found evidence of duplication and overlap with other actors, particularly national or regional IP offices that have their own development assistance budgets and programs. A further implication was that the organization was not able to benefit from work already conducted by others. This problem was particularly prominent in the area of training, but also in office modernization, needs assessment and the development of IP strategies and policies. For instance, the Review Team found no efforts to collaborate with other international agencies on the formulation of methodologies and implementation of activities related to national needs assessments and IP strategies for development.

During the period under review, a primary focus of WIPO's efforts to forge partnerships was on resource-mobilization, both to boost funds for WIPO's activities and to help Member States directly access funding to meet their national needs. While important, these resource mobilization efforts should not overshadow the need for WIPO to pursue partnerships with the purpose of supporting, learning from, or collaborating with the diversity of other donors and stakeholders active in providing development assistance to developing countries on IP-related needs, and on related areas of public policy, such as public health, innovation, science and technology.

The Review Team found that WIPO's engagement with stakeholders on development cooperation activities varied according to the issue (e.g., indigenous knowledge, public health, industrial designs, and cultural industries) and type of activity (e.g., events, trainings, national seminars). Overall, there was greater evidence of WIPO's engagement with IP right-holders, their associations and private sector IP experts than with civil society actors (e.g., consumer rights, public health, library, development actors or public interest lawyers), research institutes and universities, particularly those from developing countries. WIPO engaged regularly as a participant and a co-sponsor of events with organizations such as the International Chamber of Commerce and various right-holders organizations. By contrast, WIPO had relatively little collaboration with several international organizations (such as UNDP, the South Centre, UNCTAD) and civil society groups active in promoting development-oriented approaches to IP policy and practices (such as the International Centre for Trade and Sustainable Development, Third World Network and Knowledge Ecology International). For such organizations, WIPO's interaction was generally limited to participating or speaking at their events where invited. The implication of WIPO's weak engagement with a range of international and national stakeholders and potential partners in the implementation of development cooperation activities is that countries do not benefit from a diversity of expertise, experience and views. In short, the WIPO Secretariat has significant scope to forge and sustain a greater diversity of partnerships and to pursue these more systematically to improve its development cooperation activities.

4. Summary of Recommendations

The recommendations set forth in this Report draw from the Review Team's findings, as well as the input of Member States conveyed through the survey responses and recommendations gathered in the course of country visits and consultations, a public consultation process, and interviews with WIPO staff.

The recommendations are offered to spur reflection and debate within and between the WIPO Secretariat, its Member States and stakeholders.They are divided into three main sections: (i) recommendations related to each of the core themes highlighted in the Review TOR; (ii) recommendations for each of the six Pillars of WIPO development cooperation activities analysed in this Report; and (iii) recommendations specifically for beneficiary countries. Please note that the recommendations for each of the six Pillars also include recommendations related to the themes highlighted in the Review TOR.

Many of the recommendations presented call for improvements in the internal processes of planning and management that impact the orientation, impacts and results of WIPO development cooperation activities, and would not require any additional resources. Some recommendations represent opportunities for cost savings and could significantly mitigate problems of resource wastage that might otherwise occur if not implemented. There are also some recommendations where new resources would need to be allocated for their implementation.

5. Selected Recommendations by Theme

Recommendations in this section cover the five key themes covered by the TOR for this Review: (i) relevance and orientation; (ii) impact; (iii) management; (iv) cost-efficiency; and (v) internal and external coordination.

Relevance and Orientation

Integration of Development Agenda Principles, Guidelines and Best Practices

The Development Agenda provides clear guidance on the principles that should guide WIPO's development cooperation activities, namely that it should be development-oriented, demand-driven, flexible, and be adapted to the different interests, socio-economic realities and levels of development of Member States (see in particular Cluster A of the Development Agenda Recommendations). The challenge now is to **ensure that progress achieved in integrating Development Agenda priorities and principles at the planning level is translated into better results at the implementation level.**

Improve the Development-orientation of Activities

WIPO's development cooperation activities should **adhere to widely accepted principles, guidelines and best practices in the broader field of development cooperation (such as the OECD's Paris Principles)**. All WIPO staff and consultants involved in development cooperation activities should be informed about and follow these principles and best practices. They should also be engaged in ongoing training on key developments in the broader realm of development assistance.

The WIPO Secretariat should devise "development guidelines" providing specific detail on how to plan and implement more development-oriented assistance, both in terms of substance and process, based on the Development Agenda principles. These development guidelines should be supplemented by a specific manual that details best practices and appropriate content for each of the main topics and modes of delivery of IP-related cooperation. The development guidelines should be used by all Programs and stakeholders engaged in WIPO development cooperation activities, including consultants, along with a Code of Ethics for individual providers and experts, whether WIPO staff, consultants or unpaid speakers/experts (discussed in Part 5 of this Report on Management).

The expected results set out in WIPO's Program and Budget need further refinement to address explicitly the different components of development orientation (e.g., such as those set out in Box 2.2 of this Report) are integrated across WIPO´s Programs, projects and activities.

The WIPO Secretariat and its Member States should refine and reorient the organization's Strategic Goals, outcomes and outcome indicators in the MTSP to reflect a comprehensive conception of development-orientation. In particular, these should better reflect the two core objectives of WIPO's development cooperation activities as stated in the TOR for this Review (i.e., reducing the knowledge gap and increasing the participation of developing countries in the benefits of the IP system – and reducing its costs). The importance of Programs and activities devoted to these two objectives should be more visible within the organizational hierarchy and budget of WIPO, and in the activities undertaken at country and regional level. A working group could be established to elaborate a paper on strategies to advance progress in these two areas.

Improve Prioritization and Balance of Activities Undertaken

The WIPO Secretariat and its Member States need to **devise clearer objectives and priorities for its development cooperation activities, a process for prioritization of activities, and criteria for determining what activities fall within those priorities.** Internal processes for the prioritization of activities by Program, expected results, and Country, and the allocation of the regular funds in the Program and Budget process should be more transparent. There is a need for greater attention to integrating and streamlining development goals and *priorities* across WIPO´s various Programs from the top down through the Program and Budget process, and from the bottom up by ensuring that the overarching organization-wide Programs, development cooperation activities and priorities are informed by and aligned with country needs and priorities.

There are six potential sources of input into the prioritization and planning of development cooperation activities that need to be integrated. First, the country needs assessment and planning processes should bring a 'bottom-'up' perspective on an iterative basis, including to priority-setting for the Program and Budget processes.Second, the Program and Budget process should focus more on the identification of core priorities and their integration into Programs. Third, the WIPO Development Agenda's vision about the role of WIPO in IP and development should be incorporated. Fourth, the results of improved evaluation processes (discussed below) should generate lessons about priorities and successful activities that should be reflected in future planning. Fifth, the WIPO CDIP can play a role in identifying and proposing projects

and activities. The CDIP could, for instance, establish an "expert group' on development issues to advise the Secretariat and Member States on cross-national initiatives to promote a more balanced IP system and complement country-based, demand-driven proposals.

Integrate Budgets and Planning for all Development Cooperation Activities

A key prerequisite for such prioritization is for all development activities and resources to be integrated into WIPO's regular Program and Budget process. **Activities supported by Funds-in-Trust (FITs) and associated resources should be reflected in WIPO's regular budget, programming and reporting processes.** Activities supported by FITs should also be integrated into the country planning process. WIPO should adopt guidelines to ensure the alignment of FITs activities with the development goals, priorities, and expected results outlined through WIPO's Program and Budget Process and RBM Framework. There is a need to ensure greater member state oversight of the content of FITS workplans and their evaluation. The creation of multi-donor funds on particular topics, rather than individual funds for each donor should be considered.

The prioritization process demands **greater reflection about WIPO's comparative advantage among the community of donors and providers of IP-related development assistance, the strategic role of the organization and the modalities that it is best positioned to use.** Questions for consideration include: How much should WIPO's focus be on implementation of activities at the national level versus facilitating the coordination of activities among many donors or brokering access to new resources at the request of Member States? To what extent should WIPO serve as a training institute and where should its priorities lie? To what extent can and should the organization build and diversify its in-house expertise to address the expanding range of demands it faces? To what degree should its work be outsourced to consultants or conducted through institutional partnerships?

Improve Demand Management, Partnership and Outreach for Development Cooperation

Development cooperation activities should be conceived as a *partnership* between the WIPO Secretariat and beneficiary Member States. Governments need to clearly define and communicate to WIPO their preferences in terms of the key focal point between their government and WIPO for development cooperation activities. This is increasingly important because as the scope of WIPO's development cooperation activities grows, the beneficiaries at the national level will further multiply and evolve. For some activities, they may be a need for greater flexibility in the use of channels of communication and focal points at the national level. This will boost the need for coordination by national governments to ensure the overall coordination and impact of the portfolio of WIPO's activities in a country. The role of Geneva-based missions in the process of communicating national needs and priorities, and in liaising with WIPO on the details of assistance, warrants more careful definition by countries. The challenge is to link the local knowledge of national needs that emerges from government ministries and stakeholders in capital with the political expertise, strategic overview and experience of international organizations that is the comparative advantage of Ministries of Foreign Affairs and Geneva-based missions.

The WIPO Secretariat needs to **improve outreach and guidance to Member States on the range of development cooperation activities** it offers. A 'menu' or catalogue of development cooperation activities should be made available to help countries discern the scope of possible activities that might feature in their country plans. This guide should detail what kinds of development cooperation activities that WIPO provides (e.g., by region and Program), the process for requesting assistance, the time-frame for receiving requested assistance, possible modes of cooperation (e.g., one-off or multi-year projects, overarching cooperative agreements that combine several activities, country plans, etc), and the appropriate focal points within WIPO. The guidelines should provide advice on whether assistance can be at the regional, national, district or city level, the kinds of stakeholders at the national level that can request assistance and through what channels; and the process for engaging other providers, donors, or experts in the activities. In addition, the guidelines should set out the process for monitoring and evaluating country-level activities and considerations in respect of country-preparedness, such as absorptive capacity, risks, and matching resources required. Finally, the guidelines should indicate the processes by which Member States can guide the overall planning and prioritization of WIPO development cooperation activities. The guidelines should be reviewed, updated on an annual basis, and made prominently available on WIPO's website.

The **meaning of the term demand-driven needs clarification**. The emphasis on demand-driven development cooperation activities does not mean the WIPO Secretariat should be passive in the face of requests for assistance that are conveyed in the absence of needs assessments, that are inconsistent with national development needs or with the WIPO Development Agenda, or that are not cost-effective or sustainable. WIPO's development cooperation must be based on a dialogue in the context of national development needs and strategies and WIPO's obligations to advance the Development Agenda. The focus of WIPO's development cooperation activities should not be on 'responding to requests' but rather on promoting a dialogue with and among member states about needs and priorities and the appropriateness of different kinds of assistance given a country's level of development, preparedness, absorptive capacity

and risks, as well as the competing demands on WIPO's resources and its obligations to advance the WIPO Development Agenda. Staff should address obstacles and risks frankly with national authorities so that expected outcomes and results are realistic. Stronger efforts should be made to identify options and discuss alternatives; where such activities are beyond the scope of those WIPO is in a position to undertake, the Secretariat should help countries identify alternative providers.

WIPO Member States and the Secretariat should **consider whether WIPO's development cooperation activities offerings need to be altered, supplemented or complemented to address the needs of particular categories of countries** (in addition to the LDC category already in use). It would be useful to consider groupings that acknowledge the commonalities that can exist between, for instance, small versus large IP offices, countries with or without search and examination capabilities (for industrial property), and large emerging countries versus middle income developing countries. These groupings could be useful to help the organization learn lessons across countries on some issues and to devise appropriate versions of their activities to align with those specificities. Further, several of WIPO's larger emerging developing country Member States may no longer be significant *demandeurs* of development cooperation activities as currently defined, but they may have strategic needs and interests in the changing global IP environment to which WIPO should respond.

Greater attention to development cooperation activities that enable South-South cooperation should be a priority. For instance, the sharing of experiences and expertise among developing countries could be enhanced as a way to deliver more development-oriented and efficient activities.

Boost Country Ownership

WIPO should improve efforts to better tailor its development cooperation activities to national development objectives and circumstances. A development-oriented approach must consistently integrate and acknowledge the importance of the social and economic context, national development goals and priorities, and the broader regulatory and institutional environment of the country.

The WIPO Secretariat should **assist countries to undertake and update national needs assessment for IP-related development cooperation activities,** ideally informed by national IP and development policies or strategies formulated with input from relevant government departments and stakeholders. Needs assessments should be used to **improve country-level planning of development cooperation activities** that are linked to clear expected results, targets and performance indicators. The WIPO Secretariat and Member States should be informed about concurrent efforts by other providers to develop and use toolkits for such assessments and work to coordinate with or complement them.[10]

WIPO should continue to refine and then deploy a flexible template for the preparation of multi-year country plans for its assistance. The template should be used in conjunction with national IP policies and strategies, and needs assessment tools, to prioritize WIPO assistance. Country plans should be a focal point for dialogue with Member States and for all WIPO staff planning activities in a particular country to enhance coordination, prioritization and efficient use of resources. The country plans should be compatible with the Development Agenda Recommendations, WIPO's strategic goals, the RBM framework, and the organization's financial and human resources. The plans should include a mapping of the activities of other donors and actors and specify the appropriate niche for WIPO's interventions. WIPO should also encourage and help Member States to put in place a strategy for soliciting and managing the assistance it receives, and assist them to identify and facilitate access to other sources of assistance.

The WIPO Secretariat and beneficiaries must pursue a more meaningful dialogue on preparedness, challenges and risks. The WIPO Secretariat should make greater up-front efforts to inform countries of the demands development cooperation activities may place on national resources – institutional, human and financial – from the needs assessments phase through to the design and implementation of country plans. The Secretariat should tailor, adjust or postpone proposed activities based on an assessment of internal resources available in beneficiary countries. The country planning process should be a tool for building mutual understanding of resource constraints and the need for priority-setting.

The WIPO Secretariat and Member States should **devise processes to boost oversight of its development cooperation activities at the regional level.** WIPO should also review its development activities for regional IP offices, including by consulting with Member States on how to improve the development-orientation of these offices and bolster the national expertise necessary for them to provide oversight of such regional IP arrangements.

Broaden Stakeholder Engagement, Ensure Balance of Perspectives and Boost Transparency

WIPO should support countries' efforts to establish national committees on development and IP involving the full range of relevant government agencies working on public policy in areas impacted by

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[10] See, ICTSD/Saana Consulting Needs Assessment Toolkit (2007) and the WTO's needs assessments for LDCs.

IP reforms (such as health, education, cultural, agricultural and industrial agencies) **and non-government stakeholders** (e.g., civil society groups, industry and academic analysts active in the fields of IP, investment, innovation, health, education, development, science and technology). This should **include support for public consultation and engagement** in the formulation of country plans and the design and delivery of IP-related development assistance.

To ensure a balance of perspectives in the assistance provided, and to protect against undue influence of more powerful or better-resourced stakeholders, WIPO should more systematically monitor the diversity of of stakeholders and experts involved in the provision of its assistance (e.g., as consultants, speakers and trainers). As part of their regular reporting responsibilities, each WIPO Program should produce a breakdown of partners and providers used across its activities, particularly its development cooperation activities, according to the category actor (e.g., NGO, developed/developing country government agency, research institute, industry association, or company).

Alongside more comprehensive reporting by the WIPO Secretariat on the content and outcomes of its development cooperation activities, better development-orientation demands a stronger institutional culture on the part of the Secretariat in favour of engagement with and learning from a diversity of external stakeholders and researchers, as well as a more open approach to media relations that recognises the importance not only of drawing attention to WIPO's successes but to open dialogue about the challenges WIPO faces in the field of development cooperation and substantive debates on IP and development.

Improve the Development-orientation and Accessibility of Research and Evidence-base for Development Cooperation Activities

Greater attention is needed to ensuring the development-orientation, internal and external peer-review, quality, communication strategy and availability of research and studies conducted by WIPO.

(Also see recommendation on data-gathering on IP and development in Part 3 of this Report on Impact.)

Impact

Strengthen Tools and Processes for Measuring Impact

WIPO needs to devise **and deploy tools and processes to better measure the *impact* of development cooperation activities** at the country, sectoral and institutional level. WIPO's new Section on Economic Analysis and Statistics should take leadership on devising a set of rigorous methodological papers and comparative studies of practices in other fields of development assistance in this respect. An expert group, comprised of WIPO staff and external experts, should be established to help review on an iterative basis the tools for measuring impact, as well as the organization's RBM tools more broadly (also see recommendations below on Management).

Discrete measures will be needed to discern the impact of different kinds of assistance activities: legislative advice and assistance; office modernization; institutional capacity-building; public awareness-raising; training, etc. The impact of WIPO´s development cooperation activities on institutional capacity-building will be easier to assess, for instance, if efforts to determine impact and indicators are unbundled according to different stages of a 'results chain': 1) the immediate improvements in the technical capabilities of beneficiaries; 2) the ability of beneficiaries to apply and use that increased capability; and 3) the ultimate outcomes or impact on the efficiency or orientation of institutions.

Strengthen Processes to Boost Institutional Learning, Follow Up and Accountability for the Impact of Activities

The WIPO Secretariat needs to **develop tools and processes to improve institutional learning, monitoring, follow-up, institutional memory and staff accountability for development activities.** These could include tools and processes to: 1) improve horizontal communications between WIPO Sectors and Programs to generate ideas and share experiences; and 2) ensure the systematic electronic-based collection of information about activities by topic, country and expected results in a format that is accessible to all staff across the organization. For each topic, there should be a general overview of the issue or activity, previous experiences, constraints, limitations and evaluations of outcomes.[11] Processes are also needed to keep staff informed about the latest developments in their given area and to incorporate the most recent knowledge and lessons learned on effective assistance, from within and beyond WIPO, even if these are on different issues or in different regions.[12]

Support Data-gathering, Analysis and Lessons Learned about the Intersection of IP and Development.

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[11] See WIPO (2009) Strengthening Development Cooperation: Elements for Discussion, Internal Discussion Paper, October.
[12] Ibid.

WIPO should support efforts to **build knowledge and expertise within and beyond the organization on the relationship between various IP systems, rules, policies and practices and their development impacts at varying levels and for different sectors.** This would then form an important basis for understanding the degree to which WIPO's development cooperation activities contribute to particular development outcomes.

WIPO should support efforts at the national level to gather data that would assist evaluations of the impact of IP systems on national development goals. This data could also be used to inform the definition and monitoring of baselines and performance indicators of WIPO development cooperation activities.

Strengthen Results and Impact Monitoring, Evaluation and Reporting

WIPO's RBM framework should be applied consistently to emphasize the importance of results and impacts, rather than inputs or the number of development cooperation activities. Greater attention to reporting on impacts, as well as the challenges of achieving impact, should be integrated into the Secretariat's tools for reporting to the WIPO General Assembly and the CDIP on development cooperation activities.

More systematic and regular monitoring, evaluation, reporting, evaluation and follow up is needed to focus on the longer term results and the cumulative impact of WIPO development activities, particularly those aimed at improving institutional capacity over the longer-term. This could be achieved through more systematic ex-post evaluations of expected results of development cooperation at the Program and activity level over a 5 to 10 year period. (The WIPO 2010-15 Evaluation Strategy foresees the completion of up to 10 country and 5 Program evaluations in the next 4-5 years).

In assessing impact and results, WIPO staff should be more cautious in attributing successes or failures to their own development cooperation activities. Greater attention to devising **realistic expected results and up-front acknowledgement of risks** will help diminish the challenges of accurate attribution. Given the high institutional emphasis on demonstrating commitment to development issues, Senior Management should be vigilant in ensuring incentives for realistic indicators of performance and expected results as well as accurate reporting.

(Also see recommendations in Part 5 of this Report on Management).

Expand range of non-government stakeholder collaborations to help sustain results and promote diversity of perspectives

WIPO should **expand the range of non-government stakeholders with which it collaborates and consults in the planning and delivery of development cooperation activities to diversify the perspectives on the IP system and development that inform its work.** To boost sustainability of results, WIPO should pursue greater collaboration with a broadened range of durable local actors in countries, particularly NGOs, research centres in developing countries, local chambers of commerce, SMEs, and inventors' associations, through activities such as the co-organization of events, research, technical assistance activities and training.

Adopt a Policy on External Partnerships and Stakeholder Engagement

The WIPO Secretariat should draft an **organization-wide policy and strategy on outreach, engagement and partnerships with** IGOs and non-government stakeholders, including NGOs, industry, academia and IP practitioners, for approval by Member States.

The policy should include **guidelines for engagement with stakeholders** in the planning, implementation and evaluation of its development cooperation activities (e.g., such as through the Program and Budget process and formulation of country plans), for engagement in joint events and development cooperation activities, and for financial support for participation in meetings and seminars. Regular briefings of a broader range of stakeholders would boost accountability and understanding of the organization's work.

The policy should also include guidelines for the involvement of the private sector in WIPO development cooperation activities that would **ensure disclosure of conflicts of interest**.

Management

Review Organizational Structures for Oversight and Management

The process for Member State review and guidance on WIPO development cooperation activities needs to be boosted. WIPO Member States have an important role to play in the substantive planning, review and evaluation of the content of the organization's development assistance over time. A decision should be made about the most appropriate organizational focal point for that review – whether the Program and Budget Committee, the CDIP or some other specifically-tasked body. The decision should be taken with due consideration of the overall reporting burden on the Secretariat. As the IAOD publishes its Country Portfolio Evaluations (CPE) of WIPO assistance, these will also need to be discussed in detail by an appropriate Member State body within WIPO's Committee structure.

Ensuring WIPO's technical assistance serves development necessitates a monitoring and evaluation mechanism that is independent of the WIPO Secretariat and reports directly to Member States, although it would be funded through the WIPO budget. Currently, no such mechanism exists at WIPO (although such a mechanism is common in all other international organizations). Such a mechanism would also receive feedback from relevant stakeholders and take action that is appropriate following investigation of the complaint.

From a governance perspective, WIPO's organizational structure for the delivery of WIPO development assistance deserves in-depth consideration by the Secretariat and Member States. Development cooperation activities should be insulated from debates about the fees for WIPO's treaty-related service and the use of resources generated, as well as from normative pressures that may emerge in the process of discussion and negotiation of new treaties (including the possible use of assistance to advance specific agendas or interests in the norm-setting process). Options should be explored for making capacity-building activities organizationally distinct from WIPO's other activities, particularly those that related to the administration and negotiation of WIPO treaties (and to ongoing policy debates in WIPO Committees) and to the services provided under these treaties (e.g., collection of payments from right-holders under the PCT and Madrid Treaties).

Strengthen RBM Framework.

The Secretariat must continue to improve its RBM Framework to facilitate better planning, monitoring and evaluation of the impact of WIPO's activities on development. This should include refining the definition of appropriate targets, results and performance indicators, as well as continuing to improve baselines for each of these. The refinement of these RBM tools will be an ongoing process requiring consistent leadership from WIPO's senior management, in particular to motivate staff engagement at both the planning and implementation phases. Failure to engage seriously in this endeavour will results in meaningless performance management tools and measures.

The Secretariat should **form an Expert Review Team for the review and elaboration of WIPO's RBM framework.** An expert Review Team comprised of senior internal staff and external experts in IP, development and RBM should be established to assist the organization in the iterative process of developing and refining meaningful baselines, targets, expected results and indicators. This should include ongoing consultation and interaction with other multilateral and development agencies on their practices and experience in this respect.

The organization should **invest greater attention to its own gathering and systematization of data used to measure its performance**. This must be complemented by support for Member States to also gather data relevant to measuring the relationship between IP policy, legal and regulatory frameworks and various development outcomes, and the impact of WIPO's development cooperation activities. At the outset of major activities, WIPO staff and local authorities should agree on how progress and success of the activity will be measured, and the process for gathering the data needed to make such assessments.

Improve Measurement and Monitoring of Development Cooperation Activities, Expenditures and Results

WIPO should continue its efforts to **improve measures for estimating the personnel and non-personnel budgets for development cooperation activities and improve its information systems for estimating and tracking actual expenditures**. For the 2012/13 biennium, the Secretariat has introduced improvements so that it will be possible to report all of the organizations activities – and costs – according to categories of expected results and to see what share of the budget for each expected result is counted as development-related. In future Program and Budgets and Program Performance Reports, the reporting on development activities by each Program, should be supplemented by a section summarizing the expected and actual results of development activities across the organization's Programs as a whole.

WIPO urgently needs an electronic information management system for managing, monitoring and evaluation and sharing information and coordination on the plans and status of development cooperation activities. All inputs, outputs, baselines, expected results and performance indicators should be included in the system to facilitate ex-post tracking.

Future WIPO Program and Budgets should further improve the budget categories used. The traditional presentation of the budget by 'object of expenditure' has been usefully supplemented in the proposed 2012/13 Program and Budget with a presentation of the 'budget by expected results.' This could be further improved in future biennia by reporting on budget allocations by 'mode of delivery'.

Devise and Implement an Effective Evaluation Framework for WIPO's Development Cooperation Activities

To deliver real benefits to developing countries and value for money for all, the WIPO Secretariat and Member States must **devise a more comprehensive, systematic framework for monitoring and evaluating WIPO's development cooperation activities.** These evaluations must employ a relevant and publicly-available set of qualitative and quantitative indicators and development benchmarks, based on principles and guidelines reviewed through consultations with international experts. The indicators and benchmarks should be built into the newly-evolving country-level needs assessment and country planning processes in order that these are designed with expected results and evaluation in mind. A useful tool for evaluating WIPO's development cooperation activities would be a table that lists WIPO's performance indicators and enables their comparison with different possible types or levels of development outcomes.

A core focus of evaluation should be to facilitate learning about where and how activities are successful, what factors most impact the degree of success, where progress is being made or not, and how improvements could be made. Moreover, evaluation processes should facilitate effective decision-making about future Program activities and priorities. Where activities are not achieving expected results, the evaluation process should be a trigger an end or adaptation of such activities.

Evaluations should be undertaken at various levels of the organization – at the Program and country-level, at the project level, and according to expected results. The focus of evaluations should be on development-orientation, development-impact, management, cost-efficiency and coordination. The most appropriate types of evaluation will vary depending on the type of activity and the purpose of the evaluation. There are four relevant approaches to evaluation: (1) internal evaluations conducted within Programs to promote learning and improve activities, as well as organization-wide self-reporting on overall Program Performance; (2) independent internal evaluations at the country, Program, sectoral or project level undertaken by WIPO staff not directly involved in the activities under evaluation or by IAOD; (3) joint internal and external evaluations; and (4) independent external evaluations.

All evaluations should seek to use and build on WIPO's evolving RBM framework and process. The results of such evaluations should be reflected in WIPO's Program Performance Reports. These Reports should in turn be improved to ensure that progress in defining expected results, targets and performance indicators is translated into improved monitoring, evaluation and reporting.

The piloting and review of **the Country Portfolio Evaluation (CPE) framework being developed by WIPO's IAOD should be considered a top organizational priority.** The country evaluation framework should build on the significant resources WIPO is already investing in its RBM framework, strategies on IP and Development, and country planning, as well as research conducted under the auspices of the WIPO Chief Economist. The final framework and pilot country studies should be reviewed by an expert group composed of internal and external experts on evaluation, IP and development. In addition, the evaluation framework already being devised for the Development Agenda should be made available for public comment.

More Strategic Decision-making and Planning of CDIP Projects

WIPO Member States have already approved new processes for ensuring that all CDIP projects, like other development cooperation activities, should have clear links to the organization's RBM framework (e.g., they should all have clear links to specific WIPO objectives and expected results) and the integration of CDIP projects into the organization's Program and Budget process. The next stage is **to ensure that the process for reviewing, possibly extending, and/or mainstreaming existing CDIP projects is also properly integrated into future Program and Budget processes and is aligned with strategic planning at the organizational, Program and country level**. The respective roles of Member States and WIPO Member States in the elaboration of future CDIP projects should be clarified, as should the process for identifying beneficiary countries and priorities.

The CDIP has already foreseen a review of the current Coordination Mechanism and the implementation of the Development Agenda in the 2012/13 biennium. In the interim, there should be no automatic extension or expansion of CDIP projects in the absence of evaluations at the end of project periods, particularly in the case of pilot projects and projects designed to test methodologies. After such evaluations, WIPO Member States and WIPO's Senior Management must take the lead in ensuring that successful CDIP projects, where consistent with strategic goals, organizational capacities, and Member State interests, are properly mainstreamed into the development cooperation programming of the organization.

Improve Transparency, Reporting and Communication of Development Cooperation Activities

WIPO's development cooperation activities must be more effectively reported and communicated to Member States, major stakeholders and staff as well as to other donors and providers active in the field.

An **integrated information management system is urgently needed** to: generate timely management reports to inform; assist managers in effective decision-making and coordination; facilitate access to systematic and consolidated information on the content of WIPO's development cooperation interventions at the activity and country level; enable internal and external monitoring and evaluation; and facilitate partnerships with others. As the implementation of WIPO's Enterprise Resource Planning (ERP) System advances, this should provide organization-wide opportunities for more systematic monitoring of the development cooperation activities contained in Program workplans.

WIPO Member States should clarify and broaden their Development Agenda Recommendation with respect to the purpose and nature of WIPO's Technical Assistance Database.[13] The purpose must be broadened so that the Database can serve as a vehicle for critical review of WIPO's development cooperation activities for relevance and effectiveness; to enable structured evaluation of the implementation of Development Agenda Recommendation 1 regarding development-orientation; and to facilitate comparison of the activities on offer, particularly by potential recipients and other donors.

Specifically, the Technical Assistance Database should be redesigned to facilitate internal and public searching of activities according to the WIPO Program, region, country, expected results, type of activity, time-frame, categories of beneficiary and modes of delivery with associated information about resource-allocation and expenditures. The results of internal and external independent evaluations of activities should be made publicly available in an accessible and searchable format through the database. The design of the database should also be better aligned with the organization's overarching RBM framework and Program Performance Report process.

The WIPO Secretariat should **ensure more systematic and regular updating of its content by all Programs.** Ultimately, the Technical Assistance Database should be integrated with WIPO's Enterprise Resource Planning System as it comes on-line, but should also maintain a discrete identity as a tool for public transparency.

WIPO's website should be upgraded to serve as a more effective vehicle for communicating with stakeholders, beneficiaries and other donors about WIPO development cooperation activities. To boost the website's potential element to help enhance the engagement of developing countries in the international IP system and serve as a training resource, WIPO must undertake immediate measures to improve the accessibility and searchability of information, research, and statistics. The narrative sections of WIPO's website need updating to accurately reflect and describe WIPO's development cooperation activities as approved in the Program and Budget.

Better Integrate Development-Orientation into Human Resources Management of Staff and Consultants.

WIPO should swiftly **conclude a 'gap analysis' of staff skills and competences** to understand where it lacks skills, competencies and expertise relevant to improving the orientation, impact and management of its development cooperation activities.

WIPO's recruitment and PMSDS processes should be harnessed as opportunities to align the organization's human resources management with development goals. To properly mainstream development principles, attention to the Development Agenda needs to be integrated throughout WIPO's hiring process, including its recruitment advertisements. To improve the breadth of experience and expertise of WIPO staff and consultants, and to promote a more development-oriented culture and mindset within the organization, WIPO's recruitment processes should be expanded to target candidates beyond the traditional pool of IP experts to other fields (development economics, business development, politics, non-IP fields of law, health, agriculture, etc.).

The PMSDS process should be harnessed to boost staff incentives for maximising the development-orientation, impact, and efficiency of the development assistance activities in which they are involved. Instructions for staff and consultants with regard to Development Agenda principles should be more binding (i.e., by linking employment incentives and professional rewards to development-related performance indicators), with clear metrics for monitoring and evaluation. The WIPO Secretariat needs to improve **systems for tracking staff time devoted to development activities.** WIPO managers and staff are already expected to set out goals on an annual basis as part of the PMSDS. This process could also be used to monitor and gather data on the proportion of time staff budget and spent on contributing to the achievement of particular expected results. One option could be to incorporate into all job descriptions and annual workplans an estimate of the anticipated proportion of time that will be allocated to expected results with a development component (Note that the Review Team does not propose a burdensome process of filling in timesheets but rather to take advantage of existing processes, such as the PMSDS).

WIPO should **adopt a Code of Ethics** for WIPO staff and consultants that reflects the principles of the Development Agenda and includes provisions on conflict of interests. The most expeditious approach would be to include provisions on development cooperation in WIPO's new draft Code of Ethics (which is being devised to complement the regular UN staff rules and WIPO's staff code of conduct). All WIPO staff, experts and consultants should be obliged to read and sign the Code of Ethics, complete conflict of interest disclosure statements, and review the Development Agenda principles (which should be included as an amendment to all contracts).

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[13] WIPO Development Agenda Recommendation 5 calls for the Secretariat to display 'general information on all technical assistance activities on its website, and shall provide, on request from Member States, details of specific activities, with the consent of Member State(s) and other recipients concerned, for which the activity was implemented.

WIPO should **adopt Guidelines to ensure transparent processes for selecting external experts and consultants.** Contracts should be awarded through an open bidding process. Consultants should be evaluated after each assignment and reports must be available to other WIPO staff for review before a consultant is re-contracted. WIPO should take a multi-disciplinary approach, using professionals and experts from different backgrounds and disciplines as well as those with different views on the IP system. It should work to harness and build local expertise through consulting assignments. To increase transparency and accountability, WIPO's new Roster of Consultants should be enhanced to include the full CVs of consultants and explicit disclosure of potential conflicts of interest. For those wishing to take WIPO contracts, there should be an obligation to join the Roster and provide such information. The Roster should also include links to the outputs of consultants' work and to any WIPO evaluations or reports on the results of the activity.

An additional measure that could broaden the pool of development expertise and experience within WIPO and help build links with the broader international development community would be to broaden WIPO's program for secondments to and from the organization (to prioritize secondments to and from other UN agencies, development donors, and a range of national government agencies, in addition to IP offices) .

Review Modes of Delivery Activities and Functional Expertise

The WIPO Secretariat should **undertake assessments of the various modes of delivery for WIPO's development cooperation activities** to establish lessons learned and best practices for future planning, design and implementation. This could include an assessment of the various tools used for needs assessment, strategic planning and evaluation, as well as cross-cutting categories of activities, such as conferences, on-line courses, seminars, study visits, provision of equipment, etc. It would, for instance, be useful to establish how effective the design and implementation of WIPO conferences and meetings are in terms of yielding results, whether in terms of follow-up actions, new expertise or new collaborations. A review in this area would need to involve consideration of the WIPO Conference Services Section and the relevant Programs responsible for planning the substance, agenda, and participation in meetings.

The organization should **explore ways to build functional expertise,** including by clearly designating internal staff as focal points or experts on various modes of delivery, such as training, public outreach, the design of workshops/conferences/seminars, etc. To date, for instance, WIPO's Program Management and Performance Section has been designated as a focal point for questionnaires that are used to measure performance. Given that questionnaires are widely used as a tool by many Programs (e.g., for needs assessments, to gather input on Programming, and to solicit data on IP-related trends, etc), it would be useful to have a designated focal point for in-house expertise on the effective design and use of questionnaires. Similarly, the Communications Division's role as a reference point for activities related to public outreach and the publication of research and studies could be enhanced.

Adopt a Structured, Project Management Approach to Development Activities

A more structured, project-management approach to development cooperation activities is needed. A project-based approach aid more careful negotiations with recipients on the content of activities, and facilitate improved monitoring and evaluation. The 'paper-based' project document templates currently being used for CDIP projects could be adapted to this purposed, while a more effective electronic information management system is developed (e.g., as part of the WIPO Enterprise Resource Planning System).

The WIPO Secretariat needs to **ensure that processes are in place to learn from pilot development cooperation activities and projects.** This is particularly the case for Development Agenda activities, where current demand for many projects exceeds the original intended scale of projects and where many projects were launched as 'pilots' for testing and refining before expansion. Efforts to review successes and failures before the replication of projects in multiple countries will help ensure realistic expectations and preparedness on the part of countries that request participation in the projects.

Cost Efficiency

Review Internal Cost Efficiency

To improve efficiency and sustainability, WIPO should **reduce duplication and overlap of activities within the organization and with other providers** (see recommendations on External Coordination below). Improvements in cost-efficiency demand i**mproved transparency of the cost and resource allocation associated with WIPO's development activities.**

A **review of cost-efficiency is needed to help WIPO identify opportunities for cost-savings**. This review should include consideration of costs according to 'mode of delivery'; appropriateness of staff in terms of their qualifications; institutional bottlenecks/procedures that may unduly raise the costs of

activities; and whether **resources are adequate for achieving and sustaining expected results.** Inadequate estimation of resources is likely to impede effectiveness and thus waste of resources.

Greater use of South-South cooperation as a basis for learning and exchange of experiences could be a strong source of cost-efficiency. Further options the Secretariat should explore include: greater use of a diversity of regional and local experts and consultants as providers of technical assistance; outsourcing some IT functions; boosting use of open-source software; greater use of video-conferencing for WIPO training activities; web-casting of WIPO events at global, regional and national level; greater use of Skype or other VOIP tools for telephonic communications; and stronger attention to the training of trainers in regions and at the country level.

Improved attention to the sustainability and long-term impact of activities at the country and Program level will also help boost cost-efficiency. In this regard, a planning horizon of 3-5 years for many activities, rather than a two-year biennial cycle, would focus attention on medium and long-term results. (Many of the recommendations offered above on Program management, evaluation, follow up and sustainability will contribute to cost-efficiency. Also see recommendations below on cost-efficiency for each of the six Pillars of development cooperation activities).

Improve the Predictability of Development Cooperation Budgets and Activities

The WIPO Secretariat and Member States should **ensure that resources for development cooperation activities are, at minimum, maintained at current levels and increased for those activities where the needs and impacts are greatest.** Effective multi-year planning for development cooperation, particularly where assistance includes institution-building activities, demands predictability in the level of resources available over time. As noted above, WIPO Member States should be encouraged to make decisions on Program goals and strategies that extend beyond a two-year biennial budget cycle. The definition of multi-year Programs and country activities would facilitate contributions by donors beyond WIPO.

To improve predictability and boost resources for priority activities, WIPO should sustain its efforts to: (i) broaden the base of donors supporting WIPO development cooperation beyond its traditional IP office partners, and (ii) facilitate the access of WIPO Member States to funding and technical support from other inter-governmental, bilateral or independent sources. In particular, the WIPO Secretariat should boost efforts to help countries access and leverage resources for the implementation of their IP and development strategies and policies at the national level.

The WIPO Secretariat should work with its Member States **to devise a policy to guide its negotiations for additional external resources, including FITs**. Notably, WIPO should insist on flexible arrangements for the management and administration of such donor resources to ensure that Program support costs are adequately recovered and financed.

Cost-sharing and Grants

WIPO should pursue more cost-sharing partnerships, collaborations, and in-kind arrangements. Such efforts could enable WIPO to reduce its exposure to the transaction and administrative costs which cannot be fully recovered for many externally-financed projects. However, ensuring a diversity of collaborations will be important as will measures to guard against undue influence of powerful stakeholders. (See Recommendations on Stakeholder Engagement in the sections on Relevance and Orientation above and under Coordination below).

W**IPO should also consider the potential for greater cost-sharing with higher-income developing countries.** Many WIPO development cooperation activities already require a commitment of resources in terms of staff time and government resources, such as for ongoing support for the maintenance of IT infrastructure. For some projects and activities in higher-income developing countries, requirements for counterpart funding or 'matching commitments' for development assistance activities could help secure a higher degree of ownership and engagement on the part of beneficiaries, and thus impact.

To reduce institutional and staff costs to WIPO and help build national capacity, the provision of grants to Member States to implement certain kinds of activities themselves should be considered, as should the appropriate criteria and reporting requirements.

Coordination

Clarify Roles and Responsibilities of Sectors and their sub-Divisions.

The roles and responsibilities of WIPO's Sectors and their sub-divisions in the implementation of WIPO's Programs need clearer definition. A strategic review of WIPO's internal organizational structure should be undertaken to ensure it is aligned with organizational goals and development-related priorities as set out in the MTSP (and associated Member State comments), the Program and Budget, and the Development Agenda. To deliver on the expected results of development cooperation activities, Programs

and sub-divisions within Sectors need to have the prominence they warrant within the organizational structure in terms of access to resource planning processes, budget, and seniority of staff.

Special attention is needed to an improved definition of the roles and responsibilities of the Regional Bureaus, including the role and functions of desk officers. Areas where the substantive responsibility of Regional Bureaus should be enhanced are the formulation of national IP strategies, country-level planning, coordination, monitoring and evaluation, mapping of donors, donor coordination at the request of Member States, local intelligence, and collaboration with other donors and local stakeholders. Staff should be required to have not just political knowledge of the country but substantive knowledge of IP systems and related debates and policy initiatives underway relevant to national development policies. The elaboration and updating of country plans may facilitate this shift, but extra mechanisms will be needed, such as through staff appraisal processes and through job descriptions. The FITs managed by the Regional Bureaus and the LDC Bureau could still be coordinated by them, but the resources for activities would be allocated to the relevant WIPO Program and Sector responsible for achieving particular expected results.

The role of Regional Bureaus in the direct provision and implementation of activities should be limited to regional and sub-regional activities that are on issues that cut across the expertise of the substantive sectors. The implications of this shift in emphasis in the function of regional bureaus in budgetary terms may vary. In some cases, this refinement of functions may require more resources, but may also mean that the non-personnel budgets of the Regional Bureaus will be shifted toward Sectors and Programs involved in the delivery of specific development cooperation activities.

The Review Team found no compelling cost-benefit case for establishing a greater WIPO presence in any country or by region in the form of External Offices for the provision of development cooperation activities. Many sectors across the organization do not perceive the existing Offices as a substantive resource for their work but rather as a logistical contact. The Director-Generals' ongoing **consultation process on WIPO External Offices should incorporate a review and clarification of their role in the design and delivery of development cooperation activities.** This will in turn warrant detailed discussion of appropriate budget and staff resources, and relevant locations of offices. There is also need for more strategic guidance on the role of the External Offices in advancing the goals and work of the Development Agenda.

The decentralisation of some development cooperation activities and services should be considered by the WIPO Secretariat and its Member States. Examples of activities that could be decentralized include IT support services (some such decentralization already exists). It would also be useful to explore possibilities for a 'WIPO desk' in key regional centres where development-related strategic planning and discussion occurs (such as in regional locations where there is a critical mass of UN development agencies or regional offices of international organizations). Such a 'WIPO desk' would provide an opportunity to gather regional intelligence and build external collaborations with stakeholders and other donors.

Improve Internal Communication about Development Cooperation.

There is a need for **increased transparency, coordination and communication within WIPO on what activities the organization as a whole is undertaking in each country.**

The Program and Budget Process should be harnessed as a mechanism for improving coordination and strategic prioritization across WIPO. The effort undertaken for the proposed 2012/13 Program and Budget to devise organization-wide expected results, drawing from the expected results of each of the individual Programs, represents an important basis for further coordination. There will need, however, to be clear mechanisms for Programs to exchange information and collaborate for the achievement of those joint expected results.

Improve Collaboration with the UN Family and Development Agencies.

WIPO should improve the quality of its collaboration with the UN family and with development cooperation agencies, and seek to define modalities for that cooperation. The Secretariat should seek to participate in and provide input to processes that seek to establish a coherent framework for development assistance from a range of donors at the country level. In particular, WIPO's development cooperation activities should be conducted within the framework of UN country-based Development Assistance Frameworks and WIPO should report on a regular basis to the UN system on how its development cooperation activities contribute to the achievement of UN priorities on development. **A key goal of external coordination should be for WIPO to learn and integrate into its activities a broader view on IP and development.**

Collaboration with the UN family should be approached from a development-oriented not an IP-centric perspective. **The challenge is not simply one of greater coordination or collaboration with the UN family, but to improve the quality, nature and content of that collaboration.** The objective of

collaboration should not be to coordinate a uniform view on IP-related development cooperation within the UN family or to establish WIPO as *the* UN voice on IP. While WIPO should make its expertise available to other organizations, other UN agencies should not be encouraged to defer to WIPO merely on IP issues on the grounds that they are 'technical,' especially where other agencies may have superior specialized sector-specific knowledge on IP issues.

Diversify and Strengthen Collaborations with Other Donors

WIPO should improve collaboration with a diversity of development-oriented partners across its Pillars of development activities. WIPO should boost its outreach and collaborations with development-oriented partners. Its focus should extend beyond resource-mobilization to identifying new expertise, perspectives and experiences to feed into WIPO's development activities, as well as partners for building synergies on broader development activities underway within developing countries.

WIPO should establish an Annual Roundtable of IP-related donors to boost information-sharing, synergies and coordination. The Roundtable should involve all major IP offices involved in the provision of development-related activities as well as any other bilateral, multilateral or non-state actors actively involved in the delivery of IP-related development assistance activities.

To improve WIPO's interaction with development assistance donors and partners, the Secretariat should create a guide on how potential partners can engage with the organization. If WIPO succeeds in attracting more donors, it will become increasingly necessary to structure WIPO's arrangements for managing FITs to be multi-donor rather than single-donor. To ensure the usefulness of its new IP-Development Matchmaking Database to both providers of IP-related technical assistance and potential beneficiaries, the Secretariat should also keep abreast of lessons-learned from other technical assistance databases, such as the WTO's Global Trade-related Technical Assistance Database (GTAD) and the U.S. government's IP assistance database. Further, the IP-Development Matchmaking Database, should be linked to WIPO's own Technical Assistance Database on its own development cooperation activities.

The Review Team notes that from the beneficiary country perspective, the potential to choose from a range of development cooperation providers representing a variety of perspectives may be desirable (e.g., they may prefer a mix of consultants from WIPO, academia, industry or NGOs). For the same reason, some parallel activities by multiple providers may be desirable for some beneficiaries as it could yield opportunities to consider different options and advice (e.g., on legislative reforms). That said, in cases where two organizations both offer similar activities or advice to a given country on the same issue from a similar perspective there is clearly a case for stronger coordination to avoid duplication and resource wastage. One proposal that warrants deeper consideration is the pooling of capacity building resources from a number of donors, including WIPO, into a joint fund (either a general purpose fund or one focused on a specific topic or issue), managed by an executive director appointed by a board of internationally recognized experts (or by a board comprised equally of developed and developing country governments), with which developing countries could negotiate packages of support.

Strengthen WIPO-WTO Coordination

The coordination between WIPO and the WTO in their existing cooperation arrangement for the provision of technical assistance related to the TRIPS Agreement should be improved. In particular, they should boost attention to information-sharing, joint planning and collaboration on needs assessments in order to avoid duplication and maximise the potential for synergies, learning and cost-efficiency.

A clear area for improved cooperation concerns each organization's respective needs assessment processes for LDCs. Ideally, WIPO, the WTO and Member States would collaborate on such assessments so that neither countries, the WTO nor WIPO waste resources repeating similar exercises.

All WIPO technical assistance on TRIPS-related issues, including budget information, should be systematically reported to the WTO Global Trade-Related Technical Assistance Database.

Adopt a Policy to Guide WIPO's Engagement with Stakeholders

The WIPO Secretariat and its Member States should adopt a Policy to guide WIPO's engagement with external stakeholders. Also see recommendations in Part 3 of this Report on Impact regarding WIPO's engagement with stakeholders.

6. Selected Recommendations by Pillars of Development Cooperation

This section summarizes some of the key recommendations for WIPO's development cooperation activities under each of the six Pillars reviewed in this study. As noted in Part 4 of this report, an in-depth evaluation of activities undertaken for each of these Pillars was beyond the scope of this review. The Review Team's focus for each Pillar was instead to consider broad strategic issues raised in the thematic questions in the Review TOR.

IP Strategies and Policies

Improve Development Orientation

WIPO should improve its support to developing countries for the formulation of national IP strategies that address development priorities. Building on work underway, WIPO's activities in this area should **deploy a consistent set of methodologies that are evaluated, validated and refined over time with an eye to constantly assuring and improving their development-orientation.** Progress in this direction will require several steps.

First, there is a need for WIPO's support for **IP strategies to devote boosted attention to issues of creativity and cultural industries**, in addition to innovation.

Second, the tools that form the basis of the CDIP Project (such as the questionnaire) need considerable refinement to serve as an appropriate tool for drafting of a development-oriented national IP strategy. Questionnaires, or any other tools used to inform the development of IP strategies, should enquire more intently about: the framework/systems for innovation that exist in the particular country (e.g. technological capacity, human capacity, availability of financing, the research strength in the public sector and the private sector), national development priorities and needs by sector and specific area of public policy (e.g. in the education sector, in improving access to health care, in ensuring food security (e.g. by ensuring access to seeds etc.), as well as the economic sectors that are of priority (e.g. pharmaceutical, electronics, cultural industries. etc.).

Questions about the type of IP system that is or should be in place in a country should properly follow, and not precede, efforts to understand the national development strategy, priorities and those aspects of the IP system that might yield the greatest benefits for the country at hand. In some instances, this might shift the appropriate degree of attention in questionnaires and interviews (e.g., it might highlight the need for more attention to focus on IP issues related to protection of genetic resources, TK, industrial designs and utility models as compared to patent-related issues).

Emphasise Consultative Processes for the Formulation of Strategies

WIPO's **support for IP strategies and policies should be embedded in and accompanied by efforts to support the emergence of national IP coordination and consultation mechanisms** that link IP decision-making to a broader, development-oriented public policy framework and to the full range of both government and non-government stakeholders.

Boost External Coordination

Greater efforts should be made to **collaborate with other international organizations and stakeholders engaged in efforts to devise methodologies and tools relevant to the development of national IP strategies**. This collaboration should be enhanced at a country-by-country level during the elaboration of IP strategies as well as in the process of elaborating and refining the IP strategy tools developed and used by WIPO.

Review, Evaluate and Coordinate WIPO's Activities on IP Strategies

The WIPO Secretariat should **ensure that plans for close coordination between the CDIP IP Strategies Project and the DG-led project to formulate a** *'WIPO Framework for Developing National IP Strategies for Innovation'* are realized in practice. As both projects are scheduled for completion by the end of 2012, all support for IP strategies and policies planned for that year or beyond should be led or informed by the combined lessons of these projects, bearing in the mind the need to adapt and tailor to the specific requests of countries.

The Review Team notes that the CDIP IP Strategies Project will be reviewed in 2013 as part of the broader evaluation of the implementation of the WIPO Development Agenda. As part of the evaluation process for the pilot phase of that project, **WIPO should engage an expert Review Team to review the evolution of the tools used to inform IP strategies, their suitably for purpose, their link to the work of other IGOs and of NGOs, the quality and development–orientation of the strategies produced, and the degree of their use by the organization and Member States.** To facilitate the critical review and improvement of WIPO's tools and methodologies over time, these should be made publicly available on WIPO's website.

The WIPO Secretariat and Member States should ensure that the tools and lessons from the CDIP IP Strategies Project and the Project for a *'WIPO Framework for Developing National IP Strategies for Innovation'* are integrated across future development cooperation activities, both those conducted by the

Development Sector and WIPO's substantive sectors. **IP strategies should be used to help devise country needs assessments and as the basis for country plans for development cooperation activities**. Member States requesting other assistance for the formulation of IP strategies should be informed about the tools and methodologies produced by WIPO and by other actors in the field. WIPO should no longer offer ad hoc assistance in the area of IP policies and strategies that is not based on the lessons learned from these tools.

Enhance Transparency

Given their intended centrality to national IP policymaking and to WIPO's technical assistance, **all IP strategies, policies and plans supported by WIPO should be made publicly available for external review by national and/or international stakeholders** before completion. Upon completion, with the approval by individual member states, WIPO should make all IP strategies, policies and plans publicly available on its website.

Legislative and Regulatory Assistance

Boost the Transparency and Evaluation of Legislative Advice

WIPO should, with the consent of Member States, make the content of its legislative advice to countries publically available. Beneficiary countries should simultaneously make publicly available the advice and assistance received from WIPO to facilitate evaluation, review and debate by external experts and national stakeholders.

WIPO and its Member States should **devise a mechanism whereby, without abusing confidentiality assurances and in consultation with WIPO staff, an in-depth review of legislative assistance could be conducted by a team of external legal experts**, to evaluate its attention to the expressed request of countries, development priorities, country circumstances and to the full range of flexibilities and options available to countries, in consultation with WIPO staff. This Review should include an in-depth examination of the content of draft laws and comments on draft laws provided by WIPO, as well as of the content of seminars on legislative matters.

WIPO's senior management should ensure that all Sectors and Programs submit full information to the WIPO technical assistance database on their legislative activities.

Stronger efforts should be undertaken to define appropriate expected results and indicators for the results of WIPO's legislative assistance so that these can be properly accounted for in the organization's reporting of performance.

Use Country Needs Assessments and IP Strategies to Inform Legislative and Regulatory Advice

Before responding to a request for legislative assistance, WIPO should work with the country to investigate its development priorities, its sector-by-sector needs (e.g. agriculture, health, education, information technology, etc), and its relevant international commitments. A key resource in this process should be national IP strategies or processes for their formulation (as discussed in Part 4.1 of this report).

Adopt a Proactive Approach to Development Priorities and Flexibilities

The objective of WIPO legislative assistance should be to serve the developmental objectives of the beneficiary country. A narrow compliance-oriented approach to international commitments must be avoided. In the case of requests from LDCs, WIPO staff should not hesitate to advise countries where they do not require IP laws or where some IP laws or provisions may be inappropriate until they reach a higher level of development. Similarly, where the country seeking technical assistance is not a WTO member, WIPO should not advocate in favour of TRIPS standards or TRIPS-'plus' standards.

WIPO should **present developing countries the range of options and flexibilities available in international laws. It should also explain and/or share experiences of how different options may hinder or advance their pursuit of development targets.** WIPO should also build the technical capacity of countries to pursue a coherent development-oriented approach to the implementation of international IP commitments; to decide whether and how to use in-built flexibilities in international agreements to advance pro-development policies; and to promote coherence and mutual supportiveness with other relevant international instruments. Assistance should extend to options related to ensuring a vibrant public domain, boosting access to essential technologies and knowledge, and to different models for stimulating innovation and technology transfer.

WIPO should publish, in collaboration with international experts and stakeholders, a series of development-oriented framework documents on the legislative issues for which WIPO provides

advice. These documents should set out: basic legal requirements for meeting international obligations in that area of IP; the range of relevant public policy goals and public interest considerations; a coherent set of definitions; explanations of possible exemptions, exceptions and limitations to IP rights; implications for various stakeholder groups. Each framework document should be accompanied by a short explanatory note; and relevant evidence of impacts and experience in other countries.

Promote Impact Analysis and Information-Sharing

WIPO should increase support for analysis of the positive and negative impacts on national development and public policy goals of new international IP agreements, as well as on the opportunities and constraints provided by various exclusions, exemptions, flexibilities and options available in international laws.

WIPO should promote information-sharing among developing countries about their experiences with IP legislation and development outcomes, including information on comparative law and the range of options available. This should include analysis of the historical experience of developed countries when they were building their industrial base and development potential.

WIPO should support Members to evaluate the costs and benefits of acceding to WIPO Treaties. This should include presenting WIPO Treaties and their implications to a range of national stakeholders, including parliamentarians expected to ratify such treaties.

WIPO should unify its various databases on legislation and regulatory practices to make them accessible through one common portal (rather than through issue specific websites) and link these to legislative databases of related laws hosted by other international organizations (e.g., the WHO, UNESCO, FAO, World Customs Organization (WCO), etc). In collaboration with the WTO, WIPO should provide a web-based tool for comparative cross-national search and analysis of legislation, which should include the abilitiy to compare national use of flexibilities and options.

Improve Internal Coordination on Legislative Advice

WIPO should **ensure greater communication and collaboration among staff located in different Sectors that are responsible for legislative assistance**. The Regional Bureaus should play a stronger role in promoting such collaboration and pooling of staff knowledge about national policy debates and priorities, lessons from legislative assistance in other areas of IP, and experiences of countries with similar legal regimes and development challenges. The Regional Bureaus should ensure that staff or consultants providing legislative assistance are properly aware of any IP strategies and policies the beneficiary country may have as well as relevant policy debates, local expertise, stakeholder consultations and inter-ministerial processes that could be used to ensure that the advice reflects development considerations.

Provide More Assistance on Emerging Legal, Regulatory and Policy Issues for Developing Countries

WIPO should **explore ways to devote greater attention to advising and informing countries on IP negotiations and treaties, and their potential effects, whether positive or negative.** WIPO could organize, for instance, open seminars with external speakers and other international organizations on topical issues of negotiation. Fact sheets and policy briefs could be developed on issues of complex negotiations for national governments and stakeholders, including IP offices, Geneva-based delegates and other government agencies.

WIPO's activities on legislative, regulatory and policy frameworks should include **greater support for development-oriented advice on the negotiation and implementation of bilateral, regional and South-South IP arrangements, negotiations, dialogue and cooperation** (such as those advanced through regional economic communities, regional political organizations, or regional intellectual property offices).

WIPO should devote greater attention to legal and regulatory challenges related to the misappropriation and enforcement of developing country IP in the global arena, emerging IP issues of great interest to developing countries (such as those related to traditional knowledge, folklore and genetic resources), **and on practical regulatory and administrative issues relevant to the promotion of a balanced IP system**. For instance, WIPO should explore the potential for providing advice on the practices and strategies of companies that abuse the IP system (e.g., through ever-greening of patents), and how countries can guard against and/or manage such practices; methods for opposing patents that are wrongfully granted in the country of origin and in foreign countries (e.g., patents on inventions in the public domain, patents that fail to acknowledge prior art in developing countries, or patents that concern the national genetic resources of developing countries); and patent opposition proceedings and patent examination processes that safeguard the public interest.

WIPO should also support mechanisms that would help developing countries and their stakeholders to overcome the legal, financial and practical barriers they face in challenging the wrongful granting of IP

rights and/or abuse of developing country IP rights in other countries, and boosting the recognition and enforcement of their IP rights in developed countries.

WIPO should boost its collaboration with other international organizations and seek greater input from a diversity of stakeholders to guide its approach to the provision of legislative and regulatory assistance.

Improve Guidelines on Participation and Development-orientation of Global and Regional Events

WIPO should develop, in consultation with Member States, guidelines for the selection of developing country nationals to participate in WIPO meetings to maximize the development benefit to countries and cost-effectiveness. WIPO should increase web-casting of events and take advantage of technologies to enable remote participation of speakers.

As part of the proposed WIPO Policy on Stakeholder Engagement, WIPO needs guidelines on ensuring an appropriate development orientation and balance of speakers in WIPO's global and regional meetings and events, with a particular focus on increasing the range of national and international stakeholders and developing country experts involved (discussed in Recommendations for Part of this Report on Relevance and Orientation and Part 3 on Impact).

IP Office Modernization

Improve Support for IP Office Modernization and Broaden Attention to Emerging IP Issues

WIPO should continue efforts to improve the effectiveness of its provision of IT equipment, software and training to national offices. To boost effectiveness in this area, WIPO should devise and implement a process and criteria for a detailed impact assessment of its activities for office modernization.

WIPO should pursue consider strategies for greater differentiation in the kinds of modernization activities and packages it provides for larger, more advanced offices as compared to smaller, start-up offices.

WIPO and its Member States should also explore aspects of modernization, digitization and automation that might be of greater or equal to member states than priorities currently being pursued. In some Member States, for instance, **support for national approaches to the creation and/or digitization of databases of traditional knowledge** may be key priorities.

Boost Attention to the Institutional Aspects of IP Office Modernization

WIPO should **devote greater attention to studying and reporting on the impacts of different approaches to the governance, structure, financing, and scope of IP offices** at both the regional and national levels. o ensure these are tailored to respond to the particular circumstances and priorities of each country. To supplement its work on technical modernization, WIPO should document lessons-learned and commission comparative studies on how different approaches to the institutional framework, governance and management of IP offices. Issues that could be covered include: human resources management; the benefits and challenges associated with building a search/examination IP office (and options such as work-sharing and building capacity on a sub-set of substantive IP issues); different institutional models (e.g., such as the decision to be an autonomous or semi-autonomous IP offices); benefits and trade-offs associated with pursuing a combined national IP office; and considerations relevant to broadening or decentralizing the range of IP office functions).

Increase Support for Regional and South-South Modernization Priorities

WIPO should offer greater **support to modernization activities designed to boost cooperation, facilitate exchanges and information-sharing between developing country IP offices and related government agencies within and among regions**. WIPO should **strengthen support to enable South-South sharing of experiences in regard to office modernization**. WIPO should commission a detailed study of the various options, benefits and challenges with regard to different potential levels of regional cooperation in the area of IP legal frameworks, institutional structures and administration.

Improve Risk Assessment and Management

Greater attention should be paid to up-front assessment of risks and to dialogue with beneficiary countries on the conditions for success of IP office modernization projects and the ongoing follow up and commitment required on the part of beneficiary countries.

WIPO should conduct **a detailed analysis and risk assessment of its activities to design and deploy various software and online services for developing countries**. Key issues for consideration include: synergies/coordination between the various software packages under development; the challenges of delivering cutting-edge products and services in the context of rapid technological changes and of how can WIPO and beneficiary countries could adapt the implementation of activities more swiftly as country needs

evolve. The studies should include consideration of whether and which aspects of its activities could better be undertaken in-house, out-sourced, or conducted through regional experts.

A detailed risk assessment is needed to review the comparative advantages and cost-effectiveness of PATENTSCOPE in a context where a number of other public and private patent search services exist. WIPO's Access to Research for Development and Innovation (aRDi) program and its Access to Specialized Patent Information (ASPI) program should also be reviewed to understand reasons for the relatively low rate of use of these services by intended beneficiaries and to address the risks that the business model may not be sustainable (e.g., the changing business environment means that major companies providing content may not be willing to continue the low-cost or free licensing that underpins such services).

Broaden Range of Assistance to National Governments

In some countries, there is a need for diversification of national stakeholders trained to use databases and other outputs of modernization efforts (e.g., several survey respondents highlighted the need for greater training of customs officers in the use of trademark-related databases). In many offices, for instance, greater efforts to simplify procedures or boost training related to using international standards for the classification of IP rights is vital to improving the rate of use of WIPO software.

In the patent area, WIPO should provide **countries greater assistance to review international search and examination reports and/or reports by any other national patent offices, in light of national legislation, particularly in areas of critical importance to national development goals**. It should also explore how better to assist those countries keen to build and focus their expertise on particular areas of public policy concern or where they have particular provisions of their laws that are distinct from those of other countries.

Recommendations from survey respondents included requests for boosting the intensity of training for supervisors in industrial property offices, including through attachments to other offices; assisting interested developing countries to become part of the PATENTSCOPE Document Access Service (DAS); helping countries to reduce the patent backlog; and supporting the translation of patent claims. Some survey respondents also called on WIPO to broaden its outreach activities on the PCT system for the benefit of industry and SMEs. In addition, some survey respondents proposed that WIPO should do more to facilitate the use of the international patent system, such as through the provision of more comprehensive information on effective patent search strategies.

In the copyright area, survey respondents called on WIPO to **boost attention to the modernization of copyright offices and collective management societies**. To this end, WIPO should initiate studies and continue activities that assist countries to review and select appropriate models for the collective management of rights, particularly in light of the changing digital environment.

Training and Human Resource Capacity-building

Strategic Prioritization

WIPO should **devise more strategic and specific goals, priorities, and expected results for its portfolio of training and human resource capacity-building activities**. The focus of training should be transformed from one of training 'more and more' people to building a critical mass of substantive, politically-informed expertise within developing countries on IP and development through more intensive capacity building and mentoring of experts. In terms of reporting and evaluation, WIPO should move beyond reporting on the number of individuals and types of beneficiaries trained to how training was used in practice and its contribution to the achievement of development goals.

Review Development-Orientation of Training

An independent panel of leading academic authorities should review all WIPO training materials and curricula to ascertain and ensure their development-orientation. The Review should include a focus on the quality, design, delivery and orientation of training by the WIPO Academy and by WIPO Programs, as well as on the overall balance of training activities with an eye to ensuring they reflect the Development Agenda recommendations.[14]

The Review should include an assessment of emerging best practices in development-oriented IP courses at universities around the world. Such best practices include making curricular and course materials transparent, relying on open access learning materials whenever possible, reflecting a diverse range of views on public policy-related issues, and empowering participants and students to think critically and independently.

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[14] In this regard, the Review Team notes that the IAOD is currently conducting an Audit of the WIPO Academy.

The Review Team recommends that **IP education should not be pursued in isolation but linked to other areas of education and with broader public policy issues, such as innovation policy, science and technology, education, cultural industries, etc.** WIPO's efforts to support IP-related capacity-building in national academic contexts, such as in national universities, should be evaluated and reoriented in light of this recommendation. In particular, before further expansion, the CDIP Project on National IP Academies should be carefully evaluated with an eye to learning lessons and to ensuring that the approach and type of training activities is consistent with this development-oriented approach to IP training.

WIPO should **increase the availability of development-oriented IP-related educational materials on its website and their translation.** It should build, for instance, an accessible on-line inventory of scholarly literature and teaching materials on IP and development and support public access to new multidisciplinary research publications and curricular materials on these topics. All of WIPO's curricula should be distributed and publically available free of charge to academics around the world, particularly those in developing countries who otherwise have constraints in updating and accessing relevant teaching materials.

There should be systems for ensuring that trainings provided by all and any WIPO Programs are of the highest possible pedagogical quality to maximize impact, are aligned with WIPO Development Agenda Recommendations, and are consistent with development-oriented expected results as set out in the Program and Budget and in country plans.

WIPO's Niche and External Partnerships

There should be an **in-depth and critical external review of the strategic niche of WIPO's training activities, and particularly those of the WIPO Academy, in the context of other training initiatives around the world**. The review should include an examination of the offerings of leading academic institutions on IP, and on related issues of technology, innovation and development. It should explore the potential for such institutions to advise or partner with the Secretariat with an eye to broadening the development-orientation of its training. The review should explore opportunities to reduce overlap with and improve collaboration and coordination with other training institutions on specific technical IP issues (e.g., EPO, USPTO academy and with IP offices from developing countries). To complement (or replace) fellowships for participation in courses that WIPO runs or co-organizes, WIPO could explore opportunities to support fellowships for courses run by leading international academic centres.

Improve Internal Coordination on Training

All of WIPO's training activities, whether conducted by the Academy or Program/Sectors, should be more transparent and better coordinated. For instance, there should be stronger synergies and joint planning of **of the professional training activities of the WIPO Academy and the Programs/Sectors,** whether short-term or long-term, for a small target group (such as operators of new software) or a larger community (such as on broad policy issues for government officials at large).

Improve Cost-efficiency

WIPO should seek to enhance cost-efficiency through **greater use of on-line courses, partnerships with regional training centres, video-conferencing tools, training of trainers, and evaluation** of where and how WIPO training is used by various stakeholders and how it makes a practical difference.

User Support Systems

Review Development-orientation and Priorities for User Support Systems

The WIPO Member States and Secretariat should **undertake an organization-wide review of WIPO's current activities and future priorities in terms of support for users of the IP system.** As part of this review, WIPO should **undertake a mapping of all of its user-related services.** Through the review, the WIPO Secretariat and its Member States should develop criteria for devising 'user support' priorities for WIPO that would yield greatest benefits for development. These criteria should be used, in conjunction with country needs assessments, IP strategies, and country assistance plans, to filter the selection of activities and projects to be pursued.

Promote Greater Development-Orientation and Balance in the Range of User Activities Supported

WIPO's support for users of the IP system should consider the range of objectives and components of development-oriented approach; it should boost attention to activities that would help reduce costs of participation in the IP system; enlarge benefits for local creative and cultural industries; and reduce the knowledge and technology gap, both in terms of generation and access.

WIPO should ensure **a greater balance between its support for traditional users of the IP system** (i.e., users that are right-holders or potential right-holders) **and for user of IP-protected products and**

services (such as researchers searching assistance with licensing inputs for their research, libraries, students, citizens seeking access to technologies, etc).

The mapping mentioned above should consider those user groups or types of IP that warrant greater attention, particularly in light of needs arising from efforts to devise national IP strategies to advance innovation and creativity in ways that support development. Such a mapping may reveal the need for greater attention to practical support for initiatives related to indigenous or traditional knowledge, cultural expressions or folklore, cultural industries, or to industrial designs. It may also point to national 'user' priorities that do not otherwise receive systematic attention from WIPO, such as helping IP offices reach out to user groups that may be located in universities, industries, or research institutes located outside national capitals.

The review should critically consider how better to support the needs of developing country IP-rights holders abroad (e.g. to protect and enforce their IP rights in international markets) and ensuring that the balance of users that benefit from WIPO's activities at the national level are domestic as well as foreign (who remain at present the majority of the users of the IP system in most developing countries).

Mapping of Other Donors and Actors Working to Support User Communities

As part of the aforementioned review, WIPO should **undertake a systematic review of the activities of other relevant actors, potential collaborators and competitors active in supporting stakeholders in developing countries on issues of IP and development, and closely related initiatives**. The mapping should be undertaken with an eye to shedding light on the potential for greater synergies between WIPO activities and those of other donors and interested stakeholders. This may include, for instance, activities related to support systems for creators, artists and performers on the range of potential business, IP and licensing strategies, as well as models for engaging successfully in the entertainment and creative industry markets. It should include a careful review of the SME related activities of international development banks and philanthropic, NGO and academic initiatives to support indigenous communities in the stewardship of their traditional knowledge.

Improve the Management of WIPO's Interaction with a Range of Stakeholders at the National Level

As the range of WIPO's activities to support user groups expands, the mechanisms used by national governments and the WIPO Secretariat to manage and coordinate the planning, implementation and evaluation of such activities need refinement. Where recipients of assistance are not national IP offices, WIPO and its Members will need to consult on appropriate communication mechanisms and ensure that WIPO has appropriate contact information and outreach strategies for reaching stakeholders beyond its traditional focal points. National consultation processes and committees on IP and development can serve as a useful mechanism for facilitating coordination at the national level, as well as coordination between national stakeholders, national governments and the WIPO Secretariat. Beyond the formalities of deciding upon appropriate processes for communication, success in this area will require WIPO to **invest in improved tools for tracking and maintain its internal databases of a diversity of national contacts,** both at the Program and organizational-level, as well as its electronic and internet-based communication tools for disseminating information and receiving feedback.

Ensure Evaluation before Expansion of Activities and Projects

Even where there is high demand by Member States for WIPO's activities for users, such as for Technology and Innovation Support Centres (TISCs), the **success of pilot projects already underway should be evaluated** before their expansion. The evaluation could then serve as a basis for applying lessons to any future work in this area; assessing how the TISC activities could be best mainstreamed or integrated with WIPO's other development cooperation activities; and prioritizing the requests of countries in line with national IP strategies, needs assessments and country plans for WIPO assistance.

Promotion of Innovation, Creativity, Access to Knowledge and Technologies

Bolster Activities to Promote Access to Knowledge and Technology Transfer

WIPO's **activities in the area of access to knowledge and technology transfer should be strengthened.** While there are activities underway, particularly through CDIP projects, many of these are at the early stages of implementation, or are yet to begin, and account for only a relatively small proportion of WIPO's overall development cooperation budget. Several of the activities conducted to date are analytical level, and have not yet translated into concrete proposals for activities that would contribute to practical improvements in access to knowledge or technology transfer.

Integration across WIPO's Development Cooperation Activities

The WIPO Secretariat and its Member States should **explore ways to better integrate the promotion of access to knowledge and technology, innovation and creativity across the full range of WIPO's development cooperation activities.** For instance, the WIPO Secretariat should make greater effort to ensure that the research it conducts, such as research requested by various WIPO committees (e.g., on the use of limitations and exceptions, the public domain, and access to knowledge and technologies) is integrated into the other development activities of the organization, such as legislative advice and regulatory assistance, as well as the development of IP strategies and policies.

Progress on this front will require the WIPO Secretariat and officials within Member States to identify and engage appropriate stakeholders on these issues at the national level. Support for inter-ministerial committees and stakeholder consultations in the process of formulating national IP policies and strategies are one way that WIPO and its Member States could facilitate a focus on these issues.

Place the IP Dimension of Innovation and Creativity Promotion in Context

WIPO's activities on innovation and creativity must be informed by broader debates and experience on innovation systems, development strategies and public policy goals, such as access to knowledge. WIPO's role should be to build understanding of where and how IP-related mechanisms and strategies may or may not assist developing countries to advance progress in these areas and place that analysis and assistance more firmly in the context of the range of other policy measures and institutional actions needed.

Identify WIPO's Strategic Niche

The WIPO Secretariat should **undertake a mapping of other inter-governmental initiatives and non-government efforts to promote innovation, creativity, technology transfer and access to knowledge.** The WIPO Secretariat should forge, and help countries forge links, with other relevant international organizations and stakeholders with expertise in these areas. Such a mapping would also help the WIPO Secretariat and its Member States to **identify WIPO's strategic niche and relevant partnerships with a range of external actors** that may have a stronger comparative advantage,

Attention to issues of innovation and creativity take WIPO beyond its traditional expertise on IP and into rapidly evolving areas of business and government practice on issues related to IP, and also into cutting-edge debates on a broad array of public policy issues, from education, science and technology policy to sectoral issues on public health, biotechnology, etc. The risk is that WIPO will be engaged in areas where its experience is weak and its resources spread too thinly to make a difference at the country level.

7. Recommendations for WIPO Member States

Ensure Clarity of Objectives and Needs Assessment

Countries requesting WIPO development cooperation activities should carefully identify needs (seeking WIPO assistance for this task where relevant), determine its objectives, and assess how the possible outcome of assistance could contribute to the fulfilment of the development goals. Countries should also identify priorities, in terms of categories of IP to be covered (e.g. patents, trademarks, global issues, infrastructure, etc.), the substantive or procedural nature of issues to be considered, and the sectors involved (e.g. agriculture, mechanical industry, health, etc.).

Improve Internal Coordination and Consultation

Governments should boost their attention to the formulation of a national IP and development strategy to complement the conventional emphasis on building administrative and technical capacity of IP offices. They should commit to greater internal coordination government to help ensure development cooperation projects and objectives attract the broad government support necessary for success. While IP offices have an important role to play, the likelihood that WIPO's development cooperation activities will support development outcomes will be highest where governments have effective inter-agency coordination and public consultation. Action is needed as three levels. First, IP offices must be engaged in relevant strategic processes led by other government actors within their country, for instance, in regard to science and technology policies, and strategies for the support of cultural industries. Second, IP offices should seek to facilitate cooperation and communication among the broad range of government and non-government stakeholders. Third, Geneva-based representatives of developing country governments have an important role in bringing coherence to the country's representation at the international level and to act as interlocutors with the WIPO Secretariat on development cooperation activities.

Consultation and Collaboration with National Stakeholders

Development-oriented IP assistance requires efforts by governments and donors to identify and consult the groups potentially affected by the outcomes of development assistance activities (e.g. farmers, consumers, authors, small and medium-size enterprises, universities, education, business, finance, musicians, artists and scientists). Governments should adopt a multi-disciplinary approach that involves many government and stakeholders. They should seek the active participation of relevant stakeholders in the assessment of technical cooperation priorities and needs, and in discussions of the appropriate design, delivery, outcomes and evaluation of development cooperation activities. Importantly, governments should recognize that the degree of influence of some stakeholders does not necessarily match the importance they should have for the determination of the appropriate development-oriented IP policy in certain areas and should seek ways to facilitate the engagement of otherwise under-represented interest groups.

Designate Focal Points for the Coordination and Oversight of Development Cooperation Activities

Governments need to make clear decisions on how to manage their government's relationships with WIPO, including for development cooperation activities, and other donors. The diversification of WIPO's interactions at the national level has implications for national governments. Instead of delegating to IP offices to serve as the main interlocutors with WIPO on issues of development cooperation, governments should use structured consultative processes and/or coordination mechanisms to ensure the involvement of representatives of other relevant government agencies in the design, implementation and review of development cooperation activities.

Governments should adopt guidelines and procedures for reviewing and ensuring the development-orientation of technical assistance activities. Governments should be engaged in reviewing the selection of staff or consultants for the provision of technical assistance. Where relevant, they should propose alternate staff or consultants; encourage the use of local/regional experts; require disclosure of potential conflicts of interest from providers; require consultants agree to comply with a code of ethics for technical cooperation providers; and request evidence of the qualifications, prior work experience and evaluations (where available) of proposed providers of development cooperation activities.

Ensure Government Commitment to Partnership on Development Cooperation Activities

Commitment from Member States is vital to improving the efficiency, relevance and impact of WIPO development cooperation activities. Countries should be prepared to commit internal institutional and human resources, ensure appropriate political sponsorship from relevant government agencies, and demand the effective evaluation of projects. Governments should carefully negotiate country plans and activities, as well as the implementation plans, expected results, and timeframes. Countries should commit to formulating multi-year country plans for WIPO assistance that include an assessment of the development needs, results and impact of any proposed development cooperation activity, taking into account the objectives identified by the recipient country. This should be tied to efforts by countries to articulate a national strategy in the area of IP (which in turn should be informed by broader strategies related to innovation, science and technology, health, etc.).

Governments should also take responsibility for identifying the seek a team of development assistance providers that have economic, legal, and issue-specific expertise. This should include identifying and using in-country resources and expertise from local universities, research institutes, NGOs and experts.

Improve Data-gathering at the National Level

Measuring development impact and orientation at the national level demands improved attention to establishing national-level baselines and benchmarks, and to systematic processes of data gathering and compilation. Where resources or expertise are lacking, governments should request assistance in this respect.

Acronyms

ACE	Advisory Committee on Enforcement
AIMS	Administrative Information Management System
aRDi	Access to Research for Development and Innovation
ARIPO	African Regional Intellectual Property Organization
ASPI	Access to Specialized Patent Information
CBD	Convention on Biological Diversity
CDIP	Conference on Development and Intellectual Property
CLEA	Collection of Laws for Electronic Access
CMOs	collective management organizations
DA	Development Agenda
EIF	Enhanced Integrated Framework
EPO	European Patent Office
ERP	enterprise resource planning
EU	European Union
FAO	Food and Agricultural Organization
FIT	Fund-in-Trust
HRMD	Human Resources Management Department
ICSEI	International Cooperation for the Search and Examination of Inventions
ICT	Information and Communication Technology
IGC	Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
IGOs	inter-governmental organizations
IP	Intellectual Property
IPAS	Industrial Property Automation System
IPO	Intellectual Property Office
IPSAS	International Public Sector Accounting Standards
ITC	International Trade Center
IT	Information Technology
LDCs	Least Developed Countries
NGOs	non-governmental organizations
OAPI	l'Organisation Africaine de la Propriété Intellectuelle (African Intellectual Property Organization)
PCDA	Provisional Committee on Proposals Related to a WIPO Development Agenda
PCT	Patent Cooperation Treaty
PLT	Patent Law Treaty
PMDS	Performance Management and Development System
SCCR	Standing Committee on Copyright and Related Rights
SCP	Standing Committee on the Law of Patents
SCT	Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications
SRP	Strategic Realignment Program
TCEs	Traditional Cultural Expressions/Folklore
TISC	Technology and Innovation Support Centre
TK	Traditional Knowledge
TOR	Terms of Reference
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environmental Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIDO	United Nations Industrial Development Organization
UPOV	International Union for the Protection of New Varieties of Plants
WCO	World Customs Organization
WCT	WIPO Copyright Treaty
WHO	World Health Organization
WPPT	WIPO Performances and Phonograms Treaty
WTO	World Trade Organization

Introduction

Background: Origins of the External Review

In November 2009, the Committee on Development and Intellectual Property (CDIP), at its 4th Session in Geneva, approved the "Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development"[15] which includes the implementation of Development Agenda Recommendation 41, namely to conduct a Review of WIPO technical assistance activities in the area of cooperation for development.

Deliberations on WIPO's development cooperation activities have been a central component of WIPO discussions since the proposal for the establishment of a Development Agenda for the organization was put forward in 2004.[16] Over the past six years, discussions on the WIPO Development Agenda have highlighted the importance of ensuring that WIPO's development cooperation activities have a clear development-orientation and that they are grounded in national development priorities and needs. The Development Agenda discussions have also revealed a shared interest among the diversity of WIPO's Member States and stakeholders in ensuring the development impact, cost-efficiency, management, coordination, and transparency of WIPO's development cooperation activities.[17]

Purpose of the External Review

The purpose is captured in Recommendation 41 of the WIPO Development Agenda and is reflected in the terms of reference (TOR) for this Review (See Box 1). (The TOR are available in Annex 1 of this Report and on WIPO's website).[18] Member States were consulted on the terms of reference to ensure that the review addressed the issues of greatest interest to Member States.

Box 1. Purpose of the External Review

The purpose of the review as stated in the terms of reference is:

"to conduct a macro level assessment of WIPO's technical assistance activities in the area of cooperation for development to ascertain their effectiveness, impact, efficiency and relevance. In addition, the review will seek to determine the adequacy of existing internal coordination mechanisms for WIPO's delivery of technical assistance for development, while acknowledging that the review will be conducted during a time when the Organisation is undergoing major changes in the way it operates and delivers services as articulated in the Director General's Strategic Realignment Program (SRP).

The main objective of the review will therefore be, within the context of the MTSP, the SRP and taking duly into account the WIPO Development Agenda (DA) Recommendations, to identify ways to improve WIPO's technical assistance activities in the area of cooperation for development including ways to develop WIPO's RBM framework to facilitate the monitoring and evaluation of the impact of WIPO's activities on development. A critical element in this would be to identify baselines for the relevant

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Scope of the External Review

Given the delayed start date of our review as compared to the timeframe initially envisaged (i.e., completion by November 2010), the period covered by the Review is in fact a three-year period from 2008-2010, rather than a two-year from 2008-2009. That is, the review focused on WIPO's development

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[15] WIPO (2009). "Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development (Recommendations 33,38 and 41)," prepared by the Secretariat for the Fourth Session of the Committee on Development and Intellectual Property (CDIP), Geneva, November 16 – 20. CDIP/4/8 Rev..

[16] WIPO (2004).

[17] De Beer (2008); Marchant and Musungu (2007) and Netanel (2008).

[18] See www.wipo.int/edocs/mdocs/mdocs/en/cdip_4/cdip_4_8_rev_tor.pdf. This External Review also seeks to contribute to the assessment, recommended by the third session of the PCT Working Group (see WIPO document PCT/WG/3/14 Rev., paragraph 211bis) as to how well the PCT system has been functioning in terms of realizing its aims of organizing technical assistance for developing countries in the area of patents.

cooperation activities in the area of cooperation for development implemented in the biennium 2008/09 and activities in progress in the biennium 2010/11. For the more in-depth country visits, the review considered a longer period, i.e. at least six years, in order to facilitate the assessment of outcomes and impact.

The review focused on all development cooperation activities provided by WIPO by the Development Sector as well as WIPO's substantive Sectors and Programs. In accordance with the Review TOR, the Review Team focused on providing a 'macro-level' assessment. To identify key findings and recommendations, the Review Team analysed WIPO's development cooperation in regard to the themes highlighted in the TOR and according to six pillars of assistance activities, but did not attempt an in-depth evaluation of these themes or activities.

The final TOR for this Review included the addition of a review of WIPO's patent-related development cooperation activities as called for by the Working Group of the PCT System.[19]

The November 2010 CDIP provided further clarification on the TOR for the Review emphasizing the importance of: 1) ensuring consultation with a broad range of stakeholders; 2) examining the proportion of WIPO technical assistance financed through Funds-in-Trust (FITS) versus the regular budget; and 3) ensuring the scope of the review covers WIPO technical assistance across all sectors of WIPO (not just to the Development Sector). The CDIP also emphasized the importance of Development Agenda Recommendation 1 (see Box 2), and of assessing which aspects of national IP and innovations strategies, socio-economic objectives and development priorities WIPO's technical assistance activities have been aligned with and how those aspects have been selected.

Box 2: Development Agenda Recommendation 1

WIPO technical assistance shall be, *inter alia*, development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion. In this regard, design, delivery mechanisms and evaluation processes of technical assistance programs should be country specific.

The Review was not intended as a needs assessment exercise or as an in-depth study of potential future strategic directions for WIPO development cooperation activities. While this report reflects on these questions, both are worthy of further study by Member States and the WIPO Secretariat. In accordance with UN Evaluation guidelines, the report does not incorporate an assessment of staff performance.[20]

From the outset, it is important to note that this study is not a Review of the WIPO Development Agenda or its implementation.[21] While the WIPO Development Agenda places considerable emphasis on improvements in WIPO's development cooperation activities, the scope of the Development Agenda goes well beyond development cooperation activities to mainstreaming development throughout the organization's activities as a whole. That said, the Development Agenda projects approved to date all fall within the Review Team's definition of development cooperation activities, and as such are reviewed as part of this study, as is the question of whether and how the Development Agenda projects are transforming WIPO's development cooperation activities more broadly. The issue of the quality, orientation, impact, management and efficiency of WIPO's development cooperation activities is not, however, limited to discussions underway in the CDIP or on the WIPO Development Agenda or its specific projects, but rather arise across the organization's work and committees.

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[19] The TOR state that: "Taking into account the recommendations by the third session of the PCT Working Group numbered 204*bis* and 211*bis* as quoted in the report of the meeting (paragraph 129 of document PCT/WG/3/14 Rev.), the review shall seek to address the "key evaluation questions" in this Terms of Reference with a view to reviewing and assessing how well the PCT system has been functioning in terms of realizing its aims of organizing technical assistance for developing countries, disseminating technical information and facilitating access to technology.'
[20] UN (2005; 2008).
[21] The CDIP has proposed that an independent review of the implementation of the Development Agenda Recommendations be undertaken at the end of the 2012-2013 biennium. Upon consideration of that review, the CDIP recommended that a decision on a possible further review could be taken. The Terms of Reference and the selection of independent IP and development experts for the review are to be agreed by the CDIP.

Definition of Activities in the Area of Cooperation for Development

To guide this study, the Review Team adopted the following definition of development cooperation activities in the area of cooperation for development. Notably, there is a lack of internal clarity within WIPO on what is covered by the term development cooperation activities. Many alternative definitions arise in discussions with staff across the organization. (For detailed discussion of this point, see Part 1 of the Report). This has a significant impact on estimates and calculations of the effort and resources spent by the organization on development cooperation activities.

The TORs for this Review refer to four pillars (see Annex 1). However, the Review Team discerned that the following six categories would be more useful and accurate in covering the scope of WIPO's development cooperation activities relevant to this Review and the range of activities at hand.

Box 3. Review Team's Definition of Technical Assistance in the Area of Cooperation for Development

For the purposes of this review, the definition of technical assistance activities is all activities related to:

- development of national intellectual property strategies, policies and plans in developing countries (including needs assessments);
- development of global, regional and national legislative, regulatory and policy frameworks that promote a balanced IP system (including related research and support for the engagement of developing countries in global decision-making and dialogue);
- building of modern state-of-the-art national IP administrative infrastructure;
- support-systems for users of the intellectual property system in developing countries;
- promotion of innovation and creativity, and access to knowledge and technologies in developing countries (including related research); and
- training and human capacity building in developing countries.

Throughout the report, 'technical assistance in the area of cooperation for development' will be referred to as 'development cooperation activities'.

Methodology

The review was managed by WIPO's Program Management and Performance Section (PMPS). In order to ensure objectivity and independence of the review, PMPS's role was limited to coordination and providing support to the external Review Team. The review was conducted by two independent external consultants selected by an internal selection committee established for that purpose. The external Review Team was selected on the basis that they should possess the requisite skills and knowledge required to conduct the review in a credible and independent manner.

In October 2010, WIPO hired two consultants to conduct the independent External Review of WIPO´s technical assistance activities in the Area of Cooperation for Development, namely Dr. Carolyn Deere Birkbeck, University of Oxford and Dr. Santiago Roca, Universidad ESAN - Graduate School of Business, Peru. Each individual was approached by WIPO, with the objective of contracting one consultant from a developing country and one from a developed country to work together on the Review. Both consultants agreed that Dr. Carolyn Deere Birkbeck be named the team leader to be responsible for delivering the final outputs as per the TOR. Biographies of the two consultants are provided in Annex 2.

The criteria used for this review are those set out in the Review TOR. The Review Team sought to answer each of the questions and evaluation criteria set out on pages 3-4 of the TOR (see Annex 1).

The review was conducted in accordance with the United Nations Evaluation Group (UNEG) Standards for Evaluation in the UN System and the UNEG Code of Conduct for Evaluation in the UN System.[22] The Focus of the Review has been on generating evidence-based findings and capturing perceptions of WIPO staff, Member States and stakeholders. In accordance with the TOR, the methodology for the Review included the following elements:

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[22] See UN (2005 and 2008). Also see http://www.unevaluation.org/unegcodeofconduct

- a desk review of relevant WIPO documents and reports (see Bibliography for a list of key WIPO documents consulted);
- interviews with staff from Programs involved in WIPO development cooperation activities (see Annex 3 for list of interviewed staff);
- six country case studies (involving field visits to national intellectual property offices and a diversity of government stakeholders);
- a survey of the beneficiary countries of WIPO's development cooperation activities;
- a request for comments and input from other stakeholders; and
- a literature review (see Bibliography for external literature consulted).

A summary of the process and resources used in each case follows. As noted above, this External Review also sought to contribute to the assessment, recommended by the third session of the PCT Working Group (see document PCT/WG/3/14 Rev., paragraph 211bis) as to how well the PCT system has been functioning in terms of realizing its aims of organizing development cooperation activities for developing countries in the area of patents. The Review Team addressed this supplementary element by undertaking several dedicated meetings with staff in the PCT division and by ensuring focused coverage of patent-related issues in the review process, including by talking with a broader set of WIPO staff working on patent-related issues than for other substantive areas of IP. In addition, the Review Team's questionnaire for beneficiary countries included a number of patent-specific questions and four of our six country visits were PCT members.

Desk Review of Internal Documents and Reports

The Review Team was provided background documents by WIPO staff within the Development Sector and other substantive Programs, including copies of some national IP plans and strategies, and relevant documents related to the work of the Assemblies, the Program and Budget Committee (PBC) and the CDIP (See Bibliography for a list of WIPO documents consulted). The Review Team was also provided with a sample of internal work plans and Quarterly Management Reports. No copies of legislative assistance provided were made available.

Most staff were prompt and helpful in providing necessary materials. Some staff needed a little more persuasion to share relevant internal documents and workplans. The Review Team gathered further documents where necessary as a follow up to meetings. The review also included a detailed analysis of information available on WIPO's website and its on-line Technical Assistance Activities Database (which was developed within the framework of the CDIP in response to Development Agenda Recommendation 5.)[23]

Notably, the External Review was conducted at the same time as an Internal Audit of WIPO's cooperation for development activities by WIPO's Independent Audit and Oversight Division (IAOD). An informal briefing on the draft report of that Internal Audit also informed this review. After discussion by WIPO's Audit Committee, that Internal Audit report was issued in May 2011.[24] While the document is a confidential internal document (available on request to Member States), the Review Team was provided a copy of the Summary of the report.

The TOR for this External Review also called for the review to be informed to the extent possible by completed country evaluations conducted by IAOD. However, no such country evaluations had been completed by the time of the completion of this Review.

Interviews of WIPO Staff and a Factual Review

The Review Team began its work in late October 2010 with a first round of internal interviews with WIPO staff, followed by a second week of consultations in late November 2010. Interviews began with meetings with the senior staff in each of the relevant WIPO Sectors. The Review Team then met with staff responsible for particular development cooperation activities. A list of all WIPO staff consulted is contained in Annex 3. A draft version of the report was distributed to WIPO staff for factual correction.

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[23] See www.wipo.int/tad/en. For a review of the efficacy of this database, see Part 5.1.4 of this Report.
[24] WIPO (2011) Executive Summary, Draft IAOD Internal Audit Report: Review of Cooperation for Development Activities, WIPO: Geneva.

Country Studies

The review included field visits to six countries, where the consultants met with a diversity of relevant government and non-government stakeholders. Field visits incorporated visits (and some subsequent phone interviews) with government stakeholders from IP offices and other relevant government Ministries and agencies, as well as consultations with non-government stakeholders from the business, research or NGO communities as appropriate and pending scheduling possibilities (See Annex 4 for a list of stakeholders consulted on each country visit).

Reflecting the TOR for the Review, the selection of countries was based on the following minimal criteria:

- Geographical balance;
- Stage of development (e.g., representation of both developing countries and LDCs);
- Countries having received substantial development cooperation activities from WIPO during the period under review; and
- Balance of "success cases" and less successful cases, based on the feedback from the questionnaire survey.

To these minimal criteria, the Review Team added several further criteria, namely the diversity of the size and functions of the IP offices in the country, overall economic and population size. Given the incorporation into the TOR for this Review of a study of PCT related development cooperation activities, all but one of the countries selected was a PCT member.

The ultimate selection of countries was also affected by the willingness of countries to participate and their availability within the time-frame of the Review. The Review Team consulted WIPO staff to solicit their input on candidate countries. To facilitate the selection, the Review Team developed a matrix of countries based on a list of criteria. From this, short list of six countries was proposed (and three 'back-up' countries in the case that financing and time were sufficient).

At the time the initial list of countries was devised, the Review Team did not have the benefit of any country-by-country overview of the assistance provided by WIPO over the past two years. In late November 2010, WIPO's technical assistance activities database went on-line, which enabled the Review Team to conduct a more detailed review of short listed countries of what level of activities had been received on what issues.

Ultimately, seven countries were selected for country visits: Dominican Republic, Indonesia, Panama, Senegal, Tanzania, Tunisia, and Vietnam. Due to political instability at the time of the planned visit to Tunisia, this country study was cancelled. Table 1 provides an overview of the criteria as these applied to those seven countries.

Table 1. Country Selection Criteria[25]

	GDP (USD billions)	GDP/capita (USD)	Population (million)	LDC	PCT Member
Africa					
Senegal	12.76	1,018	12.8	X	X
United Republic of Tanzania	23.00	526**	45	X	X
Arab					
Tunisia*	39.56	3,852	10.4		X
Asia Pacific					
Indonesia	540.27	2,349	233		X
Vietnam	92.19	1,058	89		X
Caribbean					

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[25] Sources: Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, *World Population Prospects: The 2008 Revision*, http://esa.un.org/unpp and UN Statistics Division, National Accounts Main Aggregates Database, http://unstats.un.org/unsd/snaama/dnllist.asp, GDP at current prices USD, 2009.

Dominican Republic	46.60	4,618	10		X
Latin America					
Panama	24.71	7,155	3.5		

* Country visit did not take place due to political situation at the time of the Review.

** This figure is for the Mainland. The GDP per capita for Zanzibar is 548 USD.

Survey of Beneficiary Countries

Feedback from the beneficiary countries of WIPO's development cooperation activities at the national level was sought through a detailed survey (a copy of which is available in English, French and Spanish on WIPO's website).

The survey was distributed to countries through WIPO's formal channels. That is, a *note verbale* was sent to all developing country Ministries of Foreign Affairs, and to national copyright and industrial property offices, and to Geneva-based missions. A reminder was sent one month later. The survey was open for responses from 7 February to 20 April 2011.

The survey was designed for completion by any government Ministry or agency in a developing country that addresses issues of intellectual property in its work. This included, for instance, national IP offices (e.g., industrial property, copyright) as well as offices responsible for aspects of IP within Ministries of Foreign Affairs, Trade, Commerce, Industry, Finance, Development Planning, Science and Technology, Agriculture, Health, Education and Culture. The survey was also open for completion by offices or departments that both had or had not been major recipients of WIPO development cooperation activities to date. In the case of IP offices, the Review Team suggested that the survey be completed by the head of the office or by a team of staff with knowledge of WIPO's development cooperation activities for their office.

The data collected from this survey are available from the authors. As this survey was anonymous, only aggregate data are provided in this report and any information relating to particular countries is unidentifiable.

The Review Team received responses to the survey in three ways: via an email directly to the consultants, through completion of the survey through an on-line version of the questionnaire; or through the regional bureaus (i.e., some countries chose to send their responses through contact people in the bureaus). All responses that were received were subsequently entered by the Review Team into the on-line survey format in order to facilitate the analysis of results.

A total of 33 responses to the questionnaires were submitted by 26 countries. A list of countries that submitted responses is available in Annex 5. While the survey response rate was lower than the Review Team hoped, it nonetheless represents a sufficient overall response rate (around 25% of WIPO's developing country members) and a broad enough diversity of WIPO's membership to be considered a satisfactory source of findings, among the other sources used in this Review.

The final breakdown of the 33 responses was as follows:

- Africa (7 countries of which one country submitted responses from 2 different government agencies)
- Asia-Pacific (5 countries)
- Arab Region (4 countries)
- Latin America and Caribbean (12 countries of which 4 countries submitted responses from 2 different government agencies, and one country submitted responses from multiple agencies to a sub-set of questions in the survey)

The respondents included countries at a diversity of levels of development, including 5 LDCs and two of the largest emerging developing countries, namely Brazil and China. Notably, in the majority of cases, the questionnaire was submitted by an IP office (e.g., industrial property or copyright office). In some cases, the Review received a separate response from each office. In one case (Brazil), a combined response from the government as a whole was submitted by the country's Ministry of Foreign Affairs. The substantive implications of the fact that most survey respondents were IP offices are discussed in Annex 6 of this report.

Importantly, the questionnaire aimed to gather both qualitative and quantitative data. The input received is factual but also reflects perceptions and expectations about WIPO's development cooperation activities. In the Review Team's view, perceptions provide useful input on how the organization is seen as well as insights as to how effectively the organization communicates about its work.

Stakeholder Consultation

The Review Team conducted an on-line public consultation of WIPO's stakeholders from IP user communities and NGOs. Input was invited through a short questionnaire that could be downloaded from the WIPO website and sent to the members of the External Review Team.

The call for input was sent by an email in February 2011 to all observers, NGOs and inter-governmental organizations (IGOs) accredited to WIPO and to all of its committees. An announcement of the public consultation was posted on the front page of WIPO's website and the CDIP web-page. A list of the organizations/individuals from which input was received is provided in Annex 7 and a copy of qthe questionnaire is available in English, French and Spanish on WIPO's website.

Literature Review

The review team's methodology included a review of relevant scholarly and policy literature on IP-related development cooperation activities and development,[26] as well as a review of the practices of intellectual property donors and development agencies in regard to evaluating the impact and effectiveness of their development cooperation activities (See Bibliography).

Other Inputs

To complete the analysis, the Review Team added several additional elements to the methodology.

- Discussions with WIPO Member States. With the assistance of the WIPO Secretariat, informal consultations were arranged with a cross-section of delegates from Geneva-based missions to solicit their views, including members of Group B, the Asia-Pacific Group, the African Group, the Latin American and Caribbean Group;
- Individual phone consultations with a donor that provides Funds-in-Trust for WIPO development cooperation activities;
- Meetings with staff of two other international organizations involved in the provision of IP-related technical assistance; and
- A study of a sample of WIPO events and seminars at the regional and global level from 2008-2010.

Outline of this Report

This report proceeds in six sections.

- Part 1 sets out the organizational arrangements for the management and provision of development cooperation activities as well as key trends in its distribution. It also provides a descriptive overview of the key elements of ongoing organizational change that are relevant to WIPO development cooperation activities.

- Part 2 provides a description and assessment of orientation, followed by a summary of selected recommendations relevant to impact.

- Part 3 provides an introduction to the issues of impact, followed by a summary of selected recommendations relevant to impact.

- Part 4 offers a description and assessment of the orientation and impact for each of the six pillars of WIPO's development cooperation activities, followed by selected recommendations relevant to each pillar.

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[26] See, for instance, Matthews and Tellez-Munoz (2006), Kostecki (2005), Bellmann and Vivas-Eugui (2004). Pengelly (2005), MSF (2003), Musungu (2003), Saana Consulting (2004), Villanueva (2005), CIPR (2001), Kuanpoth (2005), and Matthews (2005).

- Part 5 provides a description and assessment of the management and cost-efficiency of WIPO's development cooperation activities, followed by a summary of selected recommendations relevant to these issues.

- Part 6 describes and assesses internal and external coordination, followed by a summary of selected recommendations relevant to these issues.

A summary of key findings regarding the strengths and weaknesses of the orientation, relevance, impact, management, cost-efficiency and coordination of WIPO development cooperation activities can be found in the Summary of the Main Conclusions and Recommendations of this Report. Similarly, the Summary provides an abbreviated compilation of the recommendations in this Report for consideration by the WIPO Secretariat, Member States, and the organization's stakeholders.

Part 1: Organizational Arrangements and Trends

The goal set out in the TOR for this Review is to provide a 'macro level' review, which describes the current state of play in regard to WIPO's development cooperation activities and assesses whether progress in the right direction is being made. This Review took place amidst considerable organizational change and reorientation at WIPO. Notably, the planning and implementation of many WIPO development cooperation activities is under revision or in a pilot phase.

The purpose of Part 1 of this report is to provide a descriptive overview of the internal organization of WIPO's development cooperation activities and trends in expenditure, which in turn will set the scene for the 'assessment' aspect of this report.

Part 1.1 introduces the challenges of defining and measuring WIPO's development cooperation activities, and sets out the definition used in this report. Part 1.2 outlines the historical background and current organizational arrangements for delivery of WIPO's development cooperation activities. Parts 1.3 and 1.4 provide an overview of key financial trends in terms of the sources and financing of WIPO development cooperation activities and expenditure patterns. Part 1.5 reviews the distribution of resources by region and country, followed by Part 1. 6, which examines the allocation of resources and staffing by Programs and Sectors. Part 1.7 reviews allocations according to the mode of delivery. Part 1.8 concludes Part 1 of this Report by introducing the key elements of ongoing organizational change that form the context for this External Review.

Note that the purpose of Part 1 of this Report is descriptive. An assessment of the trends described is provided in later parts of the report. Further, efforts to improve the budget and reporting process relevant to trends in development related activities are discussed in Part 5 of this report.

1.1. Definitions and Measurement

Definitions

WIPO's goals in the area of Cooperation for Development are set out in the terms of reference (TORs) for this review (excerpted in Box 1.1).

As noted in the Introduction to this report, whereas WIPO has defined four 'pillars' of development cooperation activities, the Review Team proposes that there are six pillars of WIPO's development cooperation activities as follows:

- development of national intellectual property strategies, policies and plans in developing countries;
- development of global, regional and national legislative, regulatory and policy frameworks that promote a balanced IP system (including related research and engagement of developing countries in global dialogue and decision-making on IP issues);
- building of modern state-of-the-art national IP administrative infrastructure;
- support-systems for users of the intellectual property system in developing countries, including public awareness raising;
- promotion of innovation and creativity, and access to knowledge and technologies in developing countries; and
- training and human capacity building in developing countries.

Box 1.1. WIPO's Stated Goals for Technical Assistance

'Through its technical assistance for development, WIPO is committed to ensuring that developing countries and least developed countries are able to benefit from the use of IP for economic, cultural and social development. The Development Sector coordinates the implementation of WIPO's technical assistance and capacity building activities, including the work of the substantive sectors and programs, which aims at contributing towards the reduction of the knowledge gap and the greater participation of the developing and least-developed countries (LDCs) in deriving benefits from the knowledge economy.'

Source: TOR for the External Review of WIPO Technical Assistance

Measurement Challenges

The measurement and assessment of the resources WIPO devoted to development cooperation activities during the period under Review and their impact on developing countries was complicated by three factors:

First, since there was no agreed definition within WIPO, or among its Member States, on the definition of what counted as 'development cooperation' or development cooperation activities during the period under Review, the task of compiling budget and expenditure data was difficult. In 2008/09, for instance, each WIPO Program was asked to estimate the amount of their Program's budget that was allocated to development activities. Both the definitions of what counts as a development activity, and the methodologies used by Programs to measure such activities, varied. In some cases, for instance, any activity that supported developing country participation was deemed a development cooperation activity. Some staff propose, for instance, that fee reductions (such as the introduction of a fee reduction scheme for applicants from LDCs which came into foce in January 2008, in the framework of the Hague Agreement) could be considered as part of WIPO's development assistance activities.

Second, for the period under review, across WIPO's activities there were inadequate operational management processes and tools for properly tracking the overall expenditure of the organization on development cooperation activities, both in non-personnel and personnel costs. Here, a particular challenge is that there is not a systematic procedure for estimating and reporting the proportion of staff time devoted to development activities. Further, WIPO's development cooperation activities spread across a range of different budget lines that span the organization's work. These include budget lines that clearly relate to specific development cooperation activities, such as training and legislative advice provided by WIPO's officials responsible for administering its various treaties, as well as budget lines related to outreach activities on enforcement, public education, and travel expenditures.

Third, in the absence of the processes and tools described above, there was little automated data that could be processed and analysed on, for instance, the amount of development cooperation activities delivered by country, per capita income, or according to categories (e.g., trainings, seminars, equipment delivered, research conducted, and software Programs developed).

In sum, for the period under study by this External Review, weaknesses in monitoring, reporting and data-gathering mean that the data on expenditure by activity, country or region are limited and that trends described below is often based on partial information or represent estimates at best. Similarly, weakness in tools and processes for assessments of results, impact and evaluation, limit the scope for a comprehensive or in-depth assessment or evaluation of activities or progress in many areas. (The WIPO Secretariat's ongoing efforts to improve results-based management (RBM) are discussed in Part 5 of this report on Management.)

The key documents used by the Review Team to gather information on the WIPO budget and expenditure were the 2008/09 and 2010/11 Program and Budget, the 2008/09 Program Performance Report and the 2008/09 Financial Management Report. The Program Performance Report for the 2010 /11 biennium was not available at the time the Review Team completed its work, nor was the Financial Management Report for 2010.

1.2.   Organization: Historical and Current Approaches

Historical Background

WIPO has provided IP-related development cooperation activities for more than 30 years.[27] Up until 1995, half or more of WIPO's technical assistance concerned the execution of projects under the financial control of United Nations Development Program (UNDP), which was WIPO's most significant partner within the UN family at that time. The remainder of WIPO's assistance was financed through trust funds supported by Member States[28] or WIPO's own regular budget (which from the 1970s to mid-1980s accounted for financed around 20- 25% of the assistance. The range of activities financed through the Regular Budget were limited (e.g., fellowships were, for instance, a primary focus).

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[27] Bogsh (1992) and Halbert (2007).
[28] In the early 1980s, for instance, France, Germany and the United States provided resources through Trust Funds and WIPO received cash or in-kind contributions from Austria, Brazil, Canada, East Germany, the Soviet Union, Sweden, Spain and the EPO, as well as voluntary contributiosn for specific projects from Australia, Switzerland and the United Kingrdom

From 1995, in light of growing revenues and the need to meet increasing demand from developing country Members, particularly those related to the implementation of the WTO's Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) and other international IP treaties, WIPO's membership agreed to devote more of the organization's own resources to development cooperation activities. Former WIPO Director-General Kamal Idris reinforced this shift in emphasis, channelling to development cooperation activities a portion of the funds raised through the increased use of WIPO services related to its Patent Cooperation, Madrid and Hague Treaties.[29] Thus, as UNDP dropped its earlier activities on IP-related work, WIPO picked up the discrete area of IP-related assistance. There was no specific effort by WIPO to deliver its IP-related assistance in collaboration with the broader UN system or UN strategies and evaluation frameworks for country based development assistance. (An assessment of current efforts and progress in this respect is provided in Part 2 of this Report on Orientation, Part 5 of this report on Management, and Part 6 on Coordination).

Current Background

From a planning and budgetary stand-point, WIPO's development cooperation activities are mostly part of the organization's regular Program and Budget, and are thus approved by the Program and Budget Committee and then by the General Assembly on a biennial basis. However, there are also extra-budgetary sources of income for development cooperation activities. The composition of the development cooperation activities budget and others sources of income is discussed below. (An assessment of the implications of this composition, and the organizational approach to prioritizing and allocating resources for development cooperation activities is provided in Part 2 of this Report on Orientation and Part 5 of this Report on Management.)

Within the WIPO Secretariat, the internal organizational structure for managing the planning and delivery of development cooperation activities has changed several times over the past decade, and also over the three years covered by this Review.

The work of WIPO is currently organized around nine Strategic Goals and implemented by seven organizational Sectors (see Figure 1.2.) and 29 Programs.[30] While the organizational hierarchy of WIPO is organized by Sectors (such as the Development Sector, Brands and Designs Sector, etc), the implementation of its activities is divided among 29 Programs. Over half of the Programs rely on the engagement and cooperation of more than one Sector for their implementation, and sometimes rely on several Sectors. The remaining Programs are each implemented by an individual Sector. Some Sectors, such as the Global Issues Sector, have responsibilities for expected results across many Programs (i.e. Programs 4, 7, 10, 17, 18 and 20).

1.3.   Sources and Financing of WIPO Assistance

The level of development cooperation activities undertaken by WIPO depends on its overall income. The primary source of WIPO's income is that generated through treaty-related services. Regular contributions from Members were around 5% of the organization's total budget for each year in the period under review (2008-2011) (see Table 1.1.). Together, these two sources comprise the bulk of WIPO's regular budget, which also includes some income from publications, arbitration fees, interest and some miscellaneous sources.

The sources of WIPO's resources for development cooperation activities over the period of this review were: the Regular Budget (as approved in the Program and Budget), a Reserve Appropriation for WIPO Development Agenda projects in 2010, extra budgetary resources, and in-kind support (see Box 1.2).

Funds in Trust are voluntary extra-budgetary contributions by some Member States to WIPO to support certain development cooperation activities as specified in a Memorandum of Understanding between the donor country and WIPO. These may be for development activities in third countries or for activities in the donor's own country. Further details on the scale and purpose of Funds in Trust, and on in-kind cooperation, are provided below. WIPO also has some collaboration with other organizations, through which it aims to leverage its activities and resources (discussed in Part 6 of this report on Coordination).

In the foreword to the 2010/11 proposed Program and Budget submitted to the 2009 WIPO General Assemblies, the WIPO Director-General highlighted expanding the funding of development cooperation

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[29] Idris (2003).
[30] Rather confusingly, the organization's Program and Budget lists 30 Programs, but in reality there is no Program 13, so there are only 29 Programs in total.

activities and capacity building as one WIPO's strategic objectives. It was noted that: "Successfully implementing and ensuring the appropriate level of funding for approved Development Agenda recommendations as well as development activities as a whole, remains a key priority for the Organization."[31] In this respect, the organization is undertaking efforts to boost its collaborations with other organizations and to complement the resources devoted to development cooperation activities through its regular budget with additional extra-budgetary resources, and to facilitate the access of members to additional resources available through other organizations. (These efforts are assessed in Part 6 of this report on Coordination.)

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[31] WIPO (2009) 'Program and Budget for the 2010/11 Biennium', September 2009. Geneva: WIPO.

Figure 1.1. Organigram of WIPO's Organizational Structure

June 2011

Director General
Francis Gurry

Executive Management (Prog. 21)
Office of the Director General
- *Naresh Prasad*, Executive Director and Chief of Staff
  - *Marc Sery-Kore*, Deputy Director
- *Denis Croze*, Acting Director
  Assemblies Affairs and Document Division
- *Miranda Brown*, Strategic Advisor to the DG
- *Edward Kwakwa*, Legal Counsel, Office of the Legal Counsel
- WIPO Ethics Office
- Office of the Ombudsman

Internal Audit and Oversight (Prog. 26)
- *Nicholas Treen*, Director
  Internal Audit and Oversight Division

Economic Studies, Statistics and Analysis (Prog. 16)
- *Carsten Fink*, Chief Economist
  Economic and Statistics Division

DDG — Development
Geoffrey Onyeama

Development Agenda Coordination (Prog. 8)
- *Irfan Baloch*
  Director
  Development Agenda Coordination Division

Africa, Arab, Asia and the Pacific, LAC Countries, LDCs (Prog. 9)
- *Amgad M. Abdel Ghaffar*
  Director-Advisor
  Office of the DDG
- *Allan Roach*
  Project Director
  Technical Assistance Database Projects
- *Herman Ntchatcho*
  Senior Director
  Bureau for Africa
- *Ranjana Abeysekera*
  Director
  Bureau for ASPAC
- *Carlos Mazal Casella*
  Director
  Bureau for LAC Countries
- *Fatima Daboussi*
  Acting Director
  Bureau for Arab Countries
- *Kiflé Shenkoru*
  Director, Division for LDCs

The WIPO Academy (Prog. 11)
- *Marcelo Augusto Di Pietro Peralta*
  Director
  WIPO Academy

External Offices and Relations (Prog. 20)
- *José Graça Aranha*
  Regional Director
  WIPO Brazil Office
- *Carlotta Graffigna*
  Regional Director
  WIPO Singapore Office

DDG — Brands and Designs
Wang Binying

Trademarks, Industrial Designs and Geographical Indications (Prog. 2)
- *Octavio Espinosa*
  Director
  Legislation Advisory Division
- *Marcus Höpperger*
  Director
  Trademark and Design Law Division

Madrid, Hague and Lisbon Systems (Prog. 6)
- *Ernesto Rubio*
  Senior Director-Advisor
  Office of the DDG
- *Juan Antonio Toledo Barraza*
  Senior Director
  International Registries of Madrid and Lisbon
  - *Debbie Roenning*
    Director
    Legal Division
  - Information and Promotion Division
- *Neil Wilson*
  Director
  Functional Support Division
- International Designs Registry

DDG — Global Issues
Johannes Christian Wichard

External Offices and Relations (Prog. 20)
- *Sherif Saadallah*
  Executive Director
  Department of External Relations
  - WIPO New York Office

TK, Traditional Cultural Expressions and Genetic Resources (Prog. 4) and IP and Global Challenges (Prog. 18)
- *Konji Sebati*
  Director
  Department for TK and Global Challenges
  - *Wend Wendland*
    Director
    TK Division
  - *Anatole Krattiger*
    Director
    Global Challenges Division
- *Nuno Pires De Carvalho*
  Director
  Intellectual Property and Competition Policy Division

Arbitration, Mediation and Domain Names (Prog. 7)
- *Erik Wilbers*
  Director
  WIPO AMC

Cooperation with Certain Countries in Europe and Asia (Prog. 10)
- *Michal Svantner*
  Director
  Division for CCEA

Building Respect for IP (Prog. 17)
- *Louise Van Greunen Vuagnat*
  Director
  Building Respect for IP Division

DDG — Innovation and Technology
James Pooley

Patents (Prog. 1)
- *Philippe Baechtold*
  Director
  Patents and Innovation Division

The Patent Cooperation Treaty (PCT) System (Prog. 5)
- *Matthew Bryan*
  Director
  PCT Legal Division
- *David Muls*
  Director
  PCT Operations Division
- *Takashi Yamashita*
  Director
  PCT International Cooperation Division
- *Claus Matthes*
  Director
  PCT Business Development Division

Communications (Prog. 19)
- *John Tarpey*
  Director
  Communications Division

Small and Medium-Sized Enterprises (Program 30)
- *Guriqbal Singh Jaiya*
  Director
  SMEs Division

ADG — Global Infrastructure
Yoshiyuki Takagi

International Classifications and WIPO IP Standards (Prog. 12)

Global IP Information Services (Prog. 14)
- *Alejandro Roca Campaña*
  Senior Director-Advisor
  Office of the ADG

IP Office Modernization (Prog. 15)
- *William Meredith*
  Director
  Infrastructure Modernization Division

External Offices and Relations (Prog. 20)
- WIPO Tokyo Office

Security (Prog. 28)

New Construction (Prog. 29)

ADG — Administration and Management
Ambi Sundaram

Finance, Budget and Program Management (Prog. 22)
- *Philippe Favatier*
  Chief Financial Officer (Controller)
  Department of Finance and Budget
- *Chitra Narayanaswamy*
  Director
  Resource Planning, Program Management and Performance Division

Human Resources Management and Development (Prog. 23)
- *Gisbert Bruns*
  Director
  Human Resources Management Department

Administrative Support Services (Prog. 24)
- *Bérénice Bessiere*
  Director
  Procurement and Travel Division
- *Isabelle Boutillon*
  Director
  Premises Infrastructure Division

Information and Communication Technology (Prog. 25)
- *Wei Lei*
  Chief Information Officer
  Information and Communication Technology Department

Conference and Language Services (Prog. 27)
- *Pushpendra Rai*
  Director
  Conference and Language Department

ADG — Culture and Creative Industries
Trevor C. Clarke

Copyright and Related Rights (Prog. 3)
- *Richard Owens*
  Director
  Copyright Law Division
- *David Uwemedimo*
  Director
  Creators and Performers Support Division
- *Hang Gao*
  Director
  Copyright Development Services Division

In accordance with Financial Regulation 2.5, and Rule 102.2(d), the above "detailed organigram of the International Bureau, including names of Directors and Program Managers" is provided to Member States for their information. A detailed organigram showing organizational units may also be consulted on the WIPO website. Please note that this organigram will be updated regularly.

Table 1.1. Evolution of the Income of the Organisation from 2002/03 to 2010/11 (in millions of Swiss Francs)

Actual Budget	2002/03	2004/05	2006/07	2008/09	2010/11
Contributions	34.4	34.4	34.7	34.8	34.8
Fees					
PCT System	348	400.6	451.1	461	446.2
Madrid System	49.7	60.8	90.3	100.5	106
Hague System	8.4	5	5	5.7	7.4
Lisbon System	0	0	0	0	0
Sub-Total Fees	406.1	466.5	546.5	567.2	559.6
Arbitration	3.2	2.5	3.2	2.8	2.7
Publications	7.1	4.4	2.7	2.6	2.6
Interest	13.1	8.9	15.8	18.1	16.3
Miscellaneous	6.4	6	6.4	4.2	4.2
TOTAL	**470.3**	**522.7**	**609.3**	**628.4**	**618.6**

1.4. Trends in WIPO Development Cooperation Expenditure at the Aggregate Level

According to the WIPO Secretariat's estimates, the financial and human resources WIPO devotes to development cooperation activities have grown over the past decade, both in absolute terms and as a share of WIPO's overall budget (Note, however, the measurement difficulties outlined above in Part 1.1). WIPO's total estimated contribution to IP-related capacity building in developing countries between 1996 and 2009 reached over CHF 500 million, more than doubling from an estimated 25 CHF million in 1996 (approximately 5% of the organization's budget in that year) to an estimated CHF 118.5 million from the Regular Budget for the 2010/2011 biennium (19.2% of WIPO's Regular Budget for that biennium).[32] This growing expenditure on development cooperation activities was possible due to an increase in WIPO's income from the Patent Cooperation Treaty (PCT) and Madrid Treaty, which grew over the same period. Box 1.2 provides an overview of the sources and scale of resources for WIPO's development cooperation activities, which for 2008/09 and 2010/11 combine to reach an estimated grand total of CHF 284.04 million.

Box 1.2. Estimated Expenditure on WIPO's Cooperation for Development for 2008/09 and 2010/11

Sources	CHF million
WIPO Regular Program and Budget 2008/09 and 2010/11	236.4
Supplementary Reserve Appropriation for the WIPO Development Agenda for 2010*	10.3
Extra-budgetary Funds in Trust for Development Assistance in other countries 2008/09 and 2010/11	33.84
Extra-budgetary National Funds in Trust 2008/09*	3.50
In-kind support**	Not quantified
TOTAL	**284.04**

* Notably, these funds were originally part of the regular WIPO budget, but because they could not be carried over into the next biennium, the resources were placed in the reserve funds in order to be carried over for use in the next fiscal period.

** Data on National Funds in Trust for TA were only available for the year 2008/09.

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[32] Deere (2008a).

*** In addition, WIPO negotiated cooperative agreements with several other donors that supplement WIPOs resources (e.g. with the European Community for activities in Bangladesh and Pakistan).

Regular Budget

For the 2010/11 biennium, WIPO expects to commit an estimated CHF 119 million to development-related activities from its Regular Budget (which amounts to 19.2% of WIPO's total proposed budget for the same period).[33] As such, for the period from 2008 to 2011, the amount allocated from WIPO's regular budget for development-related activities was estimated by the Secretariat to total CHF 236.4 million (see Table 1.2 below). Importantly, WIPO's estimates used in Table 1.2 do not include the budget related to the implementation of WIPO Development Agenda projects or the finances for development activities provided by Funds-in-Trust (FITs), or resources leveraged through in-kind arrangements. It does, however, include expenses related to the mainstreaming of the Development Agenda across the organization and some personnel costs related to the implementation of WIPO Development Agenda projects that are not otherwise financed by project-specific funding (see Development Agenda discussion below). Further, Table 1.2 also includes resources devoted for cooperation with Certain Countries in Europe and Asia, which are not within the scope of this External Review.

Importantly, while the figures reported by WIPO in Table 1.2 suggest a slight increase in development oriented expenditures from the 2008/09 biennium to the 2010/11 biennium, it should be noted that these figures are based on varying definitions and unclear methodologies. The result is that for the 2008/09 and 2010/11 biennia, the accuracy of the organization's reporting on the scale of its development cooperation activities is uncertain as the figures were, by the organization's own account, estimates at best. For each biennium, it is unclear to the Review Team whether the budget figures presented as being for development cooperation activities were in fact greater or smaller than those that ought properly to have been included. It is thus also difficult to make accurate assessments of overarching trends. More detailed comparisons can, however, be made at the Program level (see Part 1.6.).

Table 1.2. Estimated Budget for Development Activities (in thousands of Swiss Francs)		
Programs (relevant shares of Program resources)	**2008/2009 Revised Budget**	**2010/2011 Budget**
Trademarks, Industrial Designs and Geographical Indications	1,709	1,493
Copyright and Related Rights	6,362	5,459
Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources	5,495	6,443
The PCT System	4,555	4,052
Madrid, Hague and Lisbon Systems	2,814	2,368
Development Agenda Coordination	5,414	5,337
Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, LDCs	44,493	42,178
Small and Medium-sized Enterprises [2]	3,567	4,729
Cooperation with Certain Countries in Europe and Asia	5,604	6,111
The WIPO Academy	8,859	10,193
International Classifications and WIPO IP Standards	248	419
Global IP Information Services	833	1,493
IP Office Modernization	5,435	4,653
Economic Studies, Statistics and Analysis	1,586	2,236
Building Respect for IP	2,922	2,608
IP and Global Challenges [3]	4,990	4,744
Communications	6,590	11,591
External Offices and Relations	997	2,440
SUB-TOTAL	**112,472**	**118,548**
Costs Incurred in 2008 for Activities Discontinued in 2009	**5,017**	**-**
TOTAL	**117,489**	**118,548**
Resources devoted to development activities as % of total budget	**18.7%**	**19.2%**

[1]The above amounts do not include 2.24 million Swiss francs earmarked for the activities broadly agreed upon by the CDIP at its April 2009 session for the implementation of three thematic projects on Development Agenda recommendations 7,16, 19, 20, 23, 24, 27 and 32.

[2] This is a new Program

[3] This Program includes activities related to Innovation and Technology Transfer

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[33] WIPO (2009) 'Program and Budget for the 2010/11 Biennium', September 2009. Geneva: WIPO.

Extra-budgetary Resources

This section addresses four existing extra-budgetary arrangements for WIPO's development activities: FITs for development cooperation activities in third countries; FITs for Junior Professional Officers; the WIPO Voluntary Fund for Accredited Indigenous and Local Communities; and National FITs for activities in the donor's own country. The provision of Funds in Trust to WIPO occurs in the framework of WIPO's Financial Regulations & Rules related to Voluntary Contributions (see Box 1.3). (An assessment of the management arrangements for FITs is provided in Part 5 of this report.)

Box 1.3. WIPO's Financial Regulations & Rules related to Voluntary Contributions

WIPO's Financial Regulations and Rules provide the framework for the management of such voluntary contributions as the following extract shows:

"C.   VOLUNTARY CONTRIBUTIONS, GIFTS AND DONATIONS

Acceptance and purpose

Regulation 3.11

Voluntary contributions, gifts and donations, whether or not in cash, may be accepted by the Director General provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Organization and provided that the acceptance of such contributions that directly or indirectly involve significant additional financial liability for the Organization shall require the consent of the General Assembly.

Regulation 3.12

Monies accepted for purposes specified by the donor shall be treated as trust funds.

Authority and liability

Rule 103.1

(a)   In cases other than those approved by the General Assembly, the receipt of any voluntary contribution, gift or donation to be administered by the Organization requires the acceptance of the Controller on behalf of the Director General,

(b)   Voluntary contributions, gifts or donations which directly or indirectly involve additional financial liability for the Organization may be accepted only with the approval of the General Assembly;

(c)   Gifts or donations are to be defined and administered as voluntary contributions".

The donor base for WIPO's FITs is primarily the IP offices of Member States from OECD countries, although there are important exceptions such as funding from the EC for development co-operation projects in South Asia (See Annex 9). There is also a long-running co-operation arrangement between WIPO and the Swedish International Development Agency (SIDA) for the benefit of LDCs to enable participants to attend SIDA's courses. In addition, the WIPO Voluntary Fund for Accredited Indigenous and Local Communities is supported by France, Norway, South Africa, Switzerland, SwedBio/CBM[34], and the Christensen Fund.

At present there are 9 FIT donors supporting WIPO's development co-operation activities in third countries: the European Union, Finland, France, Italy, Japan, Korea, Portugal, Spain and the United States. The estimated additional resources available for development programming through these FITs for the 2010/11 biennium totals approximately CHF 15 million. The breakdown by donor for 2008/09 and 2010/11 can be seen in Table 1.3. Japan is currently the largest donor, committing CHF 7.7 million for the 2010/11 biennium. Japan was the first donor to set up a fund specifically for activities in Africa in accordance with Development Agenda Recommendation 2.

Importantly, the FITs are all tied to specific activities (see Annex 8 for an overview of the activities supported by each FIT), ranging from modernization of IP offices, public outreach and educational activities, facilitating university-industry partnerships and better use of IP assets by SMEs to suppor for collective management of copyrights, and effective enforcement. Specific FIT activities include the organization of regional, sub-regional and national seminars and workshops, training courses, expert

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[34] Sweden's International Biodiversity Program.

advisory missions, long-term fellowship Programs, provision of office equipment, and translation of selected WIPO materials.

The FITs are managed by particular Sectors of the organization to contribute to activities undertaken in the Programs, and add to the resources made available to those Programs through the organization's regular Program and Budget.

Table 1.3. Funds-in-Trust Resources for Development Programming in Third Countries

Fund-in-Trust (FIT)	Balance End 2007	Estimated Contributions 2008/09**	Estimated Available for Programming in 2008/2009	Projected Balance End 2009	Estimated Contributions 2010/11**	Estimated Available for Programming in 2010/11
Fund-in-Trust Resources (in thousands of Swiss Francs)*						
Finland						
Finland/Copyright I	50	-	50	1	30	31
Finland/Copyright II	38	-	38	1	-	1
Finland/Copyright III	66	-	66	128	130	258
Sub-Total, Finland	154	-	154	130	160	290
France						
France/Copyright	2	-	2	-	-	-
France/IP	**649**	**400**	**1'049**	**400**	**600**	**1000**
Sub-Total, France	**651**	**400**	**1'051**	**400**	**600**	**1000**
Germany/JPO	291	640	931	-	-	-
Italy	992	253	1'245	10	-	10
Italy/JPO	-	158	158	-	-	-
Japan						
Japan/Copyright	782	782	1'564	312	1'172	1'484
Japan/IP/Africa	-	1'100	1'100	63	1'100	1'163
Japan/IP	2'410	2'410	4'820	1'375	3'660	5'035
Sub-Total, Japan	**3'192**	**4'292**	**7'484**	**1'750**	**5'932**	**7'682**
Portugal	-	-	-	50	151	201
Republic of Korea						
Republic of Korea (IP)	1'149	598	1'747	440	1'366	1'806
Republic of Korea (Copyright)	596	245	841	298	410	708
Republic of Korea (Copyright/PO)	-	540	540	-	-	-
Republic of Korea/JPO	527	464	991	-	-	-
Sub-Total, Korea	**2'272**	**1'847**	**4'119**	**738**	**1'776**	**2'514**
Spain	459	944	1'403	172	907	1'079
United States of America						
US Copyright	1'060	500	1'560	150	554	704
US IP	112	224	336	-	-	-
US IP/Enforcement	-	200	200	10	210	210
US SME	-	-	-	35	-	35
Sub-Total, USA	**1'172**	**724**	**1'896**	**185**	**764**	**949**
EU/Sri Lanka	65	-	65	-	-	-
EU/Bangladesh	-	644	644	158	1'060	1'218
TOTAL	**9'247**	**10'102**	**19'349**	**3'603**	**11'350**	**14'493**

*The figures do not include interest and exchange rate adjustments. It should also be noted that these funds generally provide for activities spanning a period of time exceeding or overlapping a single biennium, as income is received and expenditure incurred.
**This column is purely indicative and based on previous funding patterns. It does not represent Member States' Commitments, except in those cases where FIT Agreement includes such a commitment.
Source: WIPO (2009) Program and Budget 2010/11. Geneva: WIPO.

Some donors also provide FITs to WIPO to support their Junior Professional Officer (JPO) schemes, whereby they finance the positions for nationals of their countries in the WIPO Secretariat. Germany, for instance, provides funds for costs associated with its Junior Professional Officer scheme. Some of the FITs provide a Junior Professional Officer from their country to manage their FIT activities or allow for a portion of expenditures to go towards staffing the administration of the FIT activities within the WIPO secretariat HQ or one of its external offices (as is the case with FIT Japan and the WIPO External Office in Tokyo, Japan).

A number of countries also entrust funds to WIPO for the provision of development cooperation activities in their own countries. Countries with such bilateral voluntary funds include, for example, Brazil, Costa Rica, El Salvador, Libyan Arab Jamahiriya and Uruguay (See Table 1.4 in Part 1.5 below). Brazil's Fund now provides resources for a range of activities in other countries within Latin America. To more properly reflect this reality, discussions are underway to reclassify Brazil's FIT to be considered as part of the resources available for development Programming in third countries.

In sum, for the 2008/09 and 2010/11 biennium combined, the FIT resources available for development cooperation in third countries were CHF 33.6 million. If the resources provided through national FITS are added (around 3.5 million CHF for 2008/09; no figures were available for 2010/11), an additional estimated amount of at least CHF 37 million was available for development activities over the two biennia (adding a further fifteen percent to the development assistance resources available from the WIPO regular budget). In the period under review, however, none of these extra-budgetary resources were reported in an integrated way alongside or as part of the WIPO Program and Budget, nor was there any systematic reporting to Member States on how the FITs contribute to the organization's objectives or expected results in the area of development cooperation. While a table on the FIT resources available for development cooperation in third countries was provided as an Annex to the 2008/09 and 2010/11 Program and Budgets, there was no information in those documents on the national FITs. For information on the national FITS, WIPO's Financial Management Report was the only public source of financial information.

In-kind and Cost-sharing Arrangements

There have also been several in-kind and cost-sharing agreements that support development co-operation for Member States where WIPO. These include WIPO's collaboration with the Swedish International Development Agency (SIDA) on training for the benefit of LDCs. Another example is WIPO's agreement with the Australian IP Office, which involves no financial cash transfer to WIPO. Rather, each organization lends its services to the other to deliver a jointly agreed Program of development co-operation activities (particularly training courses) funded and managed by IP Australia, but with specific WIPO inputs. There is also an Agreement between the government of Singapore and WIPO for joint collaboration in the delivery of technical assistance and capacity building activities for developing countries in the Asia-Pacific region under a cost-sharing scheme.

Another example of in-kind co-operation is that used by WIPO's SME division to implement its IP PANORAMA training product for SMEs. IP PANORAMA was developed by WIPO's SME division jointly with the Korean Intellectual Property Office (KIPO) and the Korean Invention Promotion Association (KIPA). Subsequently, due to the scale of interest and the costs involved, the SME division has followed a model of transferring the know-how and knowledge by enabling Member States to translate and/or adapt the IP PANORAMA to local languages and/or sectoral needs and use it for conducting their own awareness creation or capacity building.

Development Agenda Expenditure

The implementation of the WIPO Development Agenda forms part of the organization's overall spending on cooperation for development. In the view of the Review Team, WIPO Development Agenda projects form part of the organization's overall portfolio of development cooperation activities. While only a sub-set of Development Agenda Recommendations are directly classified as regarding Technical Assistance and Capacity Building (those listed by the CDIP as falling in Cluster A), the Review Team's view is that all of the 19 CDIP projects approved thus far (including those that result in studies or research products), regardless of which Cluster they fall within, should classified as development cooperation activities. As per the Review Teams definition of WIPO development cooperation activities (see Box 3 in the Introduction to this Report) research activities on issues relevant to the relationship between IP and development, and which are prepared for the benefit of developing countries, should also be considered part of the organization's development cooperation activities.

Expenditures related to the WIPO Development Agenda fall in three categories: a) spending related to the work of the Development Agenda Coordination Division (i.e., Program 8, which includes the cost of running the CDIP meetings); b) spending on the 19 CDIP projects approved between 2009 and December 2010; and c) the costs associated with streamlining the 19 Development Agenda recommendations for immediate implementation across the organization's work. No figures for the latter streamlining costs were available (although a report of progress in this respect was presented by the Director-General to Member States at the November 2010 CDIP).[35]

The total amount devoted to the implementation of the 19 Development Agenda projects is estimated by the Secretariat to be CHF 21.9 million (of which 15.9 million CHF is indicated as non-personnel costs and CHF 6 million is personnel costs) (see Annex 10). The issue of how much the Development Agenda projects add to the total estimated development spending of the organization is, however, more complex.

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[35] WIPO (2010) 'Director General's Report on the Implementation of the Development Agenda,' March 18, CDIP/5/2. Geneva: WIPO.

Annex 10 shows that CHF 10.3 million of the CHF 21.9 million was allocated to 9 Development Agenda Projects with resources from WIPO's Reserve Funds.[36] All of this 10.3 million was additional to estimated spending on the development activities from WIPO's regular budget (e.g., CHF 2.34 million for personnel costs and CHF 7.9 million for non-personnel costs). The personnel costs for CDIP projects funded from the reserve appropriation are all project-related staff costs (i.e., they are additional to regular staff costs) which cannot be funded from reserve appropriations.

However, for those Development Agenda projects financed through the regular budget, the degree of their additionality to the rest of WIPO's development activities (i.e., in the Regular Budget) is less clear. The non-personnel costs of these CDIP projects (approximately CHF 8 million) are certainly additional. However, some but not all of the personnel costs associated with those projects are additional. The reason for this uncertainty is that the estimated project budgets included in CDIP project documents do not employ a uninform methodology for presenting personnel costs. In some cases, the CDIP project documents include costs for project personnel only, while in others they also include the costs of the time that regular WIPO staff devote to those projects. In short, it remains unclear what proportion of the CHF 3.6 million allocated for personnel costs associated with Development Agenda projects is additional to the organization's estimated budget for development reported activities listed in Table 1.2 or is absorbed within those budgets (and thus by the organization's regular Budget).

To summarize, the Development Agenda projects add at least an additional CHF 18.3 million to the organization's overall estimated spending on development activities. In addition, an unknown portion of the further CHF 3.6 million devoted to CDIP project-related personnel should be added to the total estimated spending on development cooperation activities, as well as any WIPO staff time devoted to the mainstreaming of the Development Agenda that is not otherwise reflected in Table 1.2. (An assessment of the internal system for management and coordination of Development Agenda activities is included in the Part 5 of this Report on Management.) Here, it is useful however to note that the budgetary process for approval of Development Agenda projects, and their link to the Program's regular budget and results-based management framework, is under evolution.

1.5. Distribution of Resources by Region and Country

For the period under review, WIPO could not provide an overall summary of WIPO development cooperation activities by proposed budget and actual expenditures by region or country. Indeed, to date, neither the Development Sector nor any other Program of WIPO systematically produces a country-by-country breakdown of its activities, budgets or expenditure. It was therefore also not possible for the Review Team to calculate a summary of the breakdown of the allocation of assistance to countries according to their level of development or per capita income.

Table 1.4 illustrates the budgets of the regional Bureaus housed in the Development Sector (Program 9 in the WIPO Program and Budget). Importantly, the budget information presented is only the specific budget for the Bureaus allocated under Program 9 through WIPO's regular Program and Budget; it does not reflect budgets that may be allocated to other Programs for their activities in the regions. While some Programs do produce breakdowns of activities by country and region on a regular basis, these generally remain internal documents within the relevant Sector of WIPO and do not form the basis for a broader organizational-wide view of country-by-country activities, expected results, budgets, or expenditure. Internal quarterly management reports provide a summary of activities undertaken and planned for each quarter in beneficiary countries. These reports are, however, internal, memo-based communications to senior management. They are not available for public review nor do they serve as a basis for compiling and analysing activities across the organization. They are not integrated into any information management system to facilitate monitoring by beneficiary countries, member states, staff or stakeholders. The WIPO technical assistance database offers only a partial list of activities by country and provides no information about, or links to, the level of expenditure by activity or country.

For the 2010/11 biennium, a new approach to allocating resources among the regional Bureaus within Program 9 was adopted by WIPO Member States. Each Regional Bureau received 3.7 million CHF per biennium for its activities. In so doing, some Bureaus gained resources and others lost compared to prior years. The LDC Division received 1.5 million CHF for the 2010/11 biennium. The personnel count, and thus personnel resources, of each Bureau varies. The largest Bureau in terms of personnel cost is the Asia and the Pacific Bureau (with 38 countries under its purview). The Africa Bureau has the largest number of countries under its purview (48 countries).

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[36] Notably, these funds were originally part of the regular WIPO budget, but because they could not be carried over into the next biennium, the resources were placed in the reserve funds in order to be carried over for use in the next fiscal period.

Notably, some Bureaus have additional extra-budgetary resources at their disposal in addition to those provided by WIPO's regular Program and Budget (see Table 1.4). The Africa Bureau has a dedicated Japan FIT, which provided it an additional CHF 1.16 million between 2008 and 2011 (CHF 1.1 million of which was for 2010/11). The Latin America and Caribbean Bureau benefitted from CHF 1.08 million between 2008/09 and 2010/11, of which CHF 0.91 million was for the 2010/11 biennium.

In addition three of WIPO's four external offices are engaged in the provision of development cooperation activities at the regional level. They each assist with the implementation of development cooperation activities financed through the budgets of other parts of WIPO, but also have a portion of their own budgets allocated to development cooperation activities. The WIPO Secretariat was not able to provide the Review Team a breakdown of the budgets of each of the external offices and their development-related activities for the period under review. As such the additional contributions of the external offices to the total expenditure in each region are not included in Table 1.4.

Table 1.4. Regional Bureau Budgets from WIPO Regular Budget and FITs (in thousands of Swiss Francs)*

	Regular Budget 2008/2009	Regular Budget 2010/2011	FITs 2008/09 and 2010/11	National FITs 2008/09**
Africa Bureau				
Personnel Resources	4,458	4,505	-	-
Non-Personnel Resources	3,279	3,700	-	-
Total Regular Budget	*7,737*	*8,205*	-	-
FIT Portugal	-	-	50	-
FIT Japan IP/Africa	-	-	63	-
FIT France Copyright	-	-	-	-
FIT France IP	-	-	400	-
TOTAL	**7,737**	**8,205**	**513**	**-**
Arab Bureau				
Personnel Resources	3,606	3,456	-	-
Non-Personnel Resources	3,286	3,700	-	-
Total Regular Budget	*6,892*	*7,156*	-	-
FIT Libya	-	-	-	131
TOTAL	**6,892**	**7,156**	**-**	**131**
Asia Pacific Bureau				
Personnel Resources	5,049	4,598	-	-
Non-Personnel Resources	3,284	3,700	-	-
Total Regular Budget	*8,333*	*8,298*	-	-
FIT Korea IP	-	-	440	-
FIT Japan IP	-	-	1,375	-
FIT EU/Sri Lanka	-	-	-	-
FIT EU/Bangladesh	-	-	158	-
ITC-Pakistan+	-	-	-	70
ITC-Sri Lanka++	-	-	-	75
TOTAL	**8,333**	**8,298**	**1,973**	**145**
Latin America and Caribbean Bureau				
Personnel Resources	3,723	3,882	-	-
Non-Personnel Resources	3,258	3,700	-	-
Total Regular Budget	*6,982*	*7,582*	-	-
FIT Spain	-	-	172	-
FIT Brazil***	-	-	-	3,148
FIT Costa Rica	-	-	-	38
FIT El Salvador	-	-	-	53
TOTAL	**6,982**	**7,582**	**172**	**3,239**
LDC Bureau				
Personnel Resources	2,487	2,769	-	-
Non-Personnel Resources	1,321	1,500	-	-
Total Regular Budget	*3,808*	*4,296*	-	-
FIT Japan IP/Africa****			63	-
TOTAL	**3,808**	**4,296**	**63**	**-**

Source: WIPO Program and Budget Documents 2008/09 and 2010/11, Financial Management Report 2008/09

* This does not include JPOs funded by FITS to work in the Bureaus
** This column only includes FITS (National or 'other country' budget for 2008/09)
*** The Brazil FIT is now being used for activities beyond Brazil and so will likely no longer be considered a 'national FIT.'
**** The Japan/Africa-LDCs FIT is for countries in Africa and LDCs.
+ ITC/Pakistan. Most of this was returned to the donor. This number is the balance at the beginning of the period.
++ ITC/Sri Lanka. 5295.41CHF was spent in the period. The rest was returned to the donor.

1.6. Resources Used by Programs/Sectors on Development

To provide an overview of key budget trends by WIPO Strategic Goal and Program, Figure 1.2 compares and combines the budgets for each Program for the 2008/09 and 2010/11 biennia. No assessment is made of the adequacy of these resources for the achievement of Program goals or intended activities in this section. No detailed information was available to the Review Team on which activities within these Programs were reduced or increased, and how this affected specific development cooperation activities conducted by these Programs at the activity level or in terms of expected results. Further, the Figure presents a limited picture of the development expenditure by the organization as a whole as it reflects only the regular Program and Budget, but not the extra-budgetary resources that may have been received by some of these Programs toward the achievement of the relevant Strategic Goals.

The WIPO Programs with the highest budgets overall are Program 5 (the PCT System) and Program 6 (the Madrid, Hague and Lisbon systems), with CHF 364 million and around CHF 120 million respectively over the two biennia. The next largest single Programs are Program 24 (Administrative Support Services), Program 25 (Information and Communications Technology) and Program 9 (the Regional Bureaus and LDC Bureau), which is entirely devoted to development cooperation activities and totalled just over CHF 86 million over the same 4 year period. Aside from Program 27 (Conference and Language Services), with a budget of around CHF 78 million over the 4 years, most other Programs have significantly lower budgets (e.g., less than CHF 40 million over the two biennia, with many under CHF 5 or 10 million).

The budget for Strategic Goal I, on the balanced Evolution of the International Normative Framework for IP, declined by around CHF 4 million. The greatest proportion of this reduction was taken by Program 1 on Patents, which was reduced by around CHF 3.5 million and Program 3 on Copyright and Related Rights, which reduced by around CHF 600,000. The budgets of other Programs contributing to Strategic Goal 1 remained more or less constant (e.g., Program 4 on Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources and Program 2 on Trademarks, Industrial Designs and Geographical Indications).

The budget for Strategic Goal II (on Provision on Premier Global IP Services) rose by just under CHF 1 million. While relatively few of the activities undertaken by these Programs (5, 6, and 7) are included the budget estimates for development-related activities, it is these Programs that provided the majority of the financial resources for WIPO's development cooperation activities.

The budget for Strategic Goal III on Facilitating the Use of IP for Development declined. The highest portion of the budget under this goal was allocated to the Regional Bureaus (Program 9) - around 60% of the budget for Strategic Goal III. However, there was a reduction in the allocation to the Regional Bureaus (Program 9) of around CHF 2.3 million from 2008/09 to 2010/11, while the budget for Cooperation with Certain Countries in Europe and Asia (Program 10) declined by around CHF 2.75 million. The budget for the WIPO Academy (Program 11) rose by around CHF 1.2 million, as did the budget for the Development Agenda Coordination Division (Program 8) albeit marginally by around CHF 77,000. The budget for Program 30 on SMEs declined by around CHF 875,000. In total, Program 9 (the Regional Bureaus) absorbed around 35% percent of the total estimated budget for development activities over the two biennia derived from WIPO's regular budget (not including the resources they receive through FITs).

The budget for Programs and activities under Strategic Goal IV on Coordination and Development of Global IP Infrastructure remained stable overall. However, within that area, the budget for Programs that include specific development cooperation activities, such as Patentscope and related Global IP Information Services (Program 14) grew by just over CHF 1 million, while the budget for IP Office Modernization (Program 15) declined by around CHF 500,000.

The budget for Strategic Goal V, on making WIPO a World Reference Source for IP Information and Analysis rose in that the budget for Economic Studies, Statistics and Analysis (Program 16) was increased by around CHF 1.4 million. Meanwhile, the budget for Strategic Goal VI (International Cooperation on Building Respect for IP) declined by around CHF 300,000 between 2008/09 and 2010/11.

Programs for which the budget was significantly increased during period under review include Program 18 (on IP and Global Challenges), which rose by approximately CHF 4 million in 2010/11.

Programs related to Strategic Goal VIII focused on ensuring a responsive communication interface between WIPO, its Members and all Stakeholders also increased by around CHF 4 million, namely the Communications Program (Program 19) and External Offices and Relations Program (Program 20).

Savings to finance increases in some Programs were achieved through cuts to other WIPO Programs. The budget for activities related to Strategic Goal IX (to build Efficient Administrative and Financial Support) declined, for instance, by around CHF 8 million.

Figure 1.2. Revised 2008/2009 Budget and 2010/2011 Budget by Program
(in thousands of Swiss Francs)

STRATEGIC GOAL I
Balanced Evolution of the International Normative Framework for IP

	Revised Budget 2008/09	Proposed Budget 2010/11
1. Patents, Innovation, Promotion and Technology Transfer/(2010/11 Patents)	7,140	3,610
2. Trademarks, Industrial Designs and Geographical Indications.	3,803	3,627
3. Copyright and Related Rights	13,450	12,813
4. Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources	7,118	7,159
TOTAL	**31,511**	**27,209**

STRATEGIC GOAL II
Provision of Premier Global IP Services

	Revised Budget 2008/09	Proposed Budget 2010/11
5. The PCT System	181,402	183,748
6. Madrid, Hague and Lisbon Systems	61,180	58,477
7. Arbitration, mediation and Domain Names	8,934	10,190
TOTAL	**251,517**	**252,415**

STRATEGIC GOAL III
Facilitating the Use of IP for Development

	Revised Budget 2008/09	Proposed Budget 2010/11
8. Development Agenda Coordination	5,414	5,337
9. Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, LDCs	44,493	42,178
10. Cooperation with Certain Countries in Europe and Asia	8,859	6,111
11. The WIPO Academy	8,995	10,193
30. SMEs	5604	4,729
TOTAL	**73,365**	**68,548**

STRATEGIC GOAL IV
Coordination and Development of Global IP Infrastructure

	Revised Budget 2008/09	Proposed Budget 2010/11
12. International Classification in the Field of Trademarks and Industrial Designs	924	
13. Patent Classification and WIPO IP Standards/(2010/11 – International Classifications and WIPO IP Standards)	8,071	8,520
14. PATENTSCOPE® and Associated Patent Services /(2010/11 – Global IP Information Services)	6,878	7,930
15. IP Office Modernization	5,435	4,898
TOTAL	**21,307**	**21,348**

STRATEGIC GOAL V
World Reference Source for IP Information and Analysis

	Revised Budget 2008/09	Proposed Budget 2010/11
16 Economic Studies, Statistics and Analysis	1,586	2,918
TOTAL	**1,586**	**2,918**

STRATEGIC GOAL VI
International Cooperation on Building Respect for IP

	Revised Budget 2008/09	Proposed Budget 2010/11
17. Building Respect for IP	2,922	2,608
TOTAL	**2,922**	**2,608**

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STRATEGIC GOAL VII Addressing IP in Relation to Global Policy Issues		
	Revised Budget	Proposed Budget 2010/11
18. IP and Global Challenges	1,455	5,354
TOTAL	1,455	5,354

STRATEGIC GOAL VIII A Responsive Communications Interface between WIPO, its Members and all Stakeholders		
	Revised Budget	Proposed Budget 2010/11
19. Communications	13,179	15,455
20. External Offices and Relations	9,644	11,309
TOTAL	22,823	26,764

STRATEGIC GOAL IX An Efficient Administrative and Financial Support		
	Revised Budget	Proposed Budget 2010/11
21. Executive Management	13,520	14,529
22. Finance, Budget and Program Management	17,292	16,305
23. Human Resources Management and Development	18,797	19,205
24. Administrative Support Services	57,995	53,303
25. Information and Communication Technology	46,583	42,597
26. Internal Oversight	3,257	3,565
27. Conference and Language Services	40,681	37,652
28. Security	9,972	9,762
29. New Construction	4,930	8,109
TOTAL	213,027	205,027

OVERVIEW

	Revised Budget 2008/2009	Proposed Budget 2010/2011
Strategic Goal I	31,511	27,209
Strategic Goal II	251,517	252,415
Strategic Goal III	67,937	68,548
Strategic Goal IV	21,307	21,348
Strategic Goal V	1,586	2,918
Strategic Goal VI	2,922	2,608
Strategic Goal VII	1,455	5,354
Strategic Goal VIII	22,823	26,764
Strategic Goal IX	213,027	205,027
Costs incurred in 2008 for activities discontinued in 2009	7,130	
Funds earmarked for Development Agenda		4540
Unallocated	7,184	1906
GRAND TOTAL	628,400	618,637

1.7. Modes of Delivery

The Review Team's analysis of the development cooperation activities revealed that the following modes of delivery represent recurring items of expenditure across Programs:

- Travel of developing country officials and experts to international events, conferences and WIPO meetings;
- Events (conferences, meetings, etc);
- Consultants;
- Training courses and seminars, including on-line courses;
- Fellowships for training;
- Expert Missions of WIPO staff and consultants;
- Provision of expertise remotely from WIPO Headquarters;
- Provision of office and IT equipment;
- Design, provision and installation of software;
- Research, studies and publications;
- Hosting delegations in Geneva;
- Study visits; and
- Public awareness and outreach activities.

However, WIPO's financial reporting methodology for the period 2008-2011 did not facilitate an analysis of the extent to which certain modes of delivery of development cooperation activities are used and the relative resources devoted to them. The Program and Budget documents and Financial Management Reports during the period under review presented an overview of WIPO's budget 'by object of expenditure' (see Table 1.5). The categories that defined objects of expenditure were not, however, well aligned with the kinds of modes of delivery used by the organization for its development cooperation activities, so the information the Review Team could glean about the proportion of activities offered via particular modes of delivery was minimal.

For the 2008-2011 period, Table 1.5 does yield, however, information on some important areas of expenditure. Expenditures under Part B, Travel and Fellowships, highlight the significance of WIPO's expenditure on third-party travel and fellowships, both of which are most likely to be predominantly for the benefit of developing countries. (Third party travel refers to expenses and Daily Subsistence Allowance (DSA) for government officials, participants and lecturers attending WIPO-sponsored meetings.) The budget line on Fellowships is exclusively for the benefit of developing country beneficiaries and includes travel expenses, DSA, training and other fees in connection with trainees attending courses, seminars, and medium and long-term fellowships. Expenditures under the budget line on staff missions refer to travel expenses and daily subsistence allowances for the staff and HQ-based consultants of the Secretariat on official travel. One can assume that a high proportion of those staff missions were to developing countries for the development cooperation activities, but no data was available to quantify what proportion. (Notably, WIPO has a cooperative arrangement with UNDP with regards to arranging the international travel of developing country delegates to meetings and training whereby WIPO advances funds to UNDP, which are used by UNDP country offices to make payments on behalf of the organization.)

Table 1.5 also highlights the significance of consultants, special service agreements and expert honoraria to the implementation of WIPO's activities. It highlights the significance of the budget for conferences, which includes remuneration, travel expenses and daily subsistence allowances for interpreters; renting of conference facilities, and interpretation equipment; refreshments and receptions; and the cost of any other service directly linked to the organization of a conference. There are no figures available for these two budget items (i.e., consultants and conferences) broken down according to whether they relate to development cooperation activities, nor whether the consultants are drawn from developing countries or whether the conferences take place in developing countries.

Table 1.5. Revised Budget 2008/09 and Budget 2010/11 by Object of Expenditure (in thousands of Swiss francs)

	2006/07 Actuals	2008/09 Revised Budget	2010/11 Budget	Difference 2010/11 vs.2008/09 Revised Budget	
				Amount	%
A. Personnel Resources					
Posts	313,246	335,222	346,756	11,534	3.4%
Short-term Employees	46,960	48,293	40,717	(7,576)	-15.7%
Consultants	10,584	10,545	11,522	978	9.3%
Special Service Agreements	5,345	6,159	4,541	(1,618)	-26.3%
Interns		439	448	9	2.0%
Sub-Total A	376,135	400,658	403,984	3,326	0.8%
Unallocated		4,878	1,391	(3,487)	-71.5%
Total A	376,135	405,536	405,375	(161)	0.0%
B. Non-personnel Resources					
Travel and Fellowships					
Staff Missions	14,294	14,237	13,386	(850)	-6.0%
Third-party Travel	17,323	24,956	22,129	(2827)	-11.3%
Fellowships	3,256	3,601	3,475	(126)	-3.5%
Contractual Services					
Conferences	4,532	6,474	5,993	(481)	-7.4%
Experts' Honoraria	1,626	3,721	4,237	516	13.6%
Publishing	493	1,501	1,211	(290)	-19.3%
Other	44,779	84,046	81,310	(2,737)	-3.3%
Operating Expenses					
Premises & Maintenance	51,829	54,614	51,842	(2,772)	-5.1%
Communication & Other	11,170	12,341	9,869	(2,473)	-20.0%
Equipment and Supplies					
Furniture & Equipment	2,902	6,349	7,648	1,299	20.5%
Supplies & Materials	4,276	8,719	7,108	(1,611)	-18.5%
Sub-Total B	156,480	220,558	208,207	(12,351)	-5.8%
Unallocated		2,306 *	5,055	2,749	119.2%
Total B	156,480	222,864	213,262	(9,602)	-4.3%
TOTAL	**532,615**	**628,400**	**618,637**	**(9,763)**	**-1.6%**

* Unallocated non-personnel resources include 2.24 million Swiss francs earmarked for the activities broadly agreed upon by the CDIP at its April 2009 session for the implementation of three thematic projects on Development Agenda recommendations 7, 16, 19, 20, 23, 24, 27 and 32.

Source: 2010/11 WIPO Program and Budget.

1.8. Key Elements of Ongoing Organizational Change Relevant to Development Cooperation Activities

This External Review occurs at a time of considerable organizational change at WIPO, which affects all of its activities including those related to development cooperation. The overarching framework for this organizational change is the Strategic Realignment Program (SRP), and the associated six-year Medium Term Strategic Plan (MTSP 2010-2015), Results-based Management (RBM) Initiative, and Performance Management and Staff Development System (PMSDS). A further core aspect of organizational change is the mainstreaming and implementation of the WIPO Development Agenda. Each of these is briefly described below as they provide important context for the analysis in this report. An assessment of these initiatives is provided in the relevant sections of the Report (notably Part 5 of this Report on Management).

1.8.1. The WIPO Strategic Realignment Program (SRP)

WIPO's Strategic Realignment Program (SRP) was launched on October 1, 2008, when Director General Francis Gurry took office (see Figure 1.3). The SRP aims to "build a responsive and efficient Organization, equipped to achieve its strategic goals and to provide global leadership on intellectual property (IP) issues" and its objectives have been articulated in terms of four core-values. A set of initiatives is designed to contribute to the realization of each of these values, as set out by the Secretariat in the Diagram below. Completion of the process is expected by the end of 2012.

Through its SRP, WIPO expects the following outcomes for each of these values. Progress toward the achievement of the four values will be measured by the following indicators:[37]

Service Orientation

- Satisfaction of Member States, users and other stakeholders with business services provided by WIPO
- Satisfaction of Member States, users and other stakeholders with overall services provided by WIPO
- Service orientation of WIPO staff
- Awareness and understanding of IP and its role in encouraging creativity and innovation, and of WIPO's mission and activities

Working as One

- Perception from staff that WIPO 'Works as One'
- An up-to-date and enabling management and administrative infrastructure
- Streamlined and efficient administrative processes and procedures
- Degree of compliance from organizational units with establishing timing for closure of financial accounts

Accountability for Results

- Management of organizational performance supported by organizational results
- Management of individual's performance in accordance with the organizational expected results
- Identification of staff with their individual and organizational goals
- Reliability of financial management.

Environmental, social and governance responsibility

- Performing in an ethical manner
- Caring about staff: diversity and equality
- Caring about the community: access for people with disabilities
- Caring about the environment.

To advance the implementation of the SRP, the Secretariat has devised an SRP Results Framework, which includes baselines, targets and expected results for 2011. It is envisaged by the Organization that the 2011 targets will be used to set rolling targets for 2012 and beyond.

All four elements of the SRP are relevant to WIPO's development cooperation activities. Particular activities that touch on development cooperation are the implementation of the MTSP 2010-15, the strengthening of a Results-based Management (RBM) framework, the introduction of an Enterprise Planning System (ERP), and a new Performance Management and Staff Development System (PMSDS). To provide background for the remainder of the report, each of these SRP-related activities is discussed below.

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[37] Note that the version of the SRP provided on WIPO's website has subsequently been updated. The description above is the updated version.

Figure 1.3. The WIPO Strategic Realignment Program (SRP)
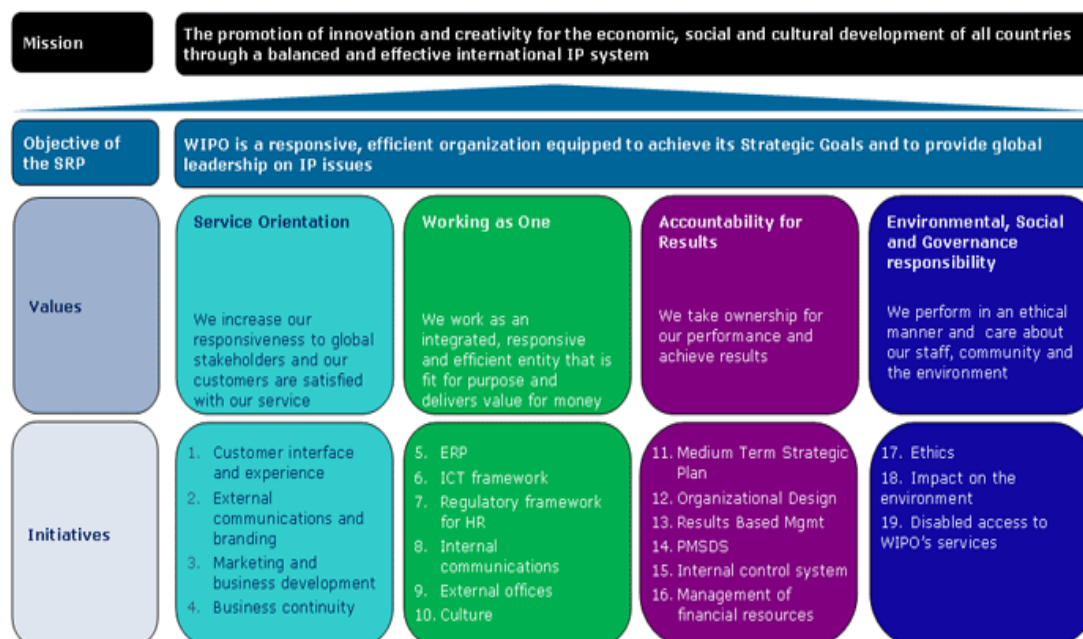
The Strategic Framework and Medium Term Strategic Plan 2010-2015

In the Revised Program and Budget for 2008/09, Member States adopted nine Strategic Goals for WIPO (see Figure 1.4 below). That strategic framework was also applied to the approved Program and Budget for the 2010/11 biennium.
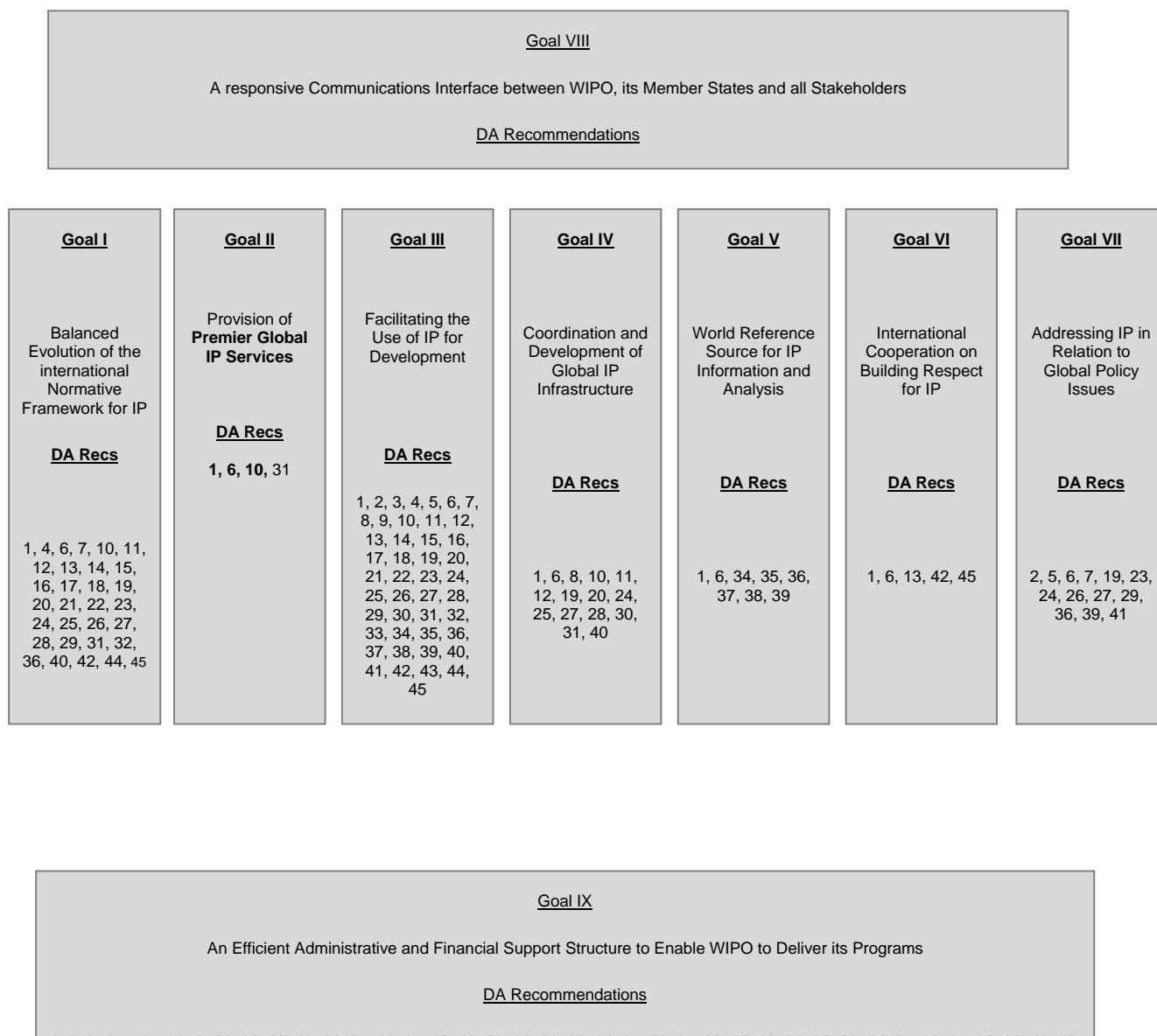
Strategic Goals 1 to 7 of the Framework address the substantive business of the Organization. Strategic Goals 8 and 9 are described by the Secretariat as 'enabling goals', aimed at "providing sound management and governance and effective two way communications to support the achievement of the seven substantive goals and ensure accountability to Member States." WIPO's development cooperation activities cut across the substantive goals. Further, the Secretariat observes that "the 45 recommendations of the WIPO Development Agenda are incorporated in WIPO's work conducted under all nine Strategic Goals." A table produced by the Secretariat to chart this incorporation is provided as Figure 1.4 below.

The nine Strategic Goals also provided the starting point and strategic framework for elaboration of the Medium Term Strategic Plan (MTSP) 2010-2015 by the WIPO Secretariat, in conjunction with a consultation process with Member States. The elaboration of the MTSP originated in a proposal adopted by Member States in 2006 for a "New mechanism to increase the involvement of Member States in the preparation and follow up of the Program and Budget."

The proposed MTSP 2010-2015 was presented by the Secretariat for the consideration of the 2010 General Assemblies.[38] The MTSP addresses several issues, including: "the changes in the external environment over the medium term; the resulting challenges and opportunities for intellectual property and for the work of WIPO; the strategic level outcomes which the Organization seeks to achieve in the six year period; and the broad strategies that will be adopted to deliver those outcomes."

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[38] WIPO (2010), "Medium Term Strategic Plan For WIPO, 2010 – 2015", document prepared by the Secretariat, Assemblies of the Member States of WIPO, Forty-Eighth Series of Meetings, Geneva, September 20 to 29, 2010, A/48/3.

Figure 1.4. Linkages between WIPO Strategic Framework and the Development Agenda[39]

Goal VIII A responsive Communications Interface between WIPO, its Member States and all Stakeholders DA Recommendations	

Goal I	**Goal II**	**Goal III**	**Goal IV**	**Goal V**	**Goal VI**	**Goal VII**
Balanced Evolution of the international Normative Framework for IP	Provision of **Premier Global IP Services**	Facilitating the Use of IP for Development	Coordination and Development of Global IP Infrastructure	World Reference Source for IP Information and Analysis	International Cooperation on Building Respect for IP	Addressing IP in Relation to Global Policy Issues
DA Recs	**DA Recs**	**DA Recs**	**DA Recs**	**DA Recs**	**DA Recs**	**DA Recs**
1, 4, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 36, 40, 42, 44, 45	**1, 6, 10,** 31	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45	1, 6, 8, 10, 11, 12, 19, 20, 24, 25, 27, 28, 30, 31, 40	1, 6, 34, 35, 36, 37, 38, 39	1, 6, 13, 42, 45	2, 5, 6, 7, 19, 23, 24, 26, 27, 29, 36, 39, 41

Goal IX An Efficient Administrative and Financial Support Structure to Enable WIPO to Deliver its Programs DA Recommendations	

The proposed MTSP was noted by the Membership, together with the comments provided by Member States (as reflected orally in the final report of the 2010 Assemblies and as reflected in the comments of Member States contained in the Annex to the Report), and is now used by the Secretariat as a high level strategic six-year framework to guide the preparation of the Program and Budget documents for the 2012/13 and 2014/15 biennia. That is, the MTSP is now part of WIPO's overall planning and results-based management (RBM) framework, including for development cooperative activities.

Results-based Management (RBM) Framework

While efforts to develop and implement an effective RBM framework have been underway for over 12 years at WIPO (the organization prepared its first Program Performance Report (PPR) in 1998), the absence of an effective RBM framework for improving and measuring performance for WIPO had been noted for several years.[40] As part of the SRP process, WIPO is working to strengthen its results-based framework. The current results-based management (RBM) framework now consists of the following elements: (i) the

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[39] This illustrative chart is based on the approved 2010/11 Program and Budget document, specifically on the "Development Agenda Links" section under each Program within the nine Strategic Goals.
[40] WIPO (2008). "Executive Summary: Internal Review on Program Performance Reporting Process," Internal Audit and Oversight Division, Evaluation Section, October 10. EV/01/2008.

Organization's longer term Strategic Goals and Strategic Outcomes; (ii) expected results, performance indicators, baselines and targets for each of the WIPO Strategic Goals and the strategies to achieve these; (iii) the allocation of resources; (iv) activities which contribute to the achievement of results (Work plans); (v) the mechanisms for managing organizational performance (monitoring and evaluation system); and (vi) the tools for reporting on organizational performance (i.e., the Program Performance Report).[41] Progress in the implementation of this framework varies. Its application to the organization's development cooperation activities is assessed in Part 5 of this Report on Management.

Enterprise Resource Planning (ERP) System

WIPO is in the process of implementing a fully automated Enterprise Resource Planning (ERP) system. At the 2010 Assemblies, WIPO's Member States approved a 25 million CHF project in this respect and authorized the use of WIPO reserves to finance it.

The purpose of the comprehensive ERP system is: (i) the modernization of WIPO's core administrative, management and customer-service functions; (ii) improved productivity; and (iii) capability to provide better information on performance and resource utilization to WIPO Member States and Management.[42]

Specifically, the comprehensive ERP aims to:

- Make performance and resource utilization information visible to Member States and all concerned;
- Enhance linkages between the use of resources and results planned and approved by Member States;
- Allow roles and responsibilities to be clearly defined with appropriate levels of authority in accordance with the Organization's accountability framework;
- Capture data once at source for use in downstream processes;
- Streamline processing of transactions and data;
- Provide accurate data and information in a timely manner from a single reliable source;
- Comply with internal controls, data security, confidentiality and audit trail requirements; and
- Consolidate customer information and improve customer-service.

The comprehensive ERP system complements several aspects of ERP already introduced to the organization over the past several years. In 2003 for instance, WIPO began implementation of the Administrative Information Management System (AIMS) project to address the financial and budget reporting needs of the Organization, which has now been in use since 2004. In December 2008, the Member States approved the implementation of the Procurement and Asset Management modules in order to achieve full compliance with the Financial Regulations and Rules (FRR) and International Public Sector Accounting Standards (IPSAS),[43] which went live in January 2010. Its goal was to produce a more streamlined, efficient and automated means of requesting, purchasing and paying for goods and services.

Performance Management and Staff Development System (PMSDS)

In 2009, WIPO introduced a new Performance Management and Staff Development System (PMSDS). The existing performance evaluation system, one based on a process of Periodical Reports on staff, was deemed no longer suitable for the evolving needs of WIPO. It did not, for instance, provide the possibility to indicate outstanding performance, nor did it sufficiently stimulate communication between the managers and the employees working under their supervision concerning priorities, expected results, further skill development or any other detailed aspects of modern performance management and staff development.[44]

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[41] WIPO (2010) "Budgetary Process applied to Projects proposed by the Committee on Development and Intellectual Property (CDIP) for the Implementation of the Development Agenda Recommendations", prepared by the Secretariat, Program and Budget Committee, Fifteenth Sesssion, Geneva, September 1 to 3, 2010, WO/PBC/15/6 Rev.

[42] WIPO (2010). "Proposal for the Implementation of a Comprehensive Integrated Enterprise Resource Planning (ERP)," Fifteenth Session of the Program and Budget Committee, Geneva, September 1 – 3. WO/PBC/15/17.

[43] An additional element is the conversion of WIPO to the International Public Sector Accounting Standards (IPSAS). At their annual session in 2007 (A/43/5), WIPO's Assemblies approved the adoption of IPSAS effective January 1, 2010. Annex VIII of the 2010-11 WIPO Program and Budget states that: "Given the rapid changes and developments in best accounting practices, a shift to improved, independent and universally accepted accounting standards has been proposed by various UN bodies and recommended by the Secretary General of the United Nations and approved by the UN General Assembly. Member States of WIPO have taken the decision to adopt International Public Sector Accounting Standards (IPSAS) developed by the International Public Sector Accounting Standards Board (IPSASB), which is part of the International Federation of Accounts (IFAC). This decision is in line with the UN High-Level Committee on Management (HLCM) decision of November 30, 2005.

[44] WIPO (2007) 'Desk to Desk Review of the Human and Financial and Human Resources of WIPO'. Report prepared by PriceWaterhouseCoopers, WO/GA/34/1.

According to the WIPO Secretariat, the main purpose of the PMSDS is to facilitate: closer alignment of staff performance with the strategic goals of WIPO; systematic and proactive staff development; and continuous dialogue between supervisors and employees to generate common understanding and engagement. The potential for the PMSDS process to help advance the effectiveness of WIPO's development cooperation activities is discussed in Part 5 of this Report on Management.

1.8.2. The WIPO Development Agenda

The original proposal for a WIPO Development Agenda was put forward by Argentina and Brazil in the lead up to the 2004 WIPO Annual General Assemblies (and was cosponsored by a further 12 developing countries).[45] Together, the "Friends of Development" concluded their submission with eight proposals, which included calls for WIPO to address development in all aspects of its work, increase attention to promoting technology transfer, improve civil society involvement in WIPO's work, ensure greater development orientation in WIPO's capacity building, and establish a Working Group to discuss the implementation of the Development Agenda and related work Programs.

In 2004, the WIPO General Assembly agreed to form the Intersessional Intergovernmental Meeting (IIM), which met three times to receive and further discuss proposals. In late 2005, the IIM then became the Provisional Committee on the Development Agenda (PCDA), which met twice and considered some 111 proposals throughout 2006 and 2007. The PCDA ultimately recommended that a reduced number of proposals be adopted and that a new Committee on Development and Intellectual Property (CDIP) be established. The 2007 General Assembly agreed to 45 Recommendations, with 19 for immediate implementation (see Annex 14). With the adoption of the WIPO Development Agenda, the WIPO General Assembly called upon "all Member States, the Secretariat and other relevant WIPO bodies to ensure the immediate and effective implementation" of 19 Development Agenda Recommendations that were identified for immediate implementation. The 2008 General Assemblies agreed to the creation of the CDIP to oversee the implementation of the Recommendations and to undertake further work. Box 1.4 identifies those Recommendations directly relevant to development cooperation activities.

The April/May 2009 CDIP meeting yielded a new project-based approach to the implementation of CDIP recommendations,[46] and for work to proceed in a series of clusters to enable the CDIP to act more efficiently.[47] As such, the WIPO Development Agenda Recommendations were organized around six clusters: Cluster A (Technical Assistance and Capacity Building), Cluster B (Norm-setting, flexibilities, public policy and the public domain), Cluster C (Technology Transfer, Information and Communications Technologies (ICT), and Access to Knowledge), Cluster D (Assessment, Evaluation and Impact Studies), Cluster E (Institutional Matters including Mandate and Governance), Cluster F (Other Issues). The agenda for the subsequent November CDIP 2009 meeting included a number of further proposals for development agenda projects, several of which were approved. The meeting also reviewed progress reports on a number of projects resulting from previous decisions of the CDIP.[48] At the April 2010 CDIP, the core items discussed were the Director General's Report on Implementation of the Development Agenda[49], proposals for coordination and monitoring, and a number of specific Development Agenda projects.[50] As noted above, each of the Development Agenda or CDIP projects approved thus far falls within the Review Team's definition of development cooperation activities. Budget information for each of these CDIP project is provided in Annex 10 and a summary of projects and their status is in Annex 12.

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[45] The co-sponsors of the original Development Agenda proposal were Argentina, Brazil, Bolivia, Cuba, the Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania, and Venezuela.
[46] See WIPO documents, CDIP/3/INF/1, 2, CDIP/3/1 PROV.2, CDIP/3/2, 3, 4, 5, 6, 7, 8, available at http:// www.wipo.int/meetings
[47] See WIPO documents CDIP/4/9 and CDIP/4/10.
[48] The structure and desired outcomes of these projects were also presented at WIPO's "Open-ended Forum on Proposed Development Agenda Projects" held in October 2009.
[49] WIPO (2010) 'Director Generals Report on the Implementation of the Development Agenda,' March 18, CDIP/5/2. Geneva: WIPO.
[50] For WIPO's summary of the Fifth Session of the CDIP meeting (26-30 April 2010), see www.wipo.int/edocs/mdocs/.../en/cdip.../cdip_5_ref_summary_revised.pdf.

Box 1.4. Examples of WIPO Development Agenda Recommendations Relevant to WIPO's Development Cooperation Activities

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CLUSTER A. Technical Assistance and Capacity Building

Recommendation 1. WIPO technical assistance shall be, inter alia, development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion. In this regard, design, delivery mechanisms and evaluation processes of technical assistance programs should be country specific.

Recommendation 2. Provide additional assistance to WIPO through donor funding, and establish Trust-Funds or other voluntary funds within WIPO specifically for LDCs, while continuing to accord high priority to finance activities in Africa through budgetary and extra-budgetary resources, to promote, inter alia, the legal, commercial, cultural, and economic exploitation of intellectual property in these countries.

* Recommendation 3 Increase human and financial allocation for technical assistance programs in WIPO for promoting, 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.

Recommendation 4. Place particular emphasis on the needs of small and medium-sized enterprises (SMEs) and institutions dealing with scientific research and cultural industries and assist Member States, at their request, in setting up appropriate national strategies in the field of intellectual property.

Recommendation 5. WIPO shall display general information on all technical assistance activities on its website, and shall provide, on request from Member States, details of specific activities, with the consent of the Member State(s) and other recipients concerned, for which the activity was implemented.

* Recommendation 6. WIPO's technical assistance staff and consultants shall continue to be neutral and accountable, by paying particular attention to the existing Code of Ethics, and by avoiding potential conflicts of interest. WIPO shall draw up and make widely known to the Member States a roster of consultants for technical assistance available with WIPO.

Recommendation 8. Request WIPO to develop agreements with research institutions and with private enterprises with a view to facilitating the national offices of developing countries, especially LDCs, as well as their regional and sub-regional intellectual property organizations to access specialized databases for the purposes of patent searches.

Recommendation 9. Request WIPO to create, in coordination with Member States, a database to match specific intellectual property-related development needs with available resources, thereby expanding the scope of its technical assistance programs, aimed at bridging the digital divide.

Recommendation 10. To assist Member States to develop and improve national intellectual property institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promote a fair balance between intellectual property protection and the public interest. This technical assistance should also be extended to regional and sub-regional organizations dealing with intellectual property.

Recommendation 11. To assist Member States to strengthen national capacity for protection of domestic creations, innovations, and inventions and to support development of national scientific and technological infrastructure, where appropriate, in accordance with WIPO's mandate.

* Recommendation 12. To further mainstream development considerations into WIPO's substantive and technical assistance activities and debates, in accordance with its mandate.

* Recommendation 13. WIPO's legislative assistance shall be, inter alia, development-oriented and demand-driven, taking into account the priorities and the special needs of developing countries, especially LDCs, as

CLUSTER D. Assessment, Evaluation and Impact Studies

Recommendation 33. To request WIPO to develop an effective yearly review and evaluation mechanism for the assessment of all its development-oriented activities, including those related to technical assistance, establishing for that purpose specific indicators and benchmarks, where appropriate.

Recommendation 38. To strengthen WIPO's capacity to perform objective assessments of the impact of the organisation's activities on development.

CLUSTER E. Institutional Matters including Mandate and Governance

Recommendation 40. To request WIPO to intensify its cooperation on IP related issues with United Nations agencies, according to Member States' orientation , in particular UNCTAD, UNEP, WHO, UNIDO, UNESCO and other relevant international organisations, especially the WTO in order to strengthen the coordination for maximum efficiency in undertaking development Programs.

Recommendation 41. To conduct a review of current WIPO technical assistance activitiesin the area of cooperation and development.

Note: Recommendations preceded by a * were selected by Member States for immediate implementation.

Part 2: Relevance and Orientation

The TOR for this Review call for an assessment of the relevance and orientation of WIPO´s activities in the area of cooperation for development, as well as their relevance vis-à-vis changing needs and new developments. Together, Parts 2 (on relevance and orientation) and 3 (on impact) set the scene for a pillar-by-pillar assessment of orientation and impact in Part 4 of this report.

Part 2 proceeds in three sections. Part 2.1 defines the concept of development-orientation. Part 2.2 analyzes the extent to which WIPO´s development cooperation activities are relevant to the development goals, priorities, needs and the different levels of development in beneficiary countries. It also assesses the degree to which activities are demand-driven. To elaborate on these issues, Part 2.3 reviews the process for country-level planning of WIPO development cooperation activities and the relationship between WIPO and its Member States.

Box 2.1. TOR Questions Relevant to the Relevance and Orientation of WIPO Development Cooperation Activities

- Within the context of Development Agenda Recommendation 1, which aspects of national IP and innovation strategies, socio-economic objectives and/or development priorities have WIPO's technical assistance activities been aligned with and how were these selected?
- What means are there to ensure continuing relevance vis-à-vis changing needs and new developments?
- What areas of support has WIPO's technical assistance for development focused on during the period under review and has there been any shift in WIPO's approach?
- To what extent does WIPO's technical assistance reflect the principles of the Development Agenda, in particular the 19 recommendations for immediate implementation?
- To what extent are policymakers at the country level informed about the WIPO Development Agenda and its impact on WIPO's activities?

N.B. The final three questions in this box are listed in the TOR under the title 'Impact'. They are, however, addressed in stead in this Part 2 of the Report as they follow more directly from the analysis on Relevance and Orientation.

To evaluate WIPO's progress in respect of the relevance and orientation of its development cooperation activities, it is useful to first revisit the key concerns that originally gave rise to the Development Agenda.

A core rationale for the WIPO Development Agenda is the view that the global IP system is imbalanced and needs to be better oriented toward developing country needs. A part of this critique is that WIPO's development cooperation activities have been insufficiently connected to countries' broader strategic development goals. Debates on these matters reflect cross-cutting tensions about the relationship between IP and development, as well as the links between IP and innovation, technology transfer and foreign direct investment (FDI).[51] Particular concerns about WIPO's technical assistance that have emerged in the course of the Development Agenda discussions since 2004 include complaints of inadequate attention on the part of the WIPO Secretariat to highlighting flexibilities available under international agreements or to helping countries tailor their national IP systems to respond to local needs.[52] Critics of WIPO's activities argue that these have been too dominated by the goal of protecting the interests of IP rights holder (which is in turn widely attributed to a pro-IP organizational culture within WIPO) rather than an alignment with development goals, particularly those expressed by the UN system at large.[53] More broadly, the Development Agenda discussions have highlighted concerns about inadequate attention hitherto to the knowledge and technological gap between developed and developing countries; the concentration of IP rights in a handful of countries and major international business interests; and the challenges that the IP system can pose to the pursuit of public policy goals for issues such as competition, access to knowledge, industrialization, human rights, and public health.[54]

The 45 Development Agenda Recommendations approved to date by WIPO Member States address many but not all of these issues. As part of its response to the questions in Box 2.1., the Review Team has

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[51] CIPR (2002); Gervais (2009); ICTSD (2003, 2005b); Kostecki (2005); Maskus (2009); and Netanel (2009).
[52] Correa (2001); de Beer (2009); Kuanpoth (2007); MSF (2003); TACD (2007); and TWN (2005).
[53] Boyle (2004); Deere (2008a); Deere Birkbeck and Marchant (2011); May (2007); Musungu (2008) and Okediji (2009).
[54] Borges-Barbosa et. al. (2007); de Beer (2009) and TWN (2005).

worked to assess, among other issues, the degree to which such concerns about the orientation remain valid, whether and where progress is being made, and the degree to which WIPO's development cooperation activities reflect the 19 recommendations for immediate implementation. Notably, the implementation of over half of the WIPO Development Agenda Projects approved by the CDIP (hereafter CDIP Projects) began only in January 2010 or later and so it remains too early in many cases to assess the details of their orientation or impact.

The analysis in this Part of the Report draws on interviews with WIPO staff, responses to the survey of beneficiary countries (presented in the text as well as in tables and figures), six country visits, and a range of other specific sources described in the relevant sections. Importantly, feedback from Member States and the actors within them varied and sometimes contradicted each other and the Review Team's findings from desk research and interviews with WIPO staff. To preface the reporting and analysis of survey responses in the remainder of this report, we refer the reader to Annex 6, which offers a short overview of the nature, orientation and perspective of the primary respondents to the survey. For the Review Team, the challenge was not only to discern the views of such recipients and beneficiaries, but also to explore whether the orientation and impact of WIPO's development cooperation activities are satisfactory from the point of view of WIPO's membership as a whole and also from the Secretariat's institutional vantage point. Beyond their vantage point as recipients, only a sub-set of survey respondents and interviewees on country visits emerged as sufficiently well-briefed on the WIPO Development Agenda, the debates about WIPO's activities or its organizational, political, budgetary constraints and opportunities to be in position to offer broader assessments of WIPO's development cooperation activities.

2.1. Defining Development-Orientation

WIPO´s Development Agenda aims to ensure that development considerations form an integral part of all of the organization's work. While Recommendation 1 of the Development Agenda sets out several key features that should characterize WIPO's activities in the area of development cooperation (e.g., transparency, demand-driven, development-oriented) (See Box 2), it leaves open the question of what 'development-oriented' means in terms of substance and demands in terms of process. One aspect of development-orientation is clarified as the need to take into account the priorities and special needs of developing countries …as well as the different levels of development…" (DA Recommendation 1). In other Recommendations, the Development Agenda implies that development-oriented assistance is that which would "…facilitate access to knowledge and technology for developing countries and LDCs to foster creativity and innovation" (DA Recommendation 19) and which enables "developing countries to fully understand and benefit from different provisions, pertaining to flexibilities provided by international agreements…" (DA Recommendation 25). Further, the TOR for this Review state that WIPO's development activities aim at "contributing towards the reduction of the knowledge gap and the greater participation of the developing and least-developed countries (LDCs) in deriving benefits from the knowledge economy" (see Box 1.1).

To clarify this critical issue of what constitutes 'development-orientation', the Review Team proposes a number of substantive components that are fundamental to a 'development-oriented' approach to development cooperation activities in the IP field (see Box 2.2). Notably, development-oriented assistance has a procedural and substantive component. On the procedural front, the scholarly and policy literature on development assistance affirms that for effective, relevant, and locally-owned assistance, the following procedural elements are vital:[55]

- Clear and specific development objectives;
- Transparency of objectives, costs and results of activities;
- Effective partnerships between national governments and donors in the design and implementation of activities;
- Builds on systematic needs assessments, conducted either nationally or in collaboration with donors, which include a strategy for soliciting and managing assistance;
- Is tailor-made and flexible to reflect and adapt to national realities and changing circumstances, needs and opportunities;
- Is based on multi-year planning and predictable, adequate resources from donors and recipients;
- Involves consultation and coordination with national stakeholders in needs assessment as well as in the design, implementation and evaluation of assistance;
- Enables choice of projects and providers, where by recipients can approve proposed or staff or consultants for the provision of assistance or suggest alternatives; require disclosure of any

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[55] Bellmann and Vivas-Eugui (2004); Correa and Deere (2005); Deere (2005); Deere Birkbeck and Marchant (2011); Kostecki (2005); Musungu (2003); OECD (2005); Pengelly (2005); and Saana Consulting (2004a).

potential conflict of interest from potential providers; request that consultants agree to comply with a code of ethics for technical cooperation providers; and request evidence of the qualifications, prior work experience and evaluations of proposed providers of assistance; and

- Systematic efforts to measure, evaluate, report on and learn from results.

A key issue alluded to in Box 2.2 is that making assistance demand-driven is not enough to assure that it is development-oriented. Development-oriented demand-driven assistance is that which is aligned with national needs rather than ad hoc requests. This in turn requires a dialogue between national beneficiaries and the WIPO Secretariat about national development strategies, priorities and needs and about WIPO's obligations to advance the Development Agenda. The emphasis on demand-driven assistance does not mean that the WIPO Secretariat should be passive or 'never say no' in the face of requests that seem inconsistent with national needs, or with the Development Agenda, or which are not cost-effective or likely to yield impact.

Importantly, the definition of development-oriented assistance set forth in Box 2.2 highlights that the notion of 'development-oriented assistance' has many components. The challenge for WIPO's assistance is to address the many ways in which the international and national IP systems may produce opportunities challenges and issues in the development process, and to ensure that assistance promotes the core underlying objective of the WIPO Development Agenda - to promote a more balanced international IP system. The definition clarifies that while assistance to boost the use of IP, IP tools, and the IP system by developing countries may be an important priority for some countries, such activities are but one of a number of possible components of development-orientated assistance.

Box 2.2. Co-authors' Definition of Development-Oriented Assistance

From a substantive view point, development-oriented assistance is that which:

- Reduces the knowledge gap between developed and developing countries so that developing countries are more actively involved in innovating, producing, using and absorbing technologies as well as propelling new forms of expressions, creativity and knowledge;
- Enables greater participation of developing countries in deriving broader benefits and reducing the costs of using the IP system at the global, regional and national level;
- Helps countries devise coherent national IP strategies, policies, laws and regulations that are linked to broader development and public policy objectives and tailored to respond to specific needs and problems.
- Aligns national or regional demands for support and activities with development needs as well as national IP strategies/policies;
- Takes into consideration the social and economic context and the regulatory and institutional environment of the country;
- Takes into account the priorities and special needs of developing countries …as well as the different levels of development…" (DA Rec. 1)
- Facilitates access to knowledge and technology for developing countries and LDCs to foster creativity and innovation" (DA Rec. 19);
- Enables developing countries to fully understand and benefit from different provisions, pertaining to flexibilities provided by international agreements…" (DA Rec. 25);
- Builds national and regional capabilities of IP offices to administer the protection and enforcement of rights in ways that advance development goals and meet international obligations where they exist; and
- Enables developing countries (including all relevant stakeholders) to make use of IP and the IP system to boost local development as a tool to contribute to protect their own inventions and creations on the international market and enforce their rights.

2.2. Overall Relevance and Orientation

The overall orientation and suite of development cooperation activities undertaken by the WIPO Secretariat is a reflection of the views of the Secretariat and Member State input, and is endorsed by WIPO Member States through their approval of WIPO's biennial Program and Budget. That said, both the MTSP and the Program and Budget reflect the tensions and compromises of the Member States. Further, the details of individual WIPO activities in countries are decided upon with particular beneficiary Member States and the content of FITs work plans rely heavily on the preferences of the particular WIPO Member States that provide such extra-budgetary resources.

The Review Team's analysis of key organizational documents, staff interviews, stakeholder consultations, the country visits and survey responses yielded a number of findings on the overall orientation and relevance of WIPO's activities. Further findings are also reported in Part 4 of this report, which reviews

WIPO's activities by pillar of development cooperation. Final findings on orientation are thus reflected in Part 7 of this report that reports on key findings across the report.

Development-orientation in the MTSP

The Review Team's analysis of key strategic WIPO documents revealed frequent references to development that reflect a narrow conception of what 'development' or 'development' orientation in respect of IP-related activities encompass, which in turn has implications for the development-orientation of activities.

The Strategic Goals defined in the MTSP 2010-15 only relate, for instance, to a sub-set of the substantive aspects of 'development-orientation' defined in Box 2.2. The purpose of Goal III in the MTSP 2010-2015 is, for example, described as assisting "developing countries, least developed countries and transition economies to make effective use of the IP system in the context of their economic circumstances and in the promotion of their national development goals". While this is indeed an important priority, it reflects only one aspect of the elements of development-orientation defined in Box 2.2. It does not address directly, for instance, the first objective of WIPO's assistance as set out in the TOR for this review (i.e., reducing the knowledge gap) (See Box 1.1 of this Report). While the Review Team acknowledges that the MTSP is not a stand-alone document, but should rather be read alongside the various written and oral comments submitted by Member States, its 9 Strategic Goals do nonetheless form a central reference point guiding organizational planning at WIPO.

The Development Agenda and the Orientation of the WIPO Program and Budget

More than 3 years have passed since the Development Agenda recommendations were approved, which called for changes throughout WIPO´s organization and its development cooperation activities (see Box 1.4). To what degree have the principles of the WIPO Development Agenda and its 19 recommendations for immediate implementation been incorporated into WIPO's development cooperation activities? Through its review of activities conducted under the six pillars of WIPO development cooperation (see Part 4 of this Report), the Review Team found that significant, albeit incomplete, efforts to align development cooperation activities with the Development Agenda recommendations and goals are underway. WIPO's senior management has been providing leadership to all Programs and Sectors on the importance of integrating the Development Agenda principles into the formulation of the Program and Budget, as well as into annual workplans. The realignment process is taking place through fledgling efforts to improve planning at the country level, realignment of organizational structures to facilitate the achievement of the expected results of Programs, shifts in the allocation of budgets among development cooperation activities, and by improving internal processes (such as improvements to result-based management). The shift is also occurring through efforts to mainstream the principles of the Development Agenda and through the impact of CDIP projects on staff awareness and Program planning. While these processes are moving ahead, they remain incomplete. In particular, the challenge is to ensure that progress at the planning level is translated into better results at the implementation level.

The Review Team found that there remains considerable work to do at the planning and implementation level to align the objectives, baselines, performance indicators and expected results for development activities with the Development Agenda. The Review Team found that many of the expected results for activities described across the Programs for the 2008/09 and 2010/11 Program and Budget relate only to a sub-group of the elements of development-orientation defined in Box 2.2. For instance, none of the key expected results and performance indicators for Program 1 on Patents are explicitly related to the achievement of a more balanced international normative patent system through action at the national or international level (even though this is WIPO's Strategic Goal I). Instead they focus on items such as: a) enhanced cooperation among members…; b) greater awareness of the legal principles…; or c) increased number of ratifications to Patent Law Treaty (PLT).

A further example is that although a number of expected results and performance indicators for Program 9 (Regional Bureaus) are related to the conclusion of IP strategies for countries, they do not explicitly specify that these would be development-oriented nor how that might be measured qualitatively in terms of results or indicators. The Review Team does not, however, exclude the possibility that an unbundling of this Program, and others, at the level of activity would yield more evidence of development-orientation.

Weaknesses in the way WIPO's Program and Budget document is structured and presented (see Part 1 of this report) meant that the Review Team was not able to clearly establish the relative distribution of resources across the development cooperation activities undertaken by WIPO Programs, Sectors, divisions and sectors in order to assess whether this distribution adequately reflects the degree of priority particular issues/activities deserve from the point of view of development. This challenge is exacerbated by the fact that a significant proportion of the overall development spending is allocated to Program 9, where the description of activities contained in the Program and Budget documents does not provide any

classification or summary of budget allocation by the Bureaus according to particular issues, objectives or expected results. In short, it is difficult to establish where the majority of the development cooperation budget goes.

The Review Team's analysis of the narrative descriptions of Programs in the 2008/09 and 2010/11 Program and Budget revealed a strong emphasis on supporting improvements in IP administration, boosting public awareness of the IP system, facilitating adoption of legislation across the full spectrum of IP issues and promoting understanding of and accession to WIPO treaties. The 2010/11 Program and Budget document suggests that Programs and activities concerned with global policy issues, rebalancing the global IP system, economic research on IP and development, and reducing the knowledge gap through technology transfer and access to knowledge, do not yet properly reflect the degree of priority that developing country Member States accord to them (as indicated, for instance, by priorities expressed by those Member States that responded to the Review Team's survey of beneficiary countries).

The Review Team's analysis of the 2008/09 and 2010/11 Program and Budget documents revealed WIPO's portfolio of activities to be stronger in terms of assisting developing countries to derive broader benefits from the global IP system, than it was to help them with the flip-side of the same agenda – to lower the costs developing countries and their stakeholders face in using the IP system. There were relatively few activities, for instance, that clearly contributed to goals such as: a) the use of TRIPs flexibilities; b) promoting access to medicines and education; c) enlarging the public domain; d) ensuring efforts to address counterfeiting and piracy are aligned with national needs and conditions; e) the alignment of IP laws with efforts to protect natural resources, cultural expressions or TK and genetic resources from unfair use; and/or f) the promotion of competition in the area of intellectual property. There was, however, a relatively low overall emphasis on development cooperation activities that would directly contribute to the goal of reducing the knowledge gap, such as for instance activities that would help countries to: a) attract, absorb, learn from and produce technologies and/or promote affordable access to knowledge that could contribute to local innovation processes; b) promote the coherence of IP policies and other areas of national public policy; c) make practical use of various exemptions or sui generis legal/policy options that would improve access to foreign technologies and/or manage the degree of protection they receive; d) support developing countries to protect their knowledge, creative products or technologies in international markets and to enforce their rights in other jurisdictions; and e) establish and use mechanisms that could improve balance in national IP systems, such as those related to pre- and post-opposition to patents.

Judged against the definition specified in Box 2.2., the development-orientation of the CDIP projects is high. This is not surprising given that they emerge from CDIP discussions intended to help guide the transformation of WIPO's overall development orientation. Notably, however, the budget for the 19 currently approved CDIP projects is estimated by the Secretariat to be around CHF 21.9 million. While an important sum, this represents less than 10% of the total estimated budget of CHF 284.04 million devoted to development activities by the organization as a whole from 2008/09 to 2010/11 (although as noted in Part 1 the total figure may be higher if all personnel related costs to these projects are counted. Also see Box 1.2 in Part 1). As the implementation of many CDIP projects has been slower than originally envisaged (for a variety of reasons including internal restructuring and the availability of relevant consultants); the specific results of most projects are not yet available. Of 16 CDIP projects analysed by the Review Team, around two-thirds relate to WIPO Development Agenda Recommendations contained in Cluster A on Technical Assistance, and the rest relate to Clusters B, C and D (The Cluster approach to CDIP Recommendations is explained in Part 1.8 of this Report. Also see Annex 14 for a full list of Development Agenda Recommendations by Cluster.)

The ratings that respondents to the Review Team's survey of beneficiary countries of WIPO assistance gave to different types of WIPO assistance varied by topic (see Tables 2.1., 2.2., and 2.3.) as did perceptions of its overall orientation. Table 2.1 shows that assistance was considered to be the best for activities related to modernization of national institutions for IP administration and to building human resource capacity and expertise on IP. Notably, there were several areas that stood out as those where countries most indicated they had not received support during the period 2008-2010. Almost 40% of countries indicated that they had not received WIPO's support, or did not know enough to evaluate WIPO's work, for development-oriented IP legal frameworks and regulations. Similarly, 40% of respondents replied that either did not receive WIPO support or could not rate WIPO's activities for the development of a balanced IP system. Other areas where the awareness or experience of WIPO's assistance were relatively low was for the development of national IP strategies and policies; promotion, creation and use of domestic IP rights to support national development; and strengthening the capabilities of and support systems for users of the IP system.

Table 2.1. Survey Respondent Rankings of WIPO Development Assistance by Topic (n/a: not applicable[56]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Development of a balanced intellectual property system	9	4	4	7	2
Development of national intellectual property strategies and policies	8	6	4	8	1
Support for development-oriented intellectual property legal frameworks and regulations	10	4	3	10	1
Modernizing national institutions for intellectual property administration (e.g., copyright office, industrial property office, collective management societies)	4	7	1	16	1
Strengthening the capabilities of and support systems for users of the intellectual property system (e.g., inventors, SMEs, creators, artists, performers)	8	7	1	10	2
Building human resource capacity and expertise on intellectual property in your country	1	6	4	18	2
Development of activities and strategies to promote innovation and creativity	6	6	2	11	2
Participation and engagement of your country in international intellectual property negotiations and discussions	5	7	3	10	2
Promotion, creation and use of domestic intellectual property rights to support national development	8	4	2	12	1

Source: Authors' Survey of Beneficiary Countries

Table 2.2 reports survey respondent's ratings of WIPO Assistance by type of IP. The greatest number of ratings in the good to excellent range was for assistance in the area of patents, trademarks and industrial designs. Ratings of WIPO assistance were lower in the area of copyright. The Review Team notes, however, that the majority of survey respondents were from industrial property offices, although some were from IP office also responsible for copyright and some copyright offices provided individual survey responses. Ratings for assistance were lowest for issues such as competition policy and for traditional knowledge, folklore, traditional cultural expressions and genetic resources. A high proportion of countries reported that they had not received WIPO assistance in the area of competition laws and policies and plant variety protection (Technical assistance activities related to plant variety protection are generally handled by the Union for the Protection of Plant Varieties (UPOV) not WIPO).

In terms of support for selected topics of public policy, WIPO's assistance was rated most poorly in the areas of genetic resources, education and access to knowledge and highest in the areas of promotion of SMEs and counterfeiting and piracy (Table 2.3). For many critical areas of public policy, such as competition policy, consumer protection, international competitiveness, survey respondents that they either had not received assistance or did not know enough to be able to rate the assistance. Importantly, given the phrasing of the question in this part of the survey, it is not clear whether poor ratings reflect dissatisfaction on the part of the survey respondents with the level of assistance provided or its quality.

To assess the development-relevance of WIPO activities, the Review Team devised a typology whereby: (i) high relevance denotes those activities that are strongly aligned with the two key goals of development-orientation specified in the TOR for this Review[57]; (ii) medium relevance denotes those focused on building more modern and efficient IP systems in developing countries; and (iii) low relevance applies to those activities that relate primarily to the operation of the global IP system as a whole and to WIPO's role and leadership as an international IP institution. With regard to the six Pillars of WIPO development cooperation

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[56] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).
[57] That is, reducing the knowledge gap between developed and developing countries and allowing a greater participation of developing and LDC countries in deriving benefits or reducing costs out of the IP system.

Table 2.2. Number of Respondents by Rating of WIPO Assistance by Type of IP (n/a: not applicable[58]; 1: very poor; 7: excellent; d/k: don't know.)
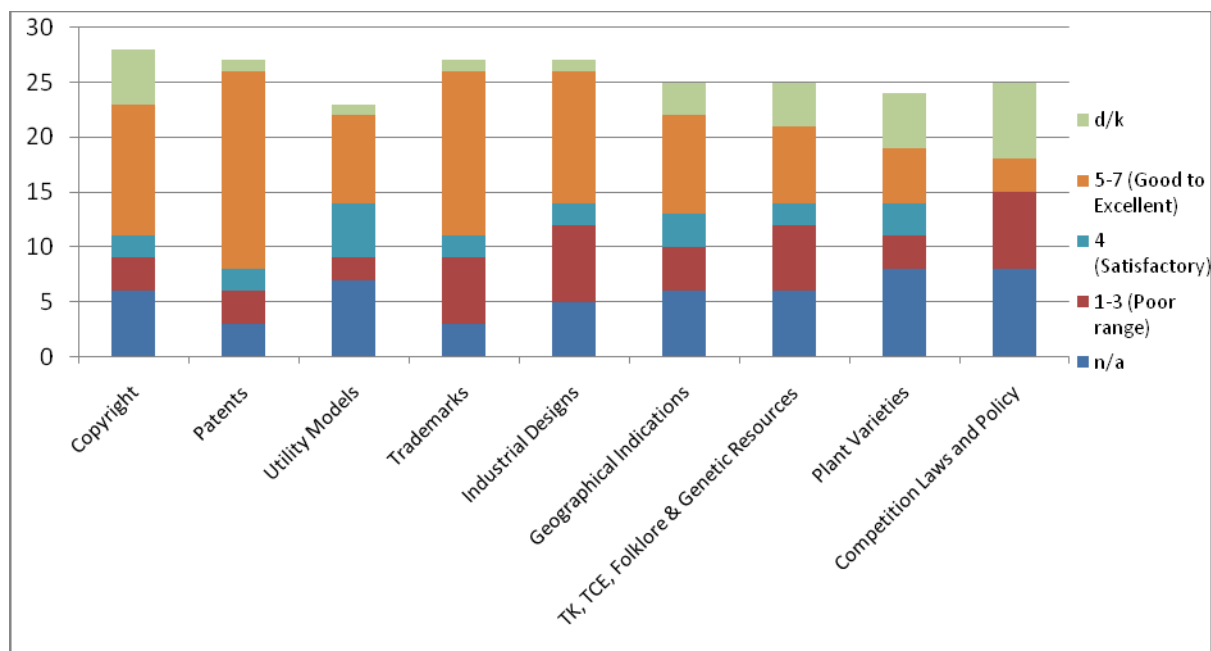
Source: Authors' Survey of Beneficiary Countries

Table 2.3. Number of Survey Respondents by Rating of WIPO Technical Assistance in Selected Areas (n/a: not applicable[59]; 1: very poor; 7: excellent; d/k: don't know.)
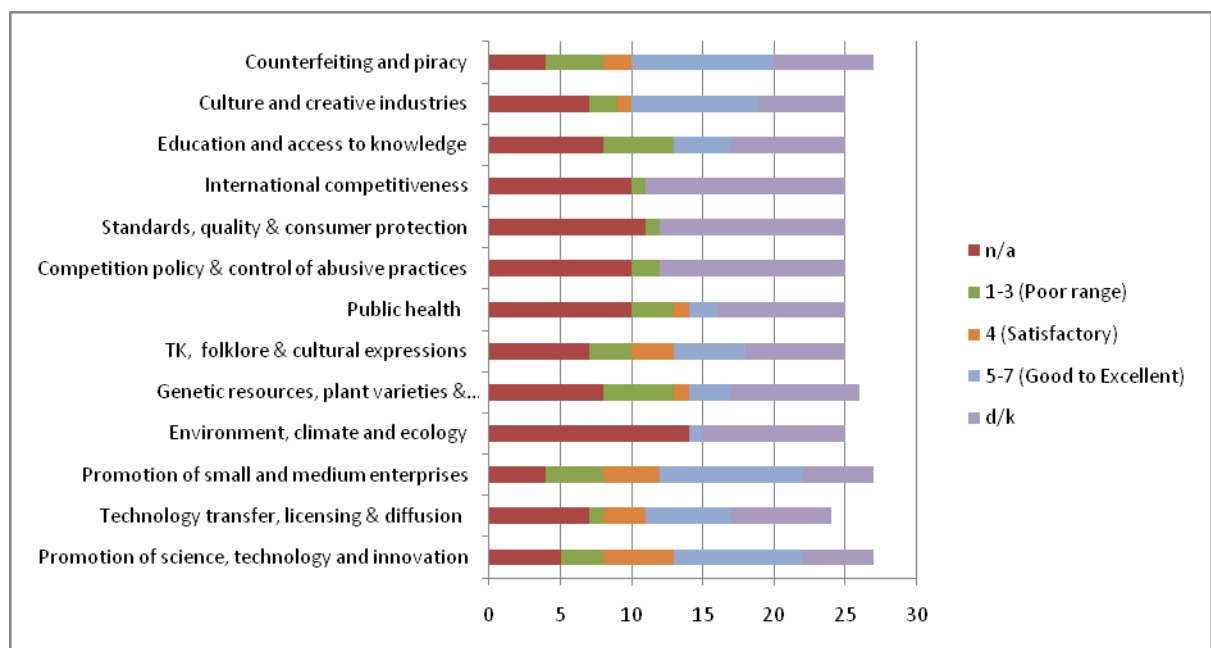
Source: Authors' Survey of Beneficiary Countries

defined in Box 3 of this Report, the Review Team classified as highly-relevant those activities related to Pillar 6 (promoting innovation, technology transfer and access to knowledge and technologies) and to Pillar

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[58] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

[59] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

2 (building a balanced IP regulatory system). Activities related to modernization of the IP infrastructure (Pillar 3) and user-support systems (Pillar 4), as well as training and capacity building (Pillar 5) were classified as of medium-relevance. The Review Team accepts, however, that for each particular Pillar, the degree of development relevance will depend on the particularities of each specific Program, project or activity. For instance, the development orientation of activities in the area of IP plans and strategies (Pillar 1) will depend on the content of the strategies.

According to this typology, the Review Team's country visits confirmed that a substantial proportion of WIPO's development assistance activities at the country level were for activities of 'medium' relevance to development-orientation, namely improved office automation, building modern administrative infrastructure and user support systems. In practical terms, many of the activities involved the provision of seminars and conferences or support for participation in them. In each country visited, there were less activities at the 'highly-relevant' end of the spectrum (i.e., such as activities focused on tailoring the IP system to facilitate national innovation or assistance to use the IP system to support the branding and commercialization of national product or for making use of geographical indications).

To further assess the overall development-relevance of WIPO's activities, the Review Team classified all of the 139 expected results listed in WIPO's 2010/11 Program and Budget according to the typology presented in Figure 2.1.[60] Notably, Figure 2.1 reflects a categorization of *all* of WIPO's activities in the 2010/11 Program and Budget, not only those specifically related to development cooperation activities. Further, the 2010/11 Program and Budget did not provide a monetary breakdown of the budget by expected result. As such the percentage of expected results in each category does not necessarily reflect the proportion of the organization's budget allocated to each expected result, which likely varied widely. Figure 2.1 shows that, as categorized by the authors, only 10% of all of WIPO's expected results fall within Category A. That is, only 10% of the expected results for the 2010/11 biennium relate directly to what the organization states as the two core objectives of its development cooperation activities, and which the Review Team characterises as of 'high development relevance' (i.e., those related to reducing the knowledge gap between developed and developing countries and allowing greater participation of developing countries in deriving benefits or reducing costs of the IP system). As noted above, activities in Category B (i.e., those related to improving the efficiency and modernization of the IP system in developing countries) are classified by the review team as of medium development-relevance, although it is acknowledged that some portion of these may contribute to the goals defined in Category A.

Figure 2.1. Categorization of Expected Results Presented in the 2010/11 WIPO Program and Budget by Relevance for Development

CATEGORY	Number of Expected Results
A: Expected results that reduce the knowledge gap between developed and developing countries and/or allow greater participation of developing countries in deriving benefits or reducing costs of the IP system	**14**
B: Expected results related to improving the efficiency and modernization of the IP system in developing countries, specifically for the benefit of IP holders and related agents	**39**
C: Expected results that help protect and enforce the rights of IP holders and already existing users of the IP system generally (the majority of which are from developed countries)	**43**
D: Expected results that support the global IP system as a whole and WIPO's role and leadership as an international IP institution	**42**
TOTAL Number of Expected Results	**139**

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[60] Details of the Review Team's methodology for categorizing expected results according to this typology and a full summary of the classification of the 139 expected results are available from the co-authors.

Percentage of Expected Results by Category
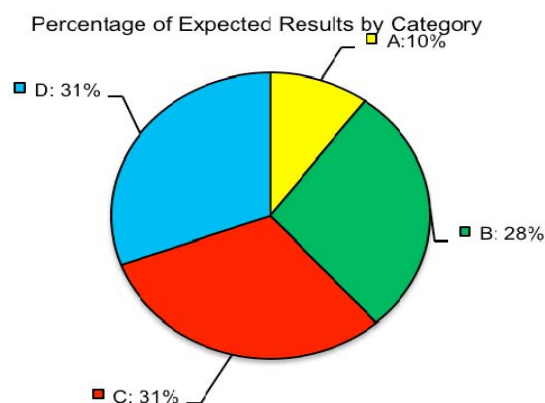
Source: WIPO (2009) WIPO Program and Budget 2011/12.

To analyse whether there appears to be progress in the overall development-orientation of WIPO's activities in the 2012/13 biennium, the Review Team analysed the July 2011 proposed 2012/13 WIPO Program and Budget. (While this version of the proposed was a draft for consultation with Member States and does not necessarily reflect the final Program and Budget that ultimately approved for the biennium, it was the best available source of information for the Review Team). In an improvement on the 2010/11 WIPO Program and Budget document, the proposed 2012/13 budget presents the budget allocated for each expected result (and the estimated development share). The Review Team's analysis of the proposed 2012/13 WIPO Program and Budget thus focused on the actual budget allocated per category of expected results (see Figure 2.2).[61] As such, the Review Team's adjusted its methodology for categorizing relevance for development. In the case of the 2010/11 Program and Budget, the Review Team categorized activities by the number of expected results for each category not in monetary terms (because there was no disaggregated budget information). According to that analysis, only around 15% of WIPO's overall proposed budget would be allocated to Category A activities (those of highest development relevance).

While the aforementioned changes in methodology prevent a directly comparison of the overall development orientation of WIPO's activities in the 20101/11 biennium and those proposed for the 2012/13 biennia, the two analyses undertaken do reveal that Categories A and B received less emphasis than Categories C and D in both biennia, whether measured in terms of the number of expected results by category or the budget for expected results by category. Of the four categories, Category A was smallest in both in the 2010/11 WIPO Program and Budget and the proposed 2012/13 Program and Budget.

Figure 2.2. Categorization of Budget for Expected Results in Proposed 2012/13 WIPO Program and Budget (July 2011) by Relevance for Development (in thousands of Swiss Francs)

Categories of Expected Results	Proposed Budget for 2012/13
A: Expected results that reduce the knowledge gap between developed and developing countries and/or allow greater participation of developing countries in deriving benefits or reducing costs of the IP system	6,202
B: Expected results related to improving the efficiency and modernization of the IP system in developing countries, specifically to benefit of IP holders & related agents	59,218
A&B: Between Category A and B	12,259
C: Expected results that help protect and enforce the rights of IP holders and already existing users of the IP system generally (the majority of which are from developed countries)	275,671
B&C: Between Category B and C	20,836
D: Expected results that support the global IP system as a whole and WIPO's role and leadership as an international IP institution	200,337
C&D: Between Category C and D	64,603
TOTAL	**639,126**

Percentage of Budget by Category of Expected Result

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[61] Details of the Review Team's methodology for categorizing expected results according to this typology and a full summary of the classification of the 139 expected results are available from the co-authors.
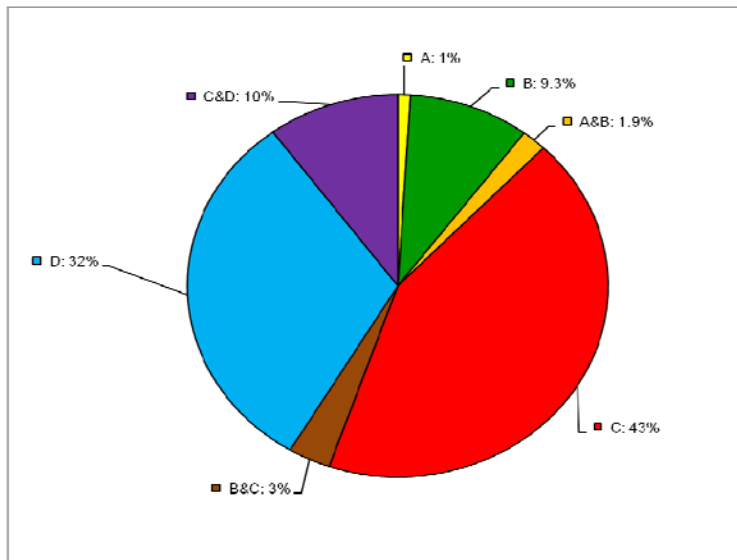
Source: Proposed 2012/13 WIPO Program and Budget (July2011)

The Review Team also notes that the language used to characterize expected results in the proposed 2012/13 WIPO Program and Budget has evolved since the 2010/11 Program and Budget. Throughout the draft 2012/13 document, there is considerable use of terms such as ' balanced', 'tailored', 'IP for development.' Without a detailed examination of the specific particularities of the projects or activities the Secretariat's considers will contribute to the various expected results (which are generally not included in the document), the Review Team was not able to to assess whether the activities are indeed likely to contribute to the expected results described, or whether there is simply a growing use of buzz words that convey an alignment with Development Agenda goals and principles. This uncertainty also complicated the task of classifying expected results by category, which is reflected in the categorization of some expected results as 'between categories', as noted in Figure 2.2.

The Review Team's assessment of a list of development cooperation activities reported by WIPO to the WTO TRIPS Council against these 'relevance' measures is also revealing in respect of overall orientation.[62] Using the same criteria set out above, the Review Team classified the various activities listed as having been executed between October 2009 and September 2010. Of the 82 activities listed by WIPO as having been executed in the Sub-Saharan Africa sub-region during that period, the Review Team found that 15 fell within the category of being 'highly relevant' to development goals, 40 activities were of medium term relevance and 27 of low relevance. In the Latin American region, out of 22 technical activities, 6 could be categorized as highly relevant to development, 7 as of medium relevance and 9 of low relevance. Similarly, using the criteria set out above, of the 29 activities listed for the Asia and the Pacific, 5 could be categorized as 'highly relevant' to development, 11 of medium relevance and 13 of low relevance.

Orientation in WIPO's Organizational Structure

WIPO's organizational structure is another element that yields some insights as to the orientation of WIPO's development cooperation activities. Over the past several years, WIPO has made some significant changes to its organizational structure, several of which make development cooperation activities more prominent and more efficiently organized to achieve the priorities set out in the Program and Budget. At the organizational level, there is now, for instance, the Global Issues Sector, which addresses a number of public policy issues relevant to development, and the Global Infrastructure Sector, which addresses the needs of IP offices. Within the Sectors, the creation of several new divisions, such as the Statistics and Economic Analysis Division, the Competition Policy Division, the Global Challenges Division, the Small and Medium-Sized Enterprises Division, and the Global Information Services Division, signals greater opportunities for the incorporation of development-oriented activities, In addition, there are now sections devoted to issues of innovation and technology transfer, such the Innovation and Technology Transfer Section and the Innovation and Technology Support Section.

However, these organizational structures and titles are not by themselves enough to ensure that the specific activities pursued by WIPO are indeed sufficiently development-oriented; reflect the diversity of components necessary for a development-oriented approach overall; or adequately respond to the priorities emerging from beneficiary countries.

Orientation in Terms of Alignment with UN Development Goals

The Review Team found inadequate substantive linkages between WIPO's development cooperation activities and the broader development goals and planning processes of the United Nations (UN) and its family of organizations. As a specialized agency of the United Nations, WIPO Member States have agreed that its work should be propelled by UN priorities, such as making progress on the UN Millennium Development Goals (MDGs).[63] While the Review Team found evidence across WIPO's internal and external documents where the organization acknowledged the importance of aligning the IP system with development goals and with the MDGs, it found inadequate attention to clarifying what this means and how precisely this might occur.[64] In many instances, the emphasis appears to be on the potential benefits IP systems could bring to economies at an aggregate level (e.g., through FDI and investment), rather than in

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[62] See WIPO (2010) "Note on Technical and Legal Assistance of WIPO Relevant to the Implementation of the Agreement on TRIPs", International Bureau of WIPO, October 2010. The Review Team acknowledges that limitations of this assessment in that it relied only on the limited information listed in the aforementioned document, which as noted earlier in this report, provides only the title, country and date of the activity, but no detailed information on the purpose, content or results of the activity.
[63] WIPO (2010) Report on WIPO's Contribution to the UN Millennium Development Goals (MDGs), document prepared by the Secretariat for the Fifth Session of the CDIP, April 26 to 30, 2010. CDIP/5/3. For background on WIPO's relationship with the UN system, see May (2007), Musungu (2003; 2005)
[64] WIPO (2010) Report on WIPO's Contribution to the UN Millennium Development Goals (MDGs), Document prepared by the Secretariat for the Fifth Session of the CDIP, April 26 to 30, 2010. CDIP/5/3.

relation to specific development goals related to sectoral issues (e.g., public health), social needs (poverty alleviation) or for particular groups within societies.

The Review Team also found that WIPO has hitherto not been part of the coordination processes among UN agencies on matters related to the financing and delivery of development assistance (such as the preparation of UN Development Assistant Frameworks (DAF) that serve as a roadmap for the activities of a diversity of UN activities within a given beneficiary country). WIPO is thus not benefiting properly from the debates and lessons learned within the UN system and among bilateral development donors, including on issues such as how to promote local ownership and effective, demand-driven assistance.[65] The World Bank and the OECD's Development Assistance Committee, for example, have each developed best practices in the design and implementation of development cooperation.[66] In 2005, over 100 Ministers, heads of agencies and senior officials agreed to a Paris Declaration on Aid Effectiveness, which set out principles for improving the local ownership of assistance.[67] These guidelines are particularly important for IP technical cooperation because it often involves agencies, such as developed country IP offices, not generally engaged in the provision of development cooperation and, therefore, less familiar with the values, lessons learned and best practices in that arena.

Notably, WIPO is constrained in its ability to link its work to development goals because IP rarely figures as a topic in the needs assessments or country development strategies conducted either under the auspices of the UN's Development Assistance Framework documents prepared for each country or in the World Bank's Poverty Reduction Strategy Papers (PRSPs). WIPO's development cooperation activities, as with IP-related TA in general, are delivered in a "silo" or as a stand-alone issue apart from these broader multilateral development strategies. In addition, IP is not part of the diagnostic tool used for the Enhanced Integrated Framework (EIF) – the multilateral mechanism to facilitate trade-related assistance to LDCs to meet their WTO commitments, including implementation of TRIPS. IP has also not featured as a prominent issue in the WTO's Aid for Trade Initiative, which includes legislative advice as one of its categories of support (i.e., such as for TRIPS implementation). The neglect of IP issues in such processes may reflect not only a lack of technical awareness of the issues, but also a broader sense that they are simply not key development priorities for many countries.

Orientation of WIPO's Research and Evidence-base for Development Cooperation Activities

WIPO finances a considerable body of research, studies and papers relevant to development issues, both through specific development assistance activities and also as part of the ongoing work of WIPO's various committees. At present, however, research and studies are commissioned conducted, publicised and disseminated in an ad hoc way across the organization.

The Review Team found there is no internal process for evaluation or peer review of research studies commissioned by WIPO, and thus to ensure their development-orientation. There are no overarching systems for properly archiving and making publicly available the outputs and lessons from research. The WIPO website does not facilitate easy public access to the many studies that are produced by the organization.

The new office of the Chief Economist could potentially provide a focal point for quality control of the terms of reference and content of research studies, but it is not clear that this is currently envisaged, particularly where studies do not involve economic analysis as such. Where studies concern questions related to IP strategies, the outputs of the new WIPO project to develop a 'Framework for National IP Strategies for Innovation' (see Part 4.1 of this Report), designed to help policymakers identify and formulate strategies on the relationship between IP and development, which engages the Office of the Chief Economist, may help provide a substantive foundation for many of the other issue-specific studies pursued by the organization.

Orientation and Stakeholder Engagement

A further aspect of orientation is the degree to which WIPO supports countries to work with stakeholders in their country and engages stakeholders in its development cooperation activities. See Part 3 of this report for further discussion of stakeholder engagement and related implications for the impact on development cooperation activities.

2.3. Relevance and Orientation at the Country and Regional-level

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[65] See OECD (2003a and 2005). Fukuda- Parr et al (2002); and Fukuda-Parr and Berg (1993).
[66] OECD (2003a)
[67] OECD (2005).

The Review Team found that there is inadequate systematic attention by the WIPO Secretariat and Member States to pursuing planning processes most likely to yield development-oriented activities or results at the national or regional level.

First, WIPO does not have clearly established annual or multi-year country plans for development cooperation activities with clearly articulated goals, baselines, targets, performance indicators and resource allocation commitments, or plans for monitoring and assessing implementation. A further challenge to identifying and responding to national priorities has been the absence of systematic needs assessments at the country level and the frequent absence of a national strategy, policy or plan on IP and development that could serve to orient the assessment of national needs for assistance. Even where IP plans, strategies or policies exist at the national level, they have not been widely used to inform what WIPO does in a country. While country profiles exist on WIPO's website and its internal computer system, they are outdated and provide only basic information on the country's IP system and contact information. There are no comprehensive country-profiles summarizing country priorities, needs, and experiences with regard to WIPO assistance.

Efforts underway at the organizational and Program level to deploy an effective RBM framework for development activities are far less advanced at the country or 'bottom-up' level. During the period under review, there were no country-level evaluations of the impact of WIPO assistance. Nor were there any systematic efforts to establish country-level benchmarks and performance measures to enable an accounting of the contribution of various activities to the realisation of development objectives. This shortfall also meant that information needed to facilitate the sharing of information, lessons learn and best practices within and between the WIPO Secretariat and its Member States was limited during the period under review.

Further, the Review Team found no evidence of systematic tools or efforts at the organizational, Program, Bureau or desk-officer level to map what other donors and actors at the country-level are undertaking in the area of related development cooperation activities.

Second, given the limited use of planning and RBM tools at the country level, the Review Team found that WIPO's system for determining and prioritizing which development cooperation activities should be pursued at the country level is confused at best (Also see discussion in Part 6 on Internal Coordination). This is not to say that needs assessment and planning is completely absent (i.e., some Bureaus and Programs do conduct some such efforts), but rather that it is not systematized and coordination. Notably, the Review Team found some discrepancies between the views of WIPO staff, evidence from the country visits and the responses gathered through the survey of beneficiary countries regarding the degree to which activities are informed by planning and needs assessments.

In each of the countries visited for the Review, government officials observed that there was not a formal or regular process for devising national IP office goals, needs, and priorities for WIPO development cooperation activities. However, survey respondents conveyed a more positive assessment of needs assessment and planning processes. Some 67% of survey respondents agreed that WIPO helps national offices determine their development cooperation activities needs. A further 85% of respondents agreed (or strongly agreed) that needs assessments are a collaborative task done by WIPO and the national IP office together. This perception is likely due to the fact that some WIPO Programs do indeed conduct needs assessments on an occasional or country-by-country basis in which survey respondents from IP offices are likely to have participated. In 2008/09, for instance, there was a Needs Assessment Survey on IP and SMEs to which 78 national IP offices replied. Similarly, the Infrastructure Modernization Section conducts 'Business Needs Assessments' of countries. And, several of the survey respondents were from countries that had received support from WIPO for the elaboration of national IP policies plans, a number of which included a needs assessment component.

Interviews with WIPO staff and a review of internal WIPO documents showed that the practices of country planning vary according to Bureau and Program. When asked whether WIPO assistance to their country is guided by annual or multi-year work plans, 20 survey respondents agreed or strongly agreed, whereas 8 disagreed and 4 indicated they did not know. A further, 17 respondents indicated that their government has a cooperative agreement with WIPO. During the period under review, the Review Team did find evidence of some '*sui generis*' country work plans devised collaboratively by the Secretariat and some Member States (particularly through the work of the Asia and the Pacific Regional Bureau). The Review Team also found evidence of cooperative agreements with specific WIPO divisions on specific projects. However, such planning processes are not systematically pursued and the country plans that do exist do not necessarily provide an overview of the full range of WIPO assistance to the country. Further, even where country plans exist, however, they are not necessarily used when it comes to implementation and ad hoc

activities also emerge. Staff reported that one reason for this is that plans often contain a long list of desired activities and needs, without clear prioritization.

Third, in light of weaknesses in country planning, the Review Team found evidence that a culture of 'request-driven' development cooperation activities dominates over strategic planning and prioritization. A significant 90% of survey respondents agreed (or strongly agreed) that WIPO responds positively to their development cooperation activities requests. Requests are most often received from national IP offices, but may also come from several other parts of national governments or from stakeholders. The procedure pursued is that the country in question presents a technical cooperation request to the WIPO Secretariat (most commonly through the regional Bureaus but also through other parts of WIPO) for either an individual activity or a number of them.[68] Interviews with WIPO staff revealed that such requests come sporadically, often without advance warning and frequently relate to short-term issues that arise within countries. The Review Team's interviews with staff revealed that the Secretariat receives requests from Member States on an ongoing basis (often after yearly workplans are made), and decisions on how to respond are made on a first-come, first-served basis in light of available resources. In their interviews with WIPO staff, the Review Team found that many WIPO staff made impressive efforts to ensure that specific requests, even last minute requests, were responded to efficiently.

The Review Team further found that pressures for a 'demand-driven' approach to development cooperation activities means that some staff believe that they should not decline requests. Many WIPO staff interviewed for this Review perceives that they do not have the leeway to make decisions about what would be most appropriate for a given country and that they should respond positively to requests irrespective of whether the activity is appropriate for the country at hand, and what the risks of failures may be. At the Program level, the scope of objectives and definition of expected results is quite broad, so it is not difficult for ad hoc activities to 'find a place' within those frameworks. At the organizational level, this generates a number of challenges including unrealistic expectations about the prospects of success and impact of activities. Few staff interviewed for the Review could report many instances where they had declined a request or negotiated with the country to devise a more appropriate or feasible project. The Review Team's country visits also revealed examples where requests from national government and non-government stakeholders were declined by WIPO on the grounds of resource-scarcity or that the proposed activity was beyond the scope of WIPO's work program.

Somewhat perversely, the implementation of some Development Agenda projects has been inconsistent with good country planning practices. While many CDIP may be praised for their emphasis on addressing development needs, the process of deciding which countries should benefit from them is not clear. In some cases, countries have 'volunteered' for new projects, but it is not clear how the Member States and Secretariat prioritize among countries (or how the Member States intend the Secretariat to prioritize) or ensure that the kinds of projects implemented are those most important to the priorities of the recipient countries (e.g., IP strategies, TISCs, etc).

In light of reports from WIPO staff that few country requests are declined, it is not surprising that survey respondent views on the planning of assistance reflected considerable levels of satisfaction. Table 2.4 shows that 57% respondents agreed that WIPO responds to specific intellectual property-related problems that their country faces, while 33% disagreed and 10% indicated they did not know. Moreover, almost 73% of respondents agreed or strongly agreed that WIPO development cooperation activities is tailored to respond to their national circumstances, policy priorities and objectives, while 13% disagreed and a further 13% indicated they did not know. In question 10, countries were again asked to indicate the extent to which they agreed that WIPO development cooperation activities are tailor-made for their country. Here, just 59% of respondents agreed, while 31% disagreed and 10% indicated they did not know). Respondents were asked to consider whether WIPO development cooperation activities is one size fits all, 59% disagreed, while 25% agreed, and 18% indicated they did not know.

Interviews conducted during the Review Team's country visits and with developing country delegations in Geneva revealed an even more complicated picture. The Review Team were provided examples of instances where requests had been declined by the Secretariat on the grounds of inadequate resources or that requests did not fit within the purview WIPO Programs. In several such cases, however, the Review Team found several the requested activities were not necessarily outside WIPO's Program area as other countries had received assistance on similar issues. The Review Team does not rule out the possibility that requests were declined because WIPO staff did not judge the necessary preconditions for success to be in place. However, the point is that it remains unclear what criteria WIPO applies to decide what kinds of

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[68] In the mid-1990s, WIPO introduced Nationally Focused Action Plans (NFAPs) elaborated in consultation with national IP administrations to move beyond individual country activities and serve as a more comprehensive envelope for providing assistance at the national level. The NFAPs were in place for one to three years. However, in recent years they have not been commonly used.

requests are approved or declined, and that Member States were not clear as to the scope of activities that could be successfully requested.

Table 2.4. Number of Survey Respondents per Possible Rating on Issues Related to the Development-Orientation of WIPO Assistance
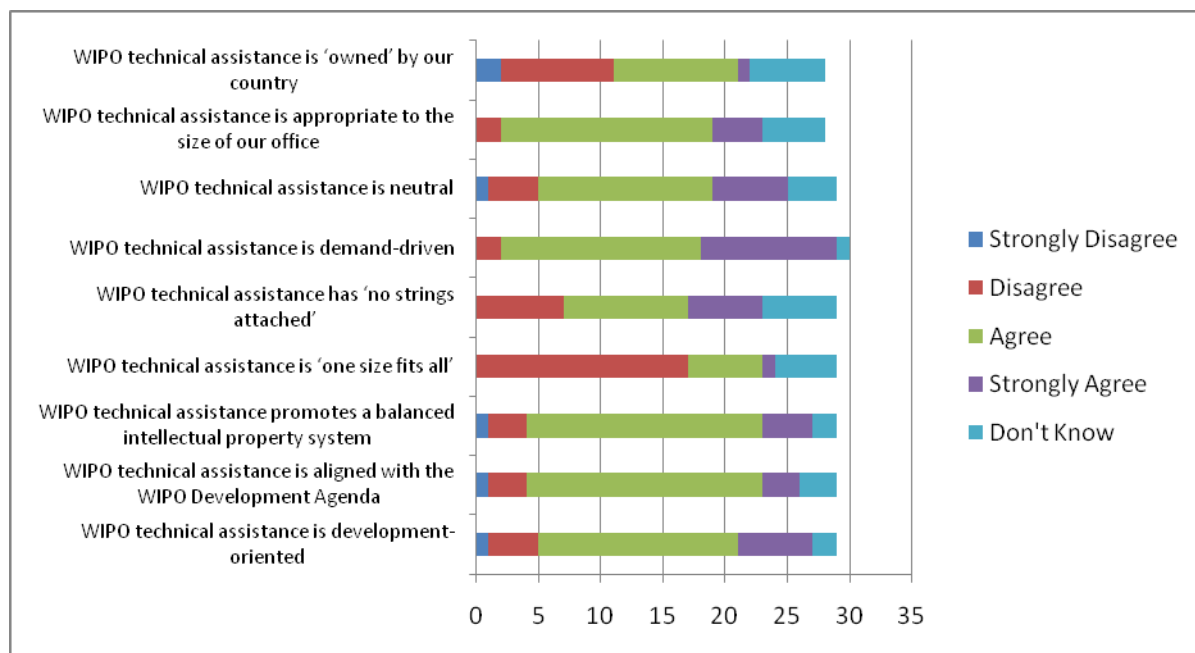
Source: Authors' Survey of Beneficiary Countries

Finally, while WIPO documents regularly report that all development cooperation activities are demand-driven by Member States, country visits and consultations conducted by the Review Team provided evidence of occasions where activities at the country level, and particularly at the regional level, are proposed by the WIPO Secretariat, and accepted by relevant countries. In many such cases, the proposed activities may reflect the Program priorities as set out in the Program and Budget or requests from particular Member States within a given region. The Review Team also found evidence, however, of activities undertaken by regional Bureaus that were not closely linked to Program Objectives or expected results, and where the anticipated outcomes and follow up were ill-defined. It also found that regional-level activities were sometimes used to 'spend out' budgets at the end of a given financial year. This is not to say that such regional activities were never useful or that the WIPO Secretariat should be prevented from proposing activities. Rather, the point is the need for transparency about the origins of Secretariat proposals for activities at the regional level, a clear relationship to broader strategic planning, results-management and priority-setting processes at the country and organization-level, and opportunities for Member States and stakeholders to provide input.

In terms of regional-level planning, the Review Team found that some WIPO development assistance is delivered through regional bodies (ARIPO, OAPI, and regional economic communities). The Review Team notes that support for OAPI and ARIPO is a significant activity of the Africa Bureau (which has a cooperative agreement with the Secretariats of these offices to guide their strategic planning), but that there are no clear mechanisms for the priorities and activities advance to be overseen by their respective member states (except through each organization's respective governance structures). There are also important differences between regions. For instance, the Review Team found no evidence of WIPO assistance to the Andean Community or Mercosur, but it did find activities for the ASEAN group and COMESA in Africa. As noted above, the Review Team found evidence that activities such as events are sometimes proposed by national governments keen to host them in the region or by regional grouping (for instance, the ASEAN group recently requested a regional workshop on WIPO's results-based framework). The Review Team also heard from WIPO staff that the Bureaus and External Offices of the Secretariat have greater scope at the regional than country level to propose activities. Through country visits and Member State consultations, the Review Team heard complaints from some Member States that they are not well informed about or involved in the planning processes for regional activities, which constrains their ability to ensure that the content, orientation and experts are appropriate to their needs.

2.3.1. Linking WIPO Programs to Country Priorities and Needs

A core challenge facing the Secretariat is to align the objectives, expected results and activities approved by Member States at the Program and Budget level to the specific needs that emerge from beneficiary countries. While Member States can provide input to the Program and Budget process through consultation and responses to the Program and Budget questionnaire, the latter input generally reflects a statement of needs and preferences not a process of planning and prioritization. Within WIPO Programs, the processes and criteria for integrating country needs and prioritization into the planning and implementation phase are unclear and vary by Program. Where national IP strategies, needs assessments, or country plans for WIPO development cooperation activities are weak or non-existent, activities in beneficiary countries are driven more by the priorities and workplans related to WIPO Programs and the FITS and by ad hoc requests from Member States (see Part 5 of this Report for a discussion of the WIPO Program and Budget Process).

In early 2011, the Development Sector began the process of introducing WIPO Country Plans for each of the countries covered by the regional bureaus to provide a framework for planning and delivery of the organization's development assistance. The template for these country plans remains under development and remains too nascent to assess in detail. As presently conceived, each Country Plan will set the medium term goals (over a 4-year period starting January 2012) for the cooperation between WIPO and the beneficiary country in line with WIPO's strategic goals, the MTSP, the WIPO Development Agenda and the relevant Program and Budget, with the specification of activities to be undertaken through annual Work plans.

According to the draft documents seen by the Review Team, the anticipated country plans would consist of seven core elements: (i) National IP and innovation objectives/goals and strategies; (ii) priority needs to be addressed by WIPO; (iii) a country results framework; (iv) implementation strategies, risks and risk-mitigation; (v) national IP stakeholders and partners; (vi) a coordination framework; and (vii) review mechanisms and reporting requirements. The draft documents envisage that the WIPO Development Sector would be the custodians of the Country Plans and would be responsible for the elaboration, coordination, implementation, monitoring and reporting of results of these plans.

The internal discussion at WIPO about country plans is a very positive signal that WIPO is preparing itself to improve the systems for assessing needs, planning strategically, and prioritizing the allocation of resources for development cooperation activities. A key factor for consideration will be the role and process for dialogue with Member States in the formulation of country plans. Core challenges will be to ensure that these country plans linked to IP policies and strategies and that such plans systematically inform the preparation of future WIPO Program and Budgets in a 'bottom up' fashion.

Notably, while a growing number of countries is devising national IP strategies (or IP and Innovation strategies), sometimes with WIPO's assistance, which in turn guide their interaction with WIPO, Part 4.1 of this report shows that the quality and nature of IP strategies and policies varies widely. The 'new generation' of IP and innovation strategies being developed as one of the CDIP projects are still under development, with only a few strategies likely to be completed in 2011. It is thus unrealistic to expect a rapid process of linking the IP strategies and country planning processes.

Importantly, the task of conducting needs assessments, formulating national IP policies, and devising country plans is resource intensive in terms of institutional, human and financial resources. There are several different existing efforts to develop and use toolkits for such needs assessments, but the Review Team found no evidence of attempts by WIPO to coordinate, build on or inform such efforts, although there is a nascent dialogue to foster cooperation with the WTO in respect of its LDC needs assessment process.[69]

2.3.2. Internal Coordination in Beneficiary Countries

It is well-established in the scholarly literature that the prospects for more development-oriented IP systems in developing countries will rely on national IP offices seeking and building collaboration with other parts of national government responsible for public policy issues such as innovation, education, technology, science and education.[70] Effective processes for inter-agency coordination and public consultation are similarly vital in the design and implementation of IP-related assistance for them to achieve development results.[71]

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[69] See, ICTSD/Saana Consulting Needs Assessment Toolkit (2007). Also see ICTSD (2011) LDC Needs Assessment Under TRIPS: The ICTSD Experience (2007-2011). Geneva: ICTSD.
[70] Abdel-Latif (2005); Barton et al (2007); CIPR (2002); Correa (2001); Deere (2009b); Gold and Morin (2009); ICTSD (2003); Maskus (2009); Musungu (2005); and UNDP (2001).
[71] Ibid.

The Review Team explored the evidence on internal coordination by countries on matters of IP strategy, needs assessment and priority setting for development cooperation activities. It also considered country leadership in the coordination of development cooperation activities from WIPO and other donors.

The Review Team found variation among countries in terms of the way in which they organize IP decision-making at the national level, and the orientation of their national policy (where it exists) and their IP offices, impacts their interface with WIPO and the kinds of activities they request and prioritize. In most developing countries, there is minimal engagement of legislative branches in IP decision-making and limited consultation with non-government stakeholders and experts in the assessment and development of IP policy and laws. Most IP offices are isolated from broader government policymaking and lack a broader institutional framework where their priorities are informed by the work of other government agencies and relevant policies. In some countries, whether large or small, IP offices function primarily as administrators of the IP system, and do not have responsibilities for functions such as the promotion of rights, outreach or innovation. Country visits and survey responses showed that most developing country governments still lack effective systems and processes for internal coordination within the government on IP decision-making. While the size of offices visited varied in terms of budget and staff numbers, all survey respondents reported that they had inadequate staff for the range of functions already served by their offices.[72] When asked to respond to a question about the existence of IP inter-ministerial committees, half of the 28 respondents reported they their country does indeed have a committee, but only half of these involve non-government stakeholders. Interestingly, some of the poorest countries (e.g., Rwanda, Senegal, Tanzania, Zambia and Ethiopia) have inter-Ministerial committees.

The orientation of national IP system and their IP offices themselves also varies. Indeed, neither developing countries, IP systems, nor the needs of IP offices are static. As the global economy and technology evolves, the opportunities within countries also change. The orientation of offices also varies according to the Ministry in which it is located. An IP office under the Ministry of Trade, for instance, may have a different perspective and set of priorities to one in a Ministry of Science and Technology or a Ministry of Law and Human Rights. Whereas some IP offices are focused on counterfeiting and piracy, others may be more focused on promoting innovation, science and technology as tools for economic growth or in supporting systems to use flexibilities in health.

The Review Team found that the primary focus of many IP offices in developing countries is on technical, operational and administrative matters. Officials in the national IP offices are thus not always well-informed of broader policy debates, even those on IP and development issues. While some nationa IP offices are becoming more engaged on the relationships between their work and broader national development goals, issues related to the definition, complexities and public purpose of the IP system are often left unattended or are the responsibility of officials responsible for trade/commerce, business promotion, science and technology, planning or foreign affairs.

The survey responses also highlighted the degree to which many IP offices are isolated from broader national policymaking. When asked about the degree to which IP offices are consulted by non-IP government offices or agencies on issues relevant to IP, only 14% of respondents agreed they were regularly consulted while 86% answered they are never, rarely or only occasionally consulted. The responses varied by issue with consultation being highest on issues related to counterfeiting and piracy. The lack of consultation was particularly high for issues related to public funding of R&D, environment, climate and ecology, and very high for issues like public health, competition and control of business practices, standards and quality, and consumer protection (See Table 2.5). Responses to the Review Team's survey of beneficiary countries highlighted that while 70% of respondents (20 of 28) indicated they participate in the formulation or review of key national development policy and strategic documents, participation in the formulation of strategies that relate to donor assistance was weaker. For instance, only 28% of respondents reported that they are involved in the formulation or review of World Bank Poverty Reduction Strategy Papers (PRSPs) and Country Assistant Strategies or UN national Development Assistance Frameworks (DAF). This result is consistent with other studies that show that IP issues rarely feature in these documents.[73] Just over half of respondents agreed (50%) or strongly agreed (4%) that their technical assistance requests are informed by national development goals, while 25% disagreed.

Twenty of 25 survey respondents agreed (13) or strongly agreed (7) that their office has a designated person/unit that coordinates IP-related development cooperation activities with other parts of their government. However, the country survey revealed that government agencies, particularly IP offices, have

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[72] Even among LDCs the size of the offices varies considerably. Ethiopia for instance has a staff of 50, whereas other LDCs have a professional staff of 2-5.
[73] Fink (2008).

limited knowledge of the focus of development cooperation activities received from WIPO, whether on IP-related public policy issues or to other parts of their government or non-government stakeholders have been beneficiaries or recipients of WIPO development cooperation activities.

The Review Team's country visits confirmed that as the range of beneficiaries of WIPO development cooperation activities expands at the national level, there was little awareness among the various stakeholders of who has been receiving what from WIPO and little national level coordination of assistance. While it is understandable that industrial property and copyright offices would not be intimately aware of the assistance provided to each of their offices, one could expect them to be aware of other WIPO activities in their respective fields in the country. The expanding range of beneficiaries of WIPO's assistance is a positive development in as much as it demonstrates a broader orientation of WIPO's assistance. However,

Table 2.5. Number of Survey Respondents for Each Possible Rating of Degree of their Engagement on IP Aspects of National Policymaking by Area
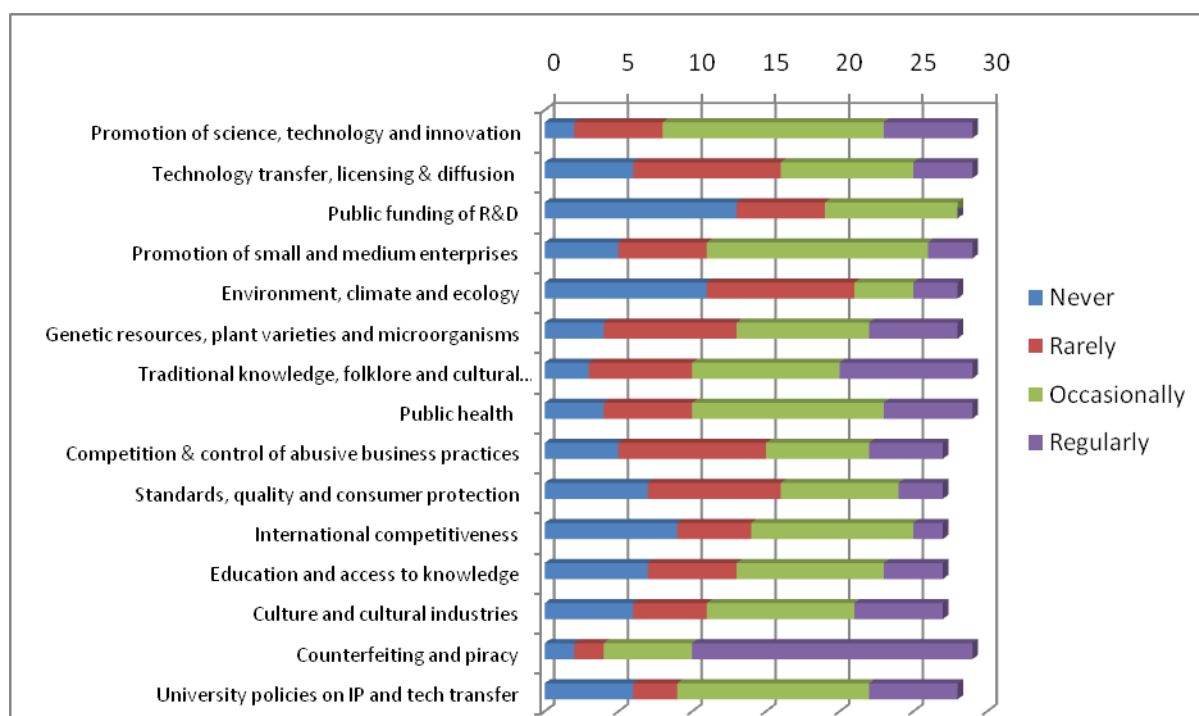
Source: Authors' Survey of Beneficiary Countries

it highlights the need for coordination at the national level, and the need for WIPO to take action to ensure communication among its own Programs and to encourage coordination among actors at the national level. As an increasing number of countries establish inter-ministerial committees and stakeholder committees on matters of intellectual property, these may serve as an appropriate interface for WIPO in ensuring that its assistance delivers on the key national priorities, rather than individual requests from different government or non-government stakeholders.

A further aspect of internal coordination is the ability of countries to manage the diversity of donors involved in IP-related assistance in their country. While 19 of 25 respondents agreed (15) or strongly agreed (4) that their office coordinates the IP-related development cooperation activities it receives from international donors (see Table 2.6), the Review Team's country visits and interviews with WIPO staff suggested that few countries have a strategic approach to managing the assistance they receive from different sources (See Part 6 of this report on Coordination).

## 2.3.3. Interface and Coordination between Beneficiary Countries and WIPO

The Review Team found that there are a number of weaknesses in the interface and coordination between WIPO and Member States with regard to the planning and delivery of WIPO development cooperation activities as well as follow-up and awareness of the WIPO Development Agenda.

Importantly, there were some significant discrepancies between findings from the survey, consultations, and country visits and staff interviews. The vast majority of respondents, 25 of 29, specified that they agree (16) or strongly agree (9), that their government has a clear point of contact at WIPO for development cooperation activities. In both country visits and survey responses, most countries nominate the Regional Bureaus as their main contact point within the WIPO Secretariat. In both instances, however, other points of contact within the organization were also listed (See Table 2.7). The country visits also revealed uncertainty about the appropriate practice for countries in terms of approaching WIPO (including who should be their main point of contact).

Most WIPO staff interviewed by the Review Team cited IP offices as their main interlocutors at the national level. The high level of comfort that many WIPO staff conveyed about their interactions with IP offices was also reflected in positive survey responses, which as noted above were mostly from IP offices, about the interface with WIPO. Table 2.8 illustrates that over 70% of survey respondents ranked as good to excellent the ease of communication with the WIPO Secretariat on technical assistance, and over 55% ranked as
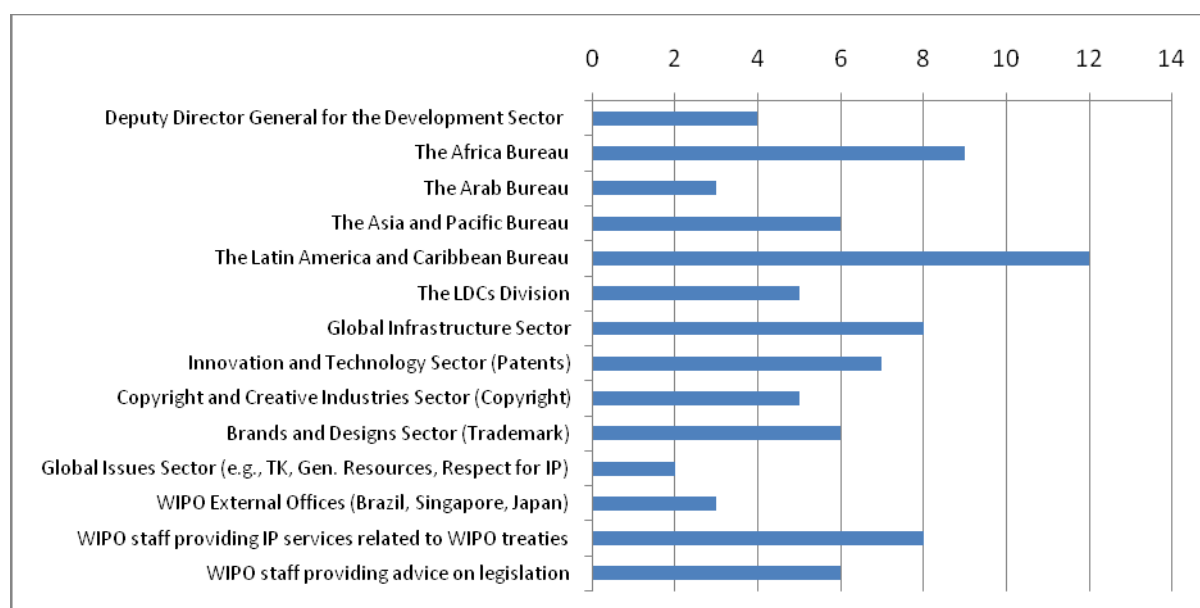
Table 2.6. Number of Survey Respondents for Each Possible Rating of Internal Coordination on Technical Assistance
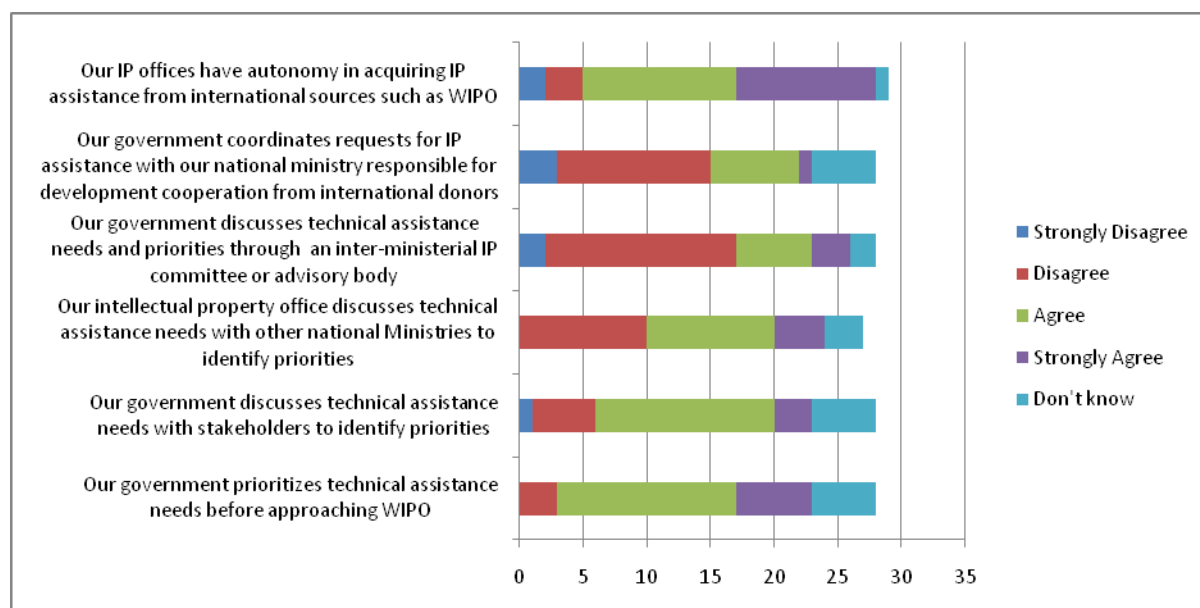
Source: Authors' Survey of Beneficiary Countries

Table 2.7. Number of Survey Respondents per Possible Main Contact Point for WIPO Development Cooperation Activities

Source: Authors' Survey of Beneficiary Countries

good to excellent their ease of access to assistance (the remaining respondents were either negative, neutral or didn't know) (See Table 2.8). More than 50% of survey respondents were similarly positive about the scope to discuss challenges, problems or risks that emerge with WIPO development cooperation activities (while 25% gave a response in the poor range and 22% indicated they did not know). Around 50% ranked as good to excellent the scope for dialogue on the content of WIPO technical assistance activities, but 25% ranked this in the poor range and almost 30% indicated they did not know. Almost 50% of survey respondents ranked as good to excellent the accessibility of information about the range of WIPO TA available, whereas the other 50% reported this to be satisfactory, poor or indicated that they did not know. The transparency as to the level of WIPO resources available to their countries was weaker with 60%

judging this to be in the poor range, satisfactory or reporting that they did not know, and 40% of respondents ranking transparency in the good to excellent range.

However, the Review Team's consultations with WIPO staff and Geneva-based delegations in the course of the Review confirmed, by contrast, that the points of contact between Member States and WIPO are not sufficiently clear. In reality, the organization has a growing range of contacts in national governments and with stakeholders within countries.). As the range, scope and expectations of WIPO development cooperation activities has expanded, so too has the range of actual and potential interlocutors within developing country governments, whether Ministries of Foreign Affairs, Geneva-based delegations, IP offices, inter-ministerial Committees on IP, or other Ministries, etc. This creates challenges for coordination between WIPO and Member States (which also frustrated the process for conducting country visits and surveys for this Review). Most WIPO staff interviewed conveyed, however, greater comfort working with IP offices as their main contact points in beneficiary countries as they consider them to have the most relevant knowledge of IP specific needs and stakeholders. Country delegates in Geneva emphasized to the Review Team, however, the importance of engaging with Geneva delegates and Foreign Affairs Ministries that may have a broader view of national policy and strategic priorities relevant to the IP system. The Review Team also heard from many WIPO staff that higher success rates for development cooperation activities would rely on greater political commitment, more resources from national governments, and stronger national efforts to place projects in the broader context of development goals. To ensure such commitments, the WIPO Secretariat needs to forge stronger contacts at beyond and at higher levels than national IP offices.

Table 2.8. Number of Respondents per Possible Rating of Interaction with the WIPO Secretariat on Development Cooperation Activities (1: very poor; 7: excellent; d/k: don't know).

	Poor range (1-3)	Satisfactory (4)	Good to Excellent range (5-7)	d/k
Ease of access to WIPO technical assistance activities	4	4	16	4
Transparency of the level of WIPO resources available to your country	7	4	11	5
Accessibility of information about the range of technical assistance activities that WIPO offers	8	3	14	5
Ease of communication with WIPO Secretariat	2	2	21	4
Scope for dialogue with WIPO on content of technical assistance activities	3	4	16	5
Scope to discuss challenges, problems or risks that may emerge with WIPO technical assistance activities	2	4	16	5

Source: Authors' Survey of Beneficiary Countries

Evidence from the survey and country visits revealed that familiarity with the WIPO Development Agenda beyond Geneva-based officials from developing country Ministries of Foreign Affairs or Trade varies widely. The Review Team's discussions with stakeholders at the country visits showed that many stakeholders within WIPO Member States are not well-informed about the WIPO Development Agenda or on how WIPO is working to integrate its objectives and recommendations. While this may not be particularly surprising for government or non-government actors who do not closely follow WIPO or international developments, low levels of awareness in the case of some IP offices is perplexing. In some cases, staff in the IP office were aware, but other relevant officials, such as those responsible for science and technology were not. These findings highlight the need for greater outreach efforts on the part of the WIPO Secretariat in the course of its development cooperation activities, and greater communication within developing country governments on IP related issues and for Ministries of Foreign Affairs to ensure adequate information dissemination and dialogue about the Development Agenda within their countries.

2.4. Selected Recommendations on Relevance and Orientation

The following selected recommendations derive from the findings and conclusions presented in Part 2. Further recommendations related to relevance and orientation are listed after the assessments for each of the pillars of WIPO's assistance provided in Part 4 of this report.

Integration of Development Agenda Principles, Guidelines and Best Practices

The Development Agenda provides clear guidance on the principles that should guide WIPO's development cooperation activities, namely that it should be development-oriented, demand-driven, flexible, and be adapted to the different interests, socio-economic realities and levels of development of

Member States (see in particular Cluster A of the Development Agenda Recommendations). The challenge now is to **ensure that progress achieved in integrating Development Agenda priorities and principles at the planning level is translated into better results at the implementation level.**

Improve the Development-orientation of Activities

WIPO's development cooperation activities should **adhere to widely accepted principles, guidelines and best practices in the broader field of development cooperation (such as the OECD's Paris Principles)**. All WIPO staff and consultants involved in development cooperation activities should be informed about and follow these principles and best practices. They should also be engaged in ongoing training on key developments in the broader realm of development assistance.

The WIPO Secretariat should devise **"development guidelines" providing specific detail on how to plan and implement more development-oriented assistance, both in terms of substance and process**, based on the Development Agenda principles. These development guidelines should be supplemented by a specific manual that details best practices and appropriate content for each of the main topics and modes of delivery of IP-related cooperation. The development guidelines should be used by all Programs and stakeholders engaged in WIPO development cooperation activities, including consultants, along with a Code of Ethics for individual providers and experts, whether WIPO staff, consultants or unpaid speakers/experts (discussed in Part 5 of this Report on Management).

The expected results set out in WIPO's Program and Budget need further refinement to address explicitly the different components of development orientation (e.g., such as those set out in Box 2.2 of this Report) are integrated across WIPO´s Programs, projects and activities.

The WIPO Secretariat and its Member States should refine and reorient the organization's Strategic Goals, outcomes and outcome indicators in the MTSP to reflect a comprehensive conception of development-orientation. In particular, these should better reflect the two core objectives of WIPO's development cooperation activities as stated in the TOR for this Review (i.e., reducing the knowledge gap and increasing the participation of developing countries in the benefits of the IP system – and reducing its costs). The importance of Programs and activities devoted to these two objectives should be more visible within the organizational hierarchy and budget of WIPO, and in the activities undertaken at country and regional level. A working group could be established to elaborate a paper on strategies to advance progress in these two areas.

Improve Prioritization and Balance of Activities Undertaken

The WIPO Secretariat and its Member States need to **devise clearer objectives and priorities for its development cooperation activities, a process for prioritization of activities, and criteria for determining what activities fall within those priorities.** Internal processes for the prioritization of activities by Program, expected results, and Country, and the allocation of the regular funds in the Program and Budget process should be more transparent. There is a need for greater attention to integrating and streamlining development goals and *priorities* across WIPO´s various Programs from the top down through the Program and Budget process, and from the bottom up by ensuring that the overarching organization-wide Programs, development cooperation activities and priorities are informed by and aligned with country needs and priorities.

There are six potential sources of input into the prioritization and planning of development cooperation activities that need to be integrated. First, the country needs assessment and planning processes should bring a 'bottom-'up' perspective on an iterative basis, including to priority-setting for the Program and Budget processes.Second, the Program and Budget process should focus more on the identification of core priorities and their integration into Programs. Third, the WIPO Development Agenda's vision about the role of WIPO in IP and development should be incorporated. Fourth, the results of improved evaluation processes (discussed below) should generate lessons about priorities and successful activities that should be reflected in future planning. Fifth, the WIPO CDIP can play a role in identifying and proposing projects and activities. The CDIP could, for instance, establish an "expert group' on development issues to advise the Secretariat and Member States on cross-national initiatives to promote a more balanced IP system and complement country-based, demand-driven proposals.

Integrate Budgets and Planning for all Development Cooperation Activities

A key prerequisite for such prioritization is for all development activities and resources to be integrated into WIPO's regular Program and Budget process. **Activities supported by Funds-in-Trust (FITs) and associated resources should be reflected in WIPO's regular budget, programming and reporting processes.** Activities supported by FITs should also be integrated into the country planning process. WIPO should adopt guidelines to ensure the alignment of FITs activities with the development goals, priorities, and expected results outlined through WIPO's Program and Budget Process and RBM Framework. There is a need to ensure greater member state oversight of the content of FITS workplans and their evaluation. The creation of multi-donor funds (instead of individual funds) on particular topics should be considered.

The prioritization process demands **greater reflection about WIPO's comparative advantage among the community of donors and providers of IP-related development assistance, the strategic role of**

the organization and the modalities that it is best positioned to use. Questions for consideration include: How much should WIPO's focus be on implementation of activities at the national level versus facilitating the coordination of activities among many donors or brokering access to new resources at the request of Member States? To what extent should WIPO serve as a training institute and where should its priorities lie? To what extent can and should the organization build and diversify its in-house expertise to address the expanding range of demands it faces? To what degree should its work be outsourced to consultants or conducted through institutional partnerships?

Improve Demand Management, Partnership and Outreach for Development Cooperation

Development cooperation activities should be conceived as a *partnership* between the WIPO Secretariat and beneficiary Member States. Governments need to clearly define and communicate to WIPO their preferences in terms of the key focal point between their government and WIPO for development cooperation activities. This is increasingly important because as the scope of WIPO's development cooperation activities grows, the beneficiaries at the national level will further multiply and evolve. For some activities, they may be a need for greater flexibility in the use of channels of communication and focal points at the national level. This will boost the need for coordination by national governments to ensure the overall coordination and impact of the portfolio of WIPO's activities in a country. The role of Geneva-based missions in the process of communicating national needs and priorities, and in liaising with WIPO on the details of assistance, warrants more careful definition by countries. The challenge is to link the local knowledge of national needs that emerges from government ministries and stakeholders in capital with the political expertise, strategic overview and experience of international organizations that is the comparative advantage of Ministries of Foreign Affairs and Geneva-based missions.

The WIPO Secretariat needs to **improve outreach and guidance to Member States on the range of development cooperation activities** it offers. A 'menu' or catalogue of development cooperation activities should be made available to help countries discern the scope of possible activities that might feature in their country plans. This guide should detail what kinds of development cooperation activities that WIPO provides (e.g., by region and Program), the process for requesting assistance, the time-frame for receiving requested assistance, possible modes of cooperation (e.g., one-off or multi-year projects, overarching cooperative agreements that combine several activities, country plans, etc), and the appropriate focal points within WIPO. The guidelines should provide advice on whether assistance can be at the regional, national, district or city level, the kinds of stakeholders at the national level that can request assistance and through what channels; and the process for engaging other providers, donors, or experts in the activities. In addition, the guidelines should set out the process for monitoring and evaluating country-level activities and considerations in respect of country-preparedness, such as absorptive capacity, risks, and matching resources required. Finally, the guidelines should indicate the processes by which Member States can guide the overall planning and prioritization of WIPO development cooperation activities. The guidelines should be reviewed, updated on an annual basis, and made prominently available on WIPO's website.

The **meaning of the term demand-driven needs clarification**. The emphasis on demand-driven development cooperation activities does not mean the WIPO Secretariat should be passive in the face of requests for assistance that are conveyed in the absence of needs assessments, that are inconsistent with national development needs or with the WIPO Development Agenda, or that are not cost-effective or sustainable. WIPO's development cooperation must be based on a dialogue in the context of national development needs and strategies and WIPO's obligations to advance the Development Agenda. The focus of WIPO's development cooperation activities should not be on 'responding to requests' but rather on promoting a dialogue with and among member states about needs and priorities and the appropriateness of different kinds of assistance given a country's level of development, preparedness, absorptive capacity and risks, as well as the competing demands on WIPO's resources and its obligations to advance the WIPO Development Agenda. Staff should address obstacles and risks frankly with national authorities so that expected outcomes and results are realistic. Stronger efforts should be made to identify options and discuss alternatives; where such activities are beyond the scope of those WIPO is in a position to undertake, the Secretariat should help countries identify alternative providers.

WIPO Member States and the Secretariat should **consider whether WIPO's development cooperation activities offerings need to be altered, supplemented or complemented to address the needs of particular categories of countries** (in addition to the LDC category already in use). It would be useful to consider groupings that acknowledge the commonalities that can exist between, for instance, small versus large IP offices, countries with or without search and examination capabilities (for industrial property), and large emerging countries versus middle income developing countries. These groupings could be useful to help the organization learn lessons across countries on some issues and to devise appropriate versions of their activities to align with those specificities. Further, several of WIPO's larger emerging developing country Member States may no longer be significant *demandeurs* of WIPO assistance as currently defined, but may have strategic needs and interests in the changing global IP environment to which WIPO could help them respond.

Greater attention to development cooperation activities that enable South-South cooperation should be a priority. For instance, the sharing of experiences and expertise among developing countries could be enhanced as a way to deliver more development-oriented and efficient activities.

Boost Country Ownership

WIPO should improve efforts to better tailor its development cooperation activities to national development objectives and circumstances. A development-oriented approach must consistently integrate and acknowledge the importance of the social and economic context, national development goals and priorities, and the broader regulatory and institutional environment of the country.

The WIPO Secretariat should **assist countries to undertake and update national needs assessment for IP-related development cooperation activities,** ideally informed by national IP and development policies or strategies formulated with input from relevant government departments and stakeholders. Needs assessments should be used to **improve country-level planning of development cooperation activities** that are linked to clear expected results, targets and performance indicators. The WIPO Secretariat and Member States should be informed about concurrent efforts by other providers to develop and use toolkits for such assessments and work to coordinate with or complement them.[74]

WIPO should continue to refine and then deploy a flexible template for the preparation of multi-year country plans for its assistance. The template should be used in conjunction with national IP policies and strategies, and needs assessment tools, to prioritize WIPO assistance. Country plans should be a focal point for dialogue with Member States and for all WIPO staff planning activities in a particular country to enhance coordination, prioritization and efficient use of resources. The country plans should be compatible with the Development Agenda Recommendations, WIPO's strategic goals, the RBM framework, and the organization's financial and human resources. The plans should include a mapping of the activities of other donors and actors and specify the appropriate niche for WIPO's interventions. WIPO should also encourage and help Member States to put in place a strategy for soliciting and managing the assistance it receives, and assist them to identify and facilitate access to other sources of assistance.

The WIPO Secretariat and beneficiaries must pursue a more meaningful dialogue on preparedness, challenges and risks. The WIPO Secretariat should make greater up-front efforts to inform countries of the demands development cooperation activities may place on national resources – institutional, human and financial – from the needs assessments phase through to the design and implementation of country plans. The Secretariat should tailor, adjust or postpone proposed activities based on an assessment of internal resources available in beneficiary countries. The country planning process should be a tool for building mutual understanding of resource constraints and the need for priority-setting.

The WIPO Secretariat and Member States should **devise processes to boost oversight of its development cooperation activities at the regional level.** WIPO should also review its development activities for regional IP offices, including by consulting with Member States on how to improve the development-orientation of these offices and bolster the national expertise necessary for them to provide oversight of such regional IP arrangements.

Broaden Stakeholder Engagement, Ensure Balance of Perspectives and Boost Transparency

WIPO should support countries' efforts to establish national committees on development and IP involving the full range of relevant government agencies working on public policy in areas impacted by IP reforms (such as health, education, cultural, agricultural and industrial agencies) **and non-government stakeholders** (e.g., civil society groups, industry and academic analysts active in the fields of IP, investment, innovation, health, education, development, science and technology). This should **include support for public consultation and engagement** in the formulation of country plans and the design and delivery of IP-related development assistance.

To ensure a balance of perspectives in the assistance provided, and to protect against undue influence of more powerful or better-resourced stakeholders, WIPO should more systematically monitor the diversity of of stakeholders and experts involved in the provision of its assistance (e.g., as consultants, speakers and trainers). As part of their regular reporting responsibilities, each WIPO Program should produce a breakdown of partners and providers used across its activities, particularly its development cooperation activities, according to the category actor (e.g., NGO, developed/developing country government agency, research institute, industry association, or company).

Alongside more comprehensive reporting by the WIPO Secretariat on the content and outcomes of its development cooperation activities, better development-orientation demands a stronger institutional culture on the part of the Secretariat in favour of engagement with and learning from a diversity of external stakeholders and researchers, as well as a more open approach to media relations that recognises the

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[74] See, ICTSD/Saana Consulting Needs Assessment Toolkit (2007) and the WTO's needs assessments for LDCs.

importance not only of drawing attention to WIPO's successes but to open dialogue about the challenges WIPO faces in the field of development cooperation and substantive debates on IP and development.

Improve the Development-orientation and Accessibility of Research and Evidence-base for Development Cooperation Activities

Greater attention is needed to ensuring the development-orientation, internal and external peer-review, quality, communication strategy and availability of research and studies conducted by WIPO.

(Also see recommendation on data-gathering on IP and development in Part 3 of this Report on Impact.)

Part 3. Impact

Part 3 of this report responds to the questions set out in Box 3.1. Part 3.1 provides a review of methodological challenges to assessing and measuring the results and impact of WIPO's development cooperation activities, and notes some general findings in this respect. Part 3.2 then discusses some of the factors or conditions that advance, facilitate or constrain long-term impact, including matters related to absorptive capacity and relationships with stakeholders. This section also offers a preliminary discussion of the degree to which WIPO development cooperation activities are informed by tools and methodologies necessary for facilitating impact.

Each of these issues is addressed in detail in Part 4 of this report, which reviews each Pillar of assistance in turn. Part 3 thus serves more as an introduction to Part 4 of this report than a place for conclusive findings on results. It does not address in detail questions related to WIPO's results-based monitoring framework and evaluation of WIPO's activities, which are discussed in Part 5 of this report on Management and Efficiency.

Box 3.1. TOR Questions on Impact

- What results have been achieved and/or what progress has been made at the country level by WIPO's technical assistance activities during the period under review, including development results?
- What is the role of WIPO's stakeholders (Government, IP Offices, universities, research and development institutions, NGOs, civil society,…) in achieving results and what general risks can be identified?
- Considering that it might be too early to gauge impact of technical assistance delivered more recently, do the conditions for achieving long term impact seem to be in place (e.g. sustainability of results achieved, national absorptive capacity, ownership of the results at the national level, follow-up activities to facilitate processes, etc)? Which specific indicators, in addition to the examples mentioned above, would be suitable for determining whether the conditions for achieving long term impact are in place?
- What tools and methodologies (benchmarking tools, tools and methodologies for developing national IP and Innovation Strategies,…) have been developed and are being used to deliver technical assistance and has the use of these tools been effective? Which additional tools and methodologies would be useful, if any?

3.1. Methodological Challenges to Measuring Results and Progress

A number of methodological challenges impede the effort to measure the results and impact of WIPO´s development cooperation activities.

First, the results of development cooperation activities can be analyzed in numerous ways, including: (i) as part of a results chain at the strategic, Program, project or activity level; (ii) over the short or at the long term; (iii) at the individual, local, regional, national or global level; (iv) at the economic, social or cultural level; (v) in terms of the use of new capabilities in practice; or (vi) whether the intended impact is institutional-change or impact on the ground in terms of, for instance, impact on poverty levels.

One the first element, for instance, one can consider impacts along a results-chain, where an immediate impact may be one of increasing capabilities; a medium term impact may be one of using the capability in practice; and the final element will be the economic or social impact of using those capabilities. Further, the impact of development cooperation activities may happen over the short, medium or long-term depending on the type of activity. For some activities, the short-term impact is easily discernable (e.g., improved database software may lead to an immediate increase in the number of registrations a staff person can enter per day or new software may lead to a measurable increase in the efficiency of collective management authorities to make distributions of royalties). On the other hand, for some kinds of activities, particularly those aimed at boosting institutional capabilities or reforming IP legislation, the lag time between the provision of WIPO support and the realisation of particular results may be several years. Even then, the ultimate development impact 'on the ground' of a given activity may take even longer to emerge.

Second, for many areas of development, there are numerous difficulties in establishing causality between specific development cooperation activities, their results and the ultimate 'on the ground' impact.[75] These include challenges of determining direct and indirect effects, the potential for both desired and undesired impacts as well as of predicted and unexpected impacts. The more detailed the specification at the outset of the factors that may affect the activity, the better the evaluation of impact and the determination of reasons for success or failure.

The attribution of impact to particular development cooperation activities thus presents numerous challenges. Attribution of results to the effects of particular development cooperation activities becomes more difficult the further one goes along the results chain as the prospect that external factors come into play rises. Where the results of activities take several years to emerge, the degree to which there can be clear attribution of impact or lack thereof to WIPO's support is likely to be weaker as there are a greater number of other intervening factors that may come into play. In the area of legislative or regulatory advice, for instance, WIPO's activities are often just one part of a far broader process of consultation and deliberation at the national level that could impact the final content of the law.

For the monitoring and evaluation of results to work, it is necessary to: a) define the indicators that will be measured in collaboration with the relevant authorities; b) differentiate the expected results of different types of assistance (for example, e.g., promoting policy coherence of a draft IP law with technology transfer provisions in the investment code) and outcomes in terms of longer-term capacity building in the same area (ability of the IP and technology authorities to increase the transfer of technology in the country); and c) unbundle short- and medium-term indicators that capture different stages of the results chain. This calls for: i) indicators that track the immediate improvements in the technical capabilities of agencies receiving development assistance activities; ii) indicators that show the ability of agencies to then apply and enforce that increase capability or know how; and iii) indicators that track the ultimate outcomes on the ground of that enforcement. Once these steps are completed, it is critical to determine the reasons why expected results have not been attained and ot use that understanding overcome constraints in setting future priorities.

In short, the measurement of ultimate 'development' impact requires relevant indicators. In the area of legislative assistance, for instance, this could include indicators for measuring the relationship between particular legislative articles and development goals at hand. The potential for inaccurate qualitative judgments can be mitigated by a commitment to drawing conclusions based on baselines, benchmarks, and performance indicators. However, the critical challenge then is of ensuring that such baselines, benchmarks, and indicators are of very high quality. In practice, there are well-documented challenges to devising appropriate indicators for measuring progress in many areas of activity in which WIPO is involved. In the area of institutional change, for instance, there are methodological challenges regarding how best to measure outcomes in the area of institutional culture, public awareness, or the quality of collaborations within government, each of which are long-term term endeavours.[76]

Broad Findings on Results and Impacts

The diversity of WIPO's development cooperation activities and their expected results, and the 'macro-level' mandate of this Review, meant that it was impossible for the Review Team to draw any overarching conclusions on the overall results of WIPO's development cooperation activities or their impact on development, however measured. To simultaneously assess the combined development impact of WIPO's 29 Programs, many projects and hundreds of individual activities would have required the development of a complex methodology and model for measuring different kinds of impact, giving different weights to various development cooperation activities projects and activities results. Further, as noted in Part 1 of this Report, WIPO has not had an effective evaluation strategy for its activities. While there has been an IAOD Evaluation Policy since May 2007, which was revised in 2010, it has been not been effectively implemented. There is also not yet an evaluation policy for the WIPO Development Agenda. The result is that there is limited evaluation data available for any development cooperation activities. Unlike most development cooperation agencies, there are also no project documents for individual development cooperation activities (beyond the CDIP projects), setting out goals, activities, expected results, timelines and budgets (For further discussion on evaluation, see Part 5 of this Report). As a result, the Review Team was not able to benefit from a compendium of prior evaluations by country or country-based reporting on results.[77]

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[75] For challenges in the context of evaluation of the technical cooperation activities of other international organizations, see, for instance, IMF (2005); OECD (2009); and World Bank (2010a, b, and c).

[76] See, for instance, Leftwich and Sen (2010); Luiz (2009); Wilson and Beaton (2003); and Woodhill (2010).

[77] The Review Team was also not able to obtain detailed web statistics on the use of various resources on WIPO's website.

Further, for the period under Review, the Review Team found that where indicators or results of WIPO development cooperation activities were provided by the Secretariat to Member States (or by Programs to Senior Management), they were too often in the form of quantitative lists (i.e., referring to the number of trainings, visits, missions, meetings, participants, etc), without corresponding budget information nor information on their ultimate contribution of such activities to particular development objectives, expected results or outcomes.

The Review Team did, however, gather some evidence on impact-related questions. Part 4 of this Report provides specific findings related to the results of particular development cooperation activities where these have clearly emerged in relation to each of the six pillars (relevant sections are marked under the sub-heading 'impact'). Further, the Review Team received some general feedback from beneficiary countries through its country survey on the results and usefulness of WIPO's development cooperation activities. On a scale of 1 (insignificant) to 7 (very important), almost 90% of survey respondents ranked the importance of technical assistance to their intellectual property office from 5 to 7. Indeed, almost half of the respondents gave technical assistance a rank of 7 in terms of importance to their office. An equal proportion of response (almost 90%) gave WIPO's development cooperation activities a rating over 5 on a scale of 1-7 in terms of importance to their offices (60% of countries ranked the importance of WIPO's assistance at the top of the scale). Survey respondents' feedback on the significance of WIPO's development cooperation activities as a proportion of the overall assistance received varied (see Figure 3.1). Only two countries stated that WIPO development assistance activities accounted for more than 75% of the total assistance their countries receives, and 9 countries stated that it was less than 25%. Eleven respondents indicated that WIPO assistance accounted for between 25 and 50 percent of total development assistance received on IP issues. Notably, however, 12 respondents did not reply to this question.

In Part 2 of this report, three Tables reported on survey respondent rankings of WIPO's development cooperation activities by topic (e.g., support for national IP strategies, training, etc) as well as by type of IP and for various topics of public policy (See Tables 2.1., 2.2., and 2.3 in Part 2 of this Report). Importantly, given the phrasing of the questions in this part of the survey, it is not clear whether ratings reflect a satisfaction/dissatisfaction on the part of the survey respondents with the level of assistance provided or its quality. Nonetheless, these tables provide some insights as to respondent's views on the results and effectiveness of WIPO's activities in different areas. Survey respondent ratings of WIPO assistance were highest for patents, then trademarks, then copyright and industrial designs. They were markedly lower for assistance in the areas of geographical indications, TK, utility models and competition policy (See Table 2.2). In terms of topics of assistance, WIPO's assistance was rated most highly by survey respondents in the areas of human capacity building and expertise and IP office modernization (See Table 2.1). Survey respondents rated WIPO's assistance as weakest for activities related to the development of a balanced IP system and for the development of national IP strategies (See Table 2.1). In terms of support for selected topics of public policy, WIPO's assistance was rated most poorly in the areas of genetic resources, education and access to knowledge and highest in the areas of promotion of SMEs and counterfeiting and piracy (See Table 2.3). Notably, for many critical areas of public policy, such as competition policy, consumer protection, international competitiveness, survey respondents that they either had not received assistance or did not know enough to be able to rate the assistance (See Table 2.3).

Figure 3.1. WIPO Assistance as a Proportion of Total Assistance Received by Survey Respondents
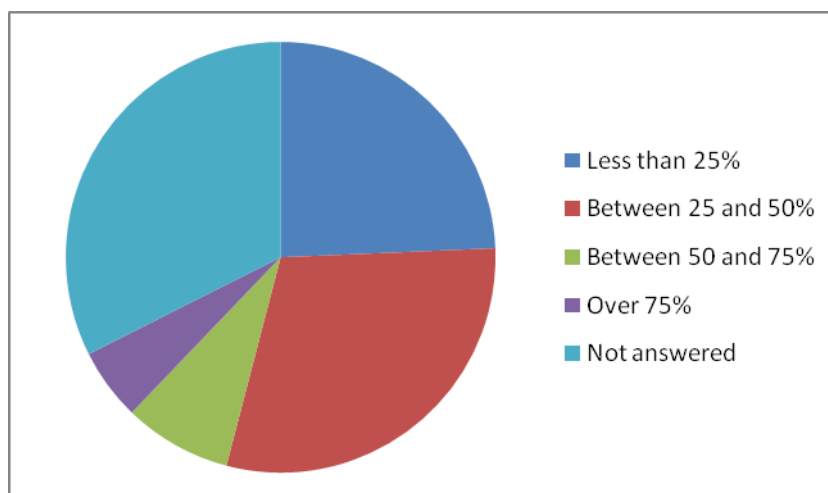
Source: Authors' Survey of Beneficiary Countries
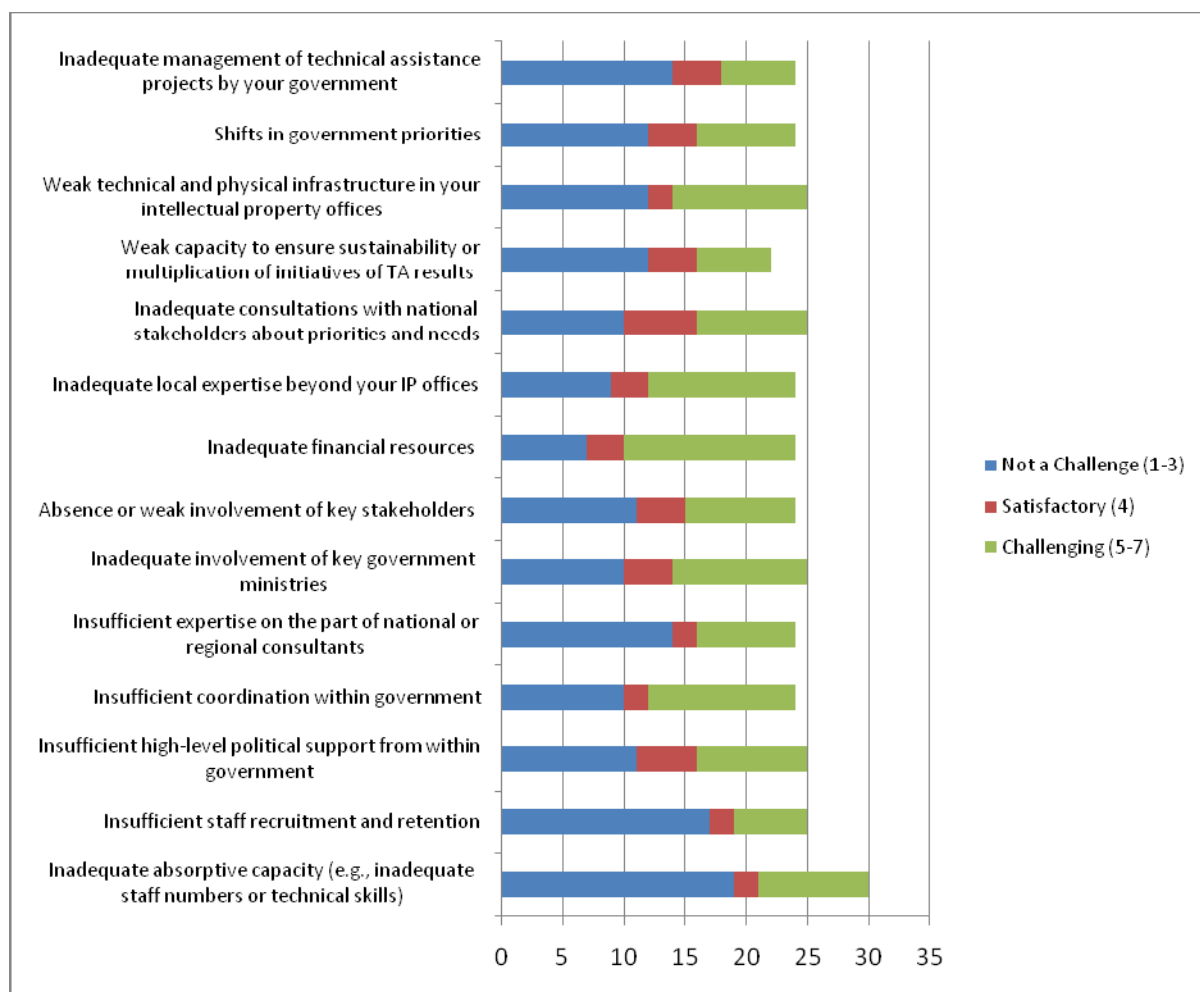
3.2. Stakeholder Engagement

A core element of the Development Agenda, is that IP decision-making must no longer be viewed as a technical issue that can be delegated to a small, technocratic community of IP officials, lawyers, representatives of narrow interests and international experts (whether IP proponents or sceptics). The engagement of local stakeholders, parliamentarians and durable local institutions in developing countries is widely recognized in the international development literature as a key condition to the achievement of results and the sustainability of impact of development cooperation activities.[78] This is particularly the case in countries where the stability of national institutions is weak in terms of staff turnover and resource levels. In such environments, investment in the capacity and skills of local non-government institutions provides some protection against the risks of instability in government institutions. Moreover, it can help build capacity that lasts beyond any particular political administration or government. Further, engagement with stakeholders in development cooperation activities can broaden the range of expertise, perspectives, interests and experience that informs the planning, implementation and results of developing countries, which can help strengthen the quality, orientation and legitimacy of activities undertaken.

WIPO faces a considerable challenge of how to work with Member States to determine which stakeholders and perspectives to support and prioritize in its work at the country level. In planning development cooperation activities, WIPO and its Member States need to acknowledge that while some countries have few active IP stakeholders, other countries have a range of different government and non-government stakeholders on IP issues, sometimes with distinct interests. Further, the interests of IP offices, diplomats, health ministries, consumers and innovators at the national level may vary widely. Moreover, in most countries, the process of inter-ministerial consultations and stakeholder engagement remains nascent.

Responses to the Review Team's survey of beneficiary countries revealed that IP offices view inadequate stakeholder engagement as a key impediment to the effectiveness of WIPO's development cooperation activities in their country (See Table 3.1 below). Table 3.2 shows that some groups are supported far less (e.g., NGOs, inventors associations, local scientists) through WIPO's development cooperation activities than others (IP offices, associations of IP rights holders).

Table 3.1. Number of Survey Respondent Ratings Per Possible Challenge at the National Level that Limit the Benefits of WIPO Development Cooperation Activities (1: not a challenge; 7: very challenging)
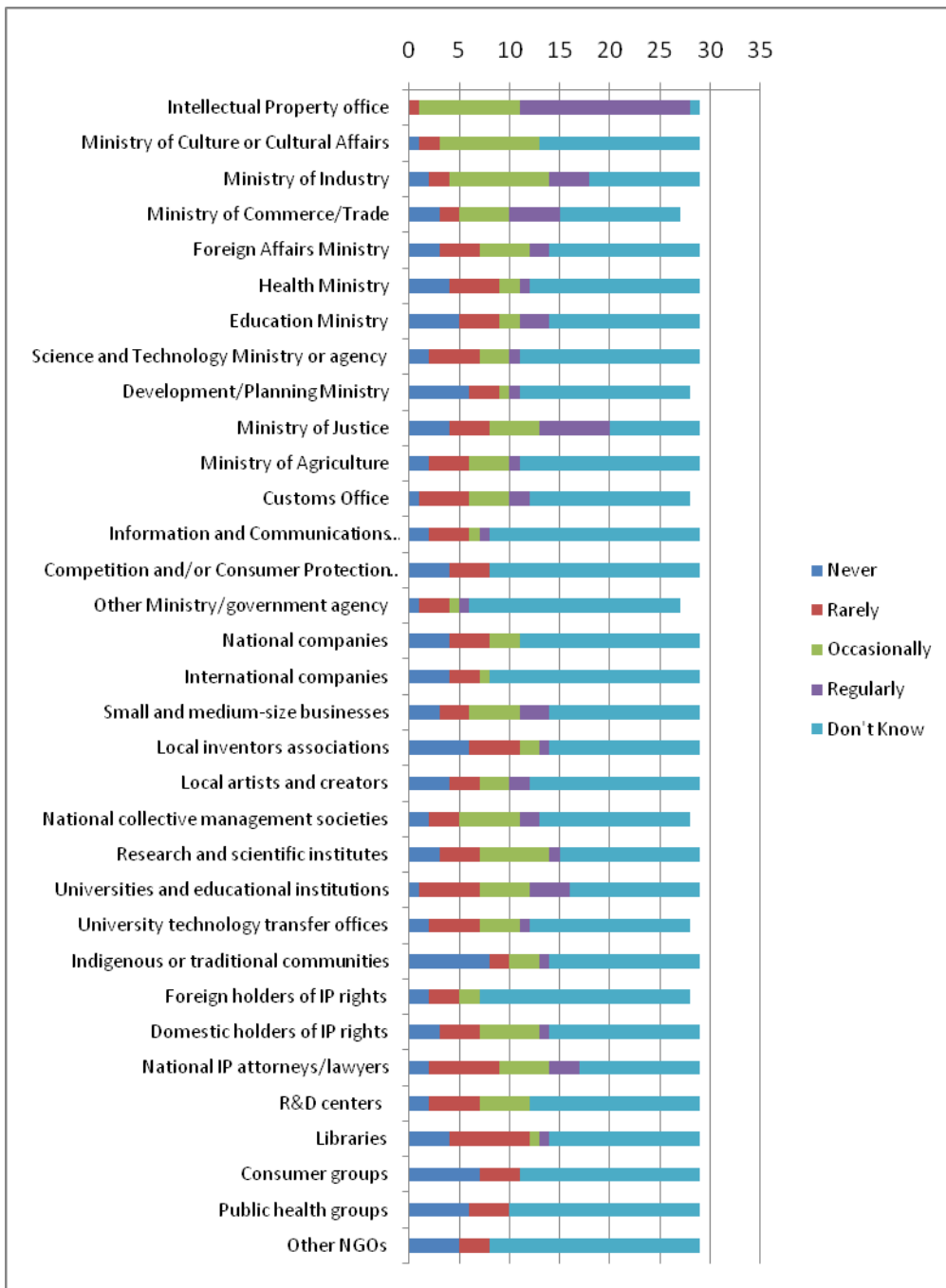
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[78] See, for instance, Jones (2011) and OECD (2003, 2005).

Source: Authors' Survey of Beneficiary Countries

WIPO's work to engage stakeholders in its development cooperation activities is thwarted by the absence at the institutional level, of systematic channels for soliciting stakeholder input on the orientation of its work. While accredited observers can submit input for the consideration of Member States in the context of debates underway at the CDIP, there is no process for stakeholder input into the Program and Budget planning process, or the process of country-level planning. A review of a cross-section of WIPO's events and activities, revealed that WIPO has far stronger engagement with organizations of IP rights-holders and IP professionals in the implementation of its activities (e.g., as co-hosts and as speakers at its events and trainings) than with NGOs. At present, there is no WIPO policy to guide overall engagement with the private sector, or with NGOs and other stakeholders, which is a deficit that needs to be addressed.

Table 3.2. Number of Survey Respondents per Possible Rating of Frequency of WIPO Support for National Stakeholders

Source: Authors' Survey of Beneficiary Countries

Legend:
- Never
- Rarely
- Occasionally
- Regularly
- Don't Know

Categories (top to bottom):
- Intellectual Property office
- Ministry of Culture or Cultural Affairs
- Ministry of Industry
- Ministry of Commerce/Trade
- Foreign Affairs Ministry
- Health Ministry
- Education Ministry
- Science and Technology Ministry or agency
- Development/Planning Ministry
- Ministry of Justice
- Ministry of Agriculture
- Customs Office
- Information and Communications..
- Competition and/or Consumer Protection..
- Other Ministry/government agency
- National companies
- International companies
- Small and medium-size businesses
- Local inventors associations
- Local artists and creators
- National collective management societies
- Research and scientific institutes
- Universities and educational institutions
- University technology transfer offices
- Indigenous or traditional communities
- Foreign holders of IP rights
- Domestic holders of IP rights
- National IP attorneys/lawyers
- R&D centers
- Libraries
- Consumer groups
- Public health groups
- Other NGOs

3.3. Conditions for Facilitating Impact and Tools for Promoting Sustainability of Results

Many factors impact the effectiveness of development cooperation activities, including: a) the organization and efficiency of the donor or provider of assistance b) the accessibility and engagement of relevant staff? c) the degree of donor experience in team-work; d) the participation of local authorities in the planning of activities; e) institutional, economic and cultural conditions within the country? f) clarity about decision making authority and accountability on the part of donors and beneficiaries; g) the quality of the civil service and staff management on the part of local recipients; h) the levels of staff rotation and institutional memory among providers and recipients; and i) the degree of donor coordination.

The Review Team found that constraints which are particularly relevant to the achievement and sustainability of the expected results of WIPO's activities are: the degree of support and upfront commitments by local authorities; tensions among government agencies; high rotation of officials in some countries; lack of follow up on the part of beneficiary governments; and national absorptive capacity to harness new knowledge or expertise gained through development cooperation activities.

In order to evaluate the results and impact of WIPO's assistance, it is important to ask what factors are within or beyond the control of WIPO. The Review Team found that in many beneficiary countries, the conditions for facilitating the impact of WIPO's development cooperation are not in place. For instance, national absorptive capacity is often weak, WIPO's resources are often not supplemented by the commitment of adequate national resources, and there may be a lack of sufficient political commitment on the part of the beneficiary country.

The Review Team's survey of beneficiary countries explored views on the risks and challenges at the national level to the effectiveness of WIPO development cooperation activities. The key constraints that survey respondents reported were inadequate IP expertise beyond IP offices, inadequate engagement of national stakeholders (discussed further below), insufficient coordination within government, inadequate involvement of key government ministries, and inadequate financial resources (see Table 3.2).

Survey respondents were nonetheless optimistic about the sustainability of the impacts of WIPO's development assistance activities. Of 27 respondents, 20 agreed (16) or strongly agreed (4) that their country has been able to replicate and multiply the development cooperation activities received from WIPO. Of 28 respondents, 20 agreed (16) or strongly agreed (4) that their country has strategies in place for sustaining the impact of intellectual property related development cooperation activities. Of 26 respondents, 24 agreed (16) or strongly agreed (8) that their office has sufficient absorptive capacity for the level of technical assistance received from WIPO.

To boost the sustainability of results, a regular follow up and reporting process is vital, as is a stronger commitment to organizational learning about what works and does not, and to adapting activities in light of this learning.

A key priority for WIPO is to address its weak culture of monitoring and evaluation, and to undertake more systematic monitoring and ex-post evaluations of its development cooperation activities. Without efforts to properly understand constraints on the achievement of results, WIPO's ability to use the past track record of development cooperation activities in making decisions about future assistance is limited. While efforts to use monitoring tools to better assess performance against objectives and expected results are improving, evaluation processes and tools remain weak. (For discussion of the WIPO RBM framework and evaluation, see Part 5 of this Report on Management and Efficiency). Notably, survey respondents cited regular evaluations of the contribution of development cooperation activities to development goals as one of the top priorities for improvement by WIPO.

Further priorities for WIPO are improved risk management and country ownership. In the country visits and staff interviews, the Review Team found little evidence of discussions with country or local officials the risks or conditions facilitating or restricting the impact of their development cooperation activities. This shortcoming is linked in turn to deeper challenges of country ownership. Local authorities must participate more actively in the preparation of planning of activities and in the definition of expected results and outcomes. Inadequate country ownership is in part a reflection of the diversity of projects and beneficiaries at the national level. The Review Team's country visits highlighted that knowledge within countries of the diversity of activities underway within their countries is low. WIPO's staff should address potential risks and obstacles frankly with the authorities to ensure that expected outcomes and results are realistic. An understanding of the obstacles that may arise and what authorities and WIPO can do about them in the future is critical when planning development cooperation activities; it will also have a strong influence the

commitment of beneficiaries to activities and their ownership of them. At the outset of its activities, WIPO staff and local authorities should agree on how progress and success of the activity will be measured and stronger efforts should be made to identify options and discuss alternatives as well as risks involved.

Other tools that would be suitable for determining whether the conditions for achieving long term impact and ensuring the sustainability of results achieved include measures of the degree of stakeholder engagement (discussed above) and indicators that measure the degree of staff accountability for the results of projects.

The Review Team found evidence of weak organizational mechanisms to ensure the accountability of WIPO staff for their development cooperation activities. Both the 2011 IAOD Audit of WIPO Cooperation for Development Activities, and the Review Team's preparation process for country visits, revealed that performance in reporting by staff on the results of development cooperation activities, missions and events was highly variable depending on the Program, Division and individual staff responsible for the activities. [79] There is, for instance, no standard organization-wide format for reporting on staff missions. In some cases, such reports revealed only the date of mission, the name of the event, the people involved and the number of participants that attended. In the period under review, the Review Team found evidence of weak staff reporting on missions, weak efforts to establish clear linkages between objectives and many particular activities, and weak monitoring of the actual results of activities. On country visits, for instance, the Review Team found that local beneficiaries were too often not able to provide feedback on the specific results or impacts of WIPO activities, although most beneficiaries declared them to be useful or helpful. The Review Team found considerable variation in whether there was sufficient follow up by WIPO staff on WIPO activities to ensure the potential for results was realized. More disappointing was that WIPO staff involved in some projects did not follow the progress of activities or take responsibility for ensuring or measuring results or understanding why results were not achieved. Notably, there is significant opportunity for more consistent follow up due to the fact that most countries have an iterative relationship with WIPO involving subsequent activities on related or different activities.

3.4. Tools and Methodologies for Boosting Results and Impact

WIPO has developed, and continues to develop, a number of tools related to the delivery of its development cooperation activities.

At the Program level, as noted in Part 2 of this report, country planning tools are under development for use by the Regional Bureaus. Programs also use annual workplans as a tool for describing their intended activities and Quarterly Management Reports to report on progress with Programs to the relevant heads of Sectors and to WIPO's Senior Management. However, in both instances, the tools are paper based ones and so do not feed into a broader information management system. Moreover, they both tend to focus on describing rather than assessing activities. While the workplans include a 'justification' section, the documents shared by the Secretariat with the Review Team did not often clearly convey how activities link to key expected results or priorities. Similarly, in the Quarterly Management Reports, many of the examples seen by the Review Team did not clearly report on progress toward the achievement of expected results and many did not reveal any critical reflection on the part of staff about the progress of their work. Rather, many focused simply on listing an update on expected or completed activities.

A number of WIPO's Programs also use tools such as letters of agreement or cooperative agreements with local authorities to the support the creation of Technology Information Centres (TISCs), to set the framework for IP modernization activities, or to establish National IP Academies. However, these do not always contain details on content, nor mutually agreed milestones or resource commitments. Other tools under development include a tool for supporting the formulation of tailored project-based national strategies and plans of action on IP for SMEs. The SME Program is also working to develop one or more harmonized methodologies for undertaking surveys or studies to ensure that results of its activities are comparable over time and across sectors/countries.

At the project level, there are also numerous tools under development. The CDIP Projects for instance have initiated WIPO's first systematic use of 'project documents' in the area of development cooperation. These project documents include detailed information on timelines, objectives, resources, etc. Further, the CDIP Project on national IP strategies, these include the WIPO benchmarking toolkit and IP audit tool, which form the basis of the questionnaires that form the basis for gathering relevant data on the IP system in pilot countries for the CDIP Project on IP strategies. Since the CDIP project was launched in the 1st pilot

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[79] WIPO (2011), Executive Summary, Draft IAOD Internal Audit Report: Review of Cooperation for Development Activities, WIPO: Geneva.

country, a number of additional documents have been developed to assist and guide the consultants in the process of formulating national IP strategies: a) a project document providing a comprehensive picture of the project's objective, methodology and tools; b) a work plan containing a breakdown of activities by project phase (adapted for each country and used to monitor the project implementation status); c) a roadmap to guide the consultants in the IP strategy formulation process (creating the strategy document, drawing up an action plan etc.); d) specific Terms of Reference for national and international consultants (adapted for each country); e) a project evaluation feedback template to guide the consultants in evaluating the project as part of the methodology validation process; and f) a number of PowerPoint presentations on the project's objectives, methodology and tools

At the institutional level, WIPO's Internal Audit and Oversight Division is developing a framework for its first country-level evaluation of WIPO's development cooperation activities. Further, perhaps the most significant tool for improving the organization's development cooperation activities is WIPO's results-based management (RBM) framework. The RBM framework is an instrument to measure results and check consistency between WIPO's strategic goals, outcomes and outcome indicators at the institutional level; the expected results and performance indicators at the Program and budget level; and outcomes and output indicators at the activity, mission, or event level. The more coherent and consistent development cooperation activities, projects, Programs and strategies are along the organization's results chain, the greater their overall effectiveness and results should be. The internal commitment within the WIPO Secretariat to improving the RBM framework was clearly in view to the Review Team, and serves as a vital foundation for improved efforts to measure and analyse the organization's impact.

The quality and usefulness of WIPO's RBM framework for boosting the results of development activities will depend vitally on establishing relevant and realistic baselines, performance, and expected results. Between 2008 and 2011, the Review Team found considerable improvements in this area, although the refinement of these tools remains a work in progress and will require ongoing adjustment as they are used in practice. As analysed in more detail in Part 5 of this report, WIPO's RBM framework is currently being upgraded as to support the monitoring and evaluation of the results of WIPO´s overall activities on development, although there are some challenges to its implementation. Key challenges include: a) inadequate collaboration by some staff members; b) difficulties related to methodological issues related to determining appropriate indicators and results; and c) time taken for staff to absorb the concepts behind the RBM framework and applying it meaningfully to their area of work.

The Review Team has identified several additional tools and methodologies that would be useful to help monitor and boost the results and impact of WIPO's development cooperation. These include metrics for measuring impacts at the country, sector and institutional level as well as a methodology for appraising the overall impact of WIPO's development cooperation activities on different aspects of development. Some basic, rigorous and methodological papers are needed to illuminate this apparent difficult theme. The Economic Studies, Statistics and Analysis Division has an important role to play in this respect. Methodological research is also need to devise strategies for measuring improvements in the technical capabilities of agencies and individuals receiving assistance, and their subsequent application to challenges faced by the country.

WIPO should also provide leadership on building methodologies, statistics and tools for monitoring the relationship between various types of IP policies, laws, regulations and institutional frameworks on development indicators. To monitor and compare progress over time and between countries, an index of technology production (i.e., it would measure whether the gap in producing technologies and IP is being reduced or increased) and the knowledge gap between developed and developing countries would be useful.[80] If relevant statistics could be identified, one way of measuring the increase or decrease of the knowledge gap would be to estimate the balance of knowledge and IP trade in goods and services of each particular country in respect to the rest of the world.[81] This indicator could help measure the efficacy and effectiveness of different IP policies and development cooperation activities in promoting the production and use of technologies.

Stronger internal tools and processes for institutional learning and memory would help efforts to boost the effectiveness of WIPO's development cooperation assistance. For instances, improved internal processes are needed to: 1) improve horizontal communications between Sectors and Programs to generate ideas and share experiences on formulating and implementing activities, and 2) promote the systematic electronic-based collection of information about activities by topic, country, expected results and evaluations, and ensure their accessibility to all staff. For each topic, there should be a general overview of

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[80] See for instance OECD (2003b) "Science, Technology and Industry Scoreboards: Benchmarking Knowledge Bases Economies", Paris: OECD, and OECD (2002, 2009).
[81] For a preliminary estimation of the balance of knowledge and IP tade in Peru, see Roca (2007) and (2011).

the issue, previous experiences, constraints and limitations for each particular subject. [82] Processes are also needed to keep staff informed about the latest developments in their given area and to incorporate the most recent knowledge and lessons learned on effective assistance, from within and beyond WIPO, even if these are on different issues or in different regions.[83]

A further set of necessary tools and processes relate to improved data-gathering at the national level and by WIPO. Improved data is vital for assessing the relationship between different kinds of IP rules, institutions and systems and development outcomes, as well as the contribution of development cooperation activities to the achievement of such outcomes. More than 40% of survey respondents disagreed that their governments have benchmarks and baselines for measuring the outcomes of WIPO's development cooperation activities or their impact on national development goals. While almost 50% gather data on the use of their IP system by national and overseas users, 33% disagreed and almost 20% indicated they did not know. By contrast almost half of countries do not systematically gathers data on the impact of their national intellectual property system on national development goals and over 40% of respondents indicated that their government does not systematically gather data on flows of licensing fees and royalties in and out of our country. A third of respondents agreed that their government systematically gathers data on the impact of their intellectual property system on indicators (such as innovation levels, R&D activity, commercialization of national patents, licensing of national patents; and the creative industries), while almost 30% agreed. Overall, except in the case of the use of the IP system by nationals and foreigners, between 30 and 40 percent of respondents indicated they did not know whether their country gathered data on the other issues.

3.5. Selected Recommendations on Impact

Strengthen Tools and Processes for Measuring Impact

WIPO needs to devise **and deploy tools and processes to better measure the *impact* of development cooperation activities** at the country, sectoral and institutional level. WIPO's new Section on Economic Analysis and Statistics should take leadership on devising a set of rigorous methodological papers and comparative studies of practices in other fields of development assistance in this respect. An expert group, comprised of WIPO staff and external experts, should be established to help review on an iterative basis the tools for measuring impact, as well as the organization's RBM tools more broadly (also see recommendations below on Management).

Discrete measures will be needed to discern the impact of different kinds of assistance activities: legislative advice and assistance; office modernization; institutional capacity-building; public awareness-raising; training, etc. The impact of WIPO´s development cooperation activities on institutional capacity-building will be easier to assess, for instance, if efforts to determine impact and indicators are unbundled according to different stages of a 'results chain': 1) the immediate improvements in the technical capabilities of beneficiaries; 2) the ability of beneficiaries to apply and use that increased capability; and 3) the ultimate outcomes or impact on the efficiency or orientation of institutions.

Strengthen Processes to Boost Institutional Learning, Follow Up and Accountability for the Impact of Activities

The WIPO Secretariat needs to **develop tools and processes to improve institutional learning, monitoring, follow-up, institutional memory and staff accountability for development activities.** These could include tools and processes to: 1) improve horizontal communications between WIPO Sectors and Programs to generate ideas and share experiences; and 2) ensure the systematic electronic-based collection of information about activities by topic, country and expected results in a format that is accessible to all staff across the organization. For each topic, there should be a general overview of the issue or activity, previous experiences, constraints, limitations and evaluations of outcomes.[84] Processes are also needed to keep staff informed about the latest developments in their given area and to incorporate the most recent knowledge and lessons learned on effective assistance, from within and beyond WIPO, even if these are on different issues or in different regions.[85]

Support Data-gathering, Analysis and Lessons Learned about the Intersection of IP and Development.

WIPO should support efforts to **build knowledge and expertise within and beyond the organization on the relationship between various IP systems, rules, policies and practices and their development**

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[82] See WIPO (2009) Strengthening Development Cooperation: Elements for Discussion, Internal Discussion Paper, October 2009.
[83] Ibid.
[84] See WIPO (2009) Strengthening Development Cooperation: Elements for Discussion, Internal Discussion Paper, October.
[85] Ibid.

impacts at varying levels and for different sectors. This would then form an important basis for understanding the degree to which WIPO's development cooperation activities contribute to particular development outcomes.

WIPO should support efforts at the national level to gather data that would assist evaluations of the impact of IP systems on national development goals. This data could also be used to inform the definition and monitoring of baselines and performance indicators of WIPO development cooperation activities.

Strengthen Results and Impact Monitoring, Evaluation and Reporting

WIPO's RBM framework should be applied consistently to emphasize the importance of results and impacts, rather than inputs or the number of development cooperation activities. Greater attention to reporting on impacts, as well as the challenges of achieving impact, should be integrated into the Secretariat's tools for reporting to the WIPO General Assembly and the CDIP on development cooperation activities.

More systematic and regular monitoring, evaluation, reporting, evaluation and follow up is needed to focus on the longer term results and the cumulative impact of WIPO development activities, particularly those aimed at improving institutional capacity over the longer-term. This could be achieved through more systematic ex-post evaluations of expected results of development cooperation at the Program and activity level over a 5 to 10 year period.

In assessing impact and results, WIPO staff should be more cautious in attributing successes or failures to their own development cooperation activities. Greater attention to devising **realistic expected results and up-front acknowledgement of risks** will help diminish the challenges of accurate attribution. Given the high institutional emphasis on demonstrating commitment to development issues, Senior Management should be vigilant in ensuring incentives for realistic indicators of performance and expected results as well as accurate reporting.

(Also see recommendations in Part 5 of this Report on Management).

Expand range of non-government stakeholder collaborations to help sustain results and promote diversity of perspectives

WIPO should **expand the range of non-government stakeholders with which it collaborates and consults in the planning and delivery of development cooperation activities to diversify the perspectives on the IP system and development that inform its work.** To boost sustainability of results, WIPO should pursue greater collaboration with a broadened range of durable local actors in countries, particularly NGOs, research centres in developing countries, local chambers of commerce, SMEs, and inventors' associations, through activities such as the co-organization of events, research, technical assistance activities and training.

Adopt a Policy on External Partnerships and Stakeholder Engagement

The WIPO Secretariat should draft an **organization-wide policy and strategy on outreach, engagement and partnerships with** IGOs and non-government stakeholders, including NGOs, industry, academia and IP practitioners, for approval by Member States.

The policy should include **guidelines for engagement with stakeholders** in the planning, implementation and evaluation of its development cooperation activities (e.g., such as through the Program and Budget process and formulation of country plans), for engagement in joint events and development cooperation activities, and for financial support for participation in meetings and seminars. Regular briefings of a broader range of stakeholders would boost accountability and understanding of the organization's work.

The policy should also include guidelines for the involvement of the private sector in WIPO development cooperation activities that would **ensure disclosure of conflicts of interest**.

Part 4. Assessment by Pillar of Development Cooperation Activities

Part 4 of this report provides a descriptive overview and assessment of the activities undertaken by WIPO for each of the six pillars of development cooperation defined in Part 1. It incorporates discussion of CDIP projects where they emerge as relevant to each of the pillars. An in-depth evaluation of activities undertaken for each of these pillars was beyond the scope of this review. The Review Team's focus was instead on responding to strategic issues raised in the thematic questions in the TOR for each pillar.

The descriptive information in this section is compiled and paraphrased directly from WIPO sources, namely the WIPO website and the 2008/09 and 2010/11 WIPO Program and Budgets, as well as other WIPO project and organizational documents.

The analysis in Part 4 draws on interviews with WIPO staff, responses to the survey of beneficiary countries (presented in the text as well as in tables and figures), six country visits, and a range of other specific sources described in the relevant sections. For each Pillar, the analysis proceeds in three parts: a description, followed by assessment and then recommendations.

4.1. IP Strategies and Plans

Description

WIPO offered a number of tools and activities to support developing countries to establish national intellectual property strategies, policies and plans. Sometimes this involved the provision of consultants to help advise governments and draft documents either on their behalf or collaboratively with them. In other instances, the work was conducted directly by WIPO staff or by countries. The result is that WIPO has a number of different methodologies for needs assessment and for the development of IP strategies/policies/plans in place or under elaboration, albeit with quite different starting points, perspectives and issue-orientation. Some of these predate the Development Agenda discussions, while others are evolving as part of CDIP projects. Several of these are now in the pilot testing phase.

Examples of tools produced so far include:

- *Methodology for National Assessment of the Benefits of the IP Systems in Developing Countries, and associated Intellectual Property Assessment (IPA) questionnaires.* The latest version of these questionnaires is dated 2005, and was designed by WIPO to 'promote the generation and commercial use of IP assets' in countries as part of its work 'to promote IP awareness and its effective use.' There are separate questionnaires designed for business enterprises (Questionnaire A), Government Agencies (Questionnaire B), government agencies other than IP offices (Questionnaire D) and a further questionnaire E to gather information about IP assets in developing countries and examine success stories in terms of commercialization and licensing.

- *Questionnaire on IP and Business Strategy for SMEs.* This questionnaire was designed to provide information on how entrepreneurs and SMEs use IP in their business and competitiveness strategies and their related needs, with the aim of identifying recommendations for devising appropriate policies, programmes and projects by the government and other SME support and financing institutions.

- *The IP Audit Tool.[86]* The Audit Tool assesses the public-sector support infrastructure and framework for the development and management of IP assets. It aims to provide data, information and analysis on how well a country is equipped to use IP for development, which can then inform the definition of strategic national IP objectives and implementation strategies. It does not aim to catalogue specific IP assets.

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[86] See WIPO, *Intellectual Property Audit Tool,* IP Assets Management Series, Geneva: WIPO.

- *A Toolkit for Benchmarking for Development of IP Systems.[87]* The Benchmarking Toolkit is an integrated questionnaire drafted by two WIPO consultants in 2009 for assessing four issues related to designing and implementing these strategies and plans: a) assessing the status of the IP system (baselines); b) a strategic target tool for determining the country's IP strategy; c) a tool for evaluating the country's needs related to implementation of the national IP strategy; and d) a tool for assessing the contribution of various actors and donors in achieving goals. (This toolkit was already under development before the CDIP project on IP strategies emerged – discussed below.)

- *Practical Roadmap for National IP Strategies for Innovation (NIPS-I).[88]* The Practical Roadmap for building National IP Strategies for Innovation (NIPS-I) provides a summary of best practices to be followed during the design and plan elaboration, measuring the progress and the contribution/impact of WIPO´s support. Its main elements are drawn from the Benchmarking Tool described above and are designed to provide guidelines for consultants working on NIPS-I, rather than a mandatory template.

In 2008, the CDIP approved a project on "Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity" (DA_10_05). The project, with a budget of around 3 million CHF aims, among other objectives, to strengthen national IP institutional capacity through a standard, methodological and integrated approach to IP policy, strategy, and institutional reform and modernization. It aims to undertake a review of available tools on assessment needs and elaboration of IP strategies in order to come up with a coherent, methodological and practical toolkit for use by Member States to identify and choose the most suitable instruments for formulating IP and innovation strategies and to assess their technical needs for development. The Practical Roadmap for National IP Strategies for Innovation (NIPS-I) described above is one of these tools.[89]

In 2010, a further project was advanced under the leadership of the WIPO Director General entitled 'WIPO Framework for Developing National IP Strategies for Innovation.' The project's goal is to develop a conceptual framework, guide or tool that countries can use for assessing, analyzing and developing national IP strategies. The project is discussed in more detail below.

Assessment

To make its assessment in this area the Review Team relied on country visits, interviews with WIPO staff, and survey results, as well as a review of progress reports and documents related to the CDIP project on IP strategies,[90] and to a dossier of national IP strategies and plans on file with WIPO.[91] Notably, of these IP strategies and plans on file, only a sub-set was produced with WIPO support. Further, the IP strategies being supported as pilot projects of the CDIP project are still under development. Only the strategies for the Dominican Republic and Mongolia, referred to in more detail below, are in an advanced stage of implementation.

The Review Team's country visits and analysis of internal documents revealed high demand for IP strategies and needs assessments. Survey respondents rated assistance with national IP strategies as one of their highest priorities for technical assistance.

There is repeated reference in WIPO's 2008/09 Program Performance Report and in the 2010/11 Program and Budget to the number of IP strategies already in place, but the degree to which these can be fully or partly attributed to WIPO's efforts is unclear. In the 2010/11 Program and Budget, the Secretariat observes that there had been an absence of needs assessments up until the end of 2009, and that the growing number of countries for which needs assessment would be conducted should increase in the 2010/11 biennium.

As illustrated in Table 4.1.1, according to WIPO's internal records, 22 WIPO Member States have requested WIPO assistance for formulating their national IP strategies, development plans or action plans, while 66 countries had some form of strategy, plan or action plan in place or under development, but had

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[87] See WIPO (2009) Benchmaking the Development of IP Systems – A Toolkit to Assess the Status, Strategy, Needs and Contribution, Geneva: WIPO.
[88] See WIPO (2010) Practical Roadmap for National IP Strategies for Innovation (NIPS-I), Geneva: WIPO.
[89] Ibid.
[90] See for instance, WIPO (2010) 'Progress Reports on Development Agenda Projects', CDIP/6/2. WIPO: Geneva, Annex IV.
[91] This dossier contained a compilation of national IP plans, strategies and policies that had been gathered by WIPO staff. These included a sample of documents prepared by WIPO consultants and several documents prepared either independently by governments, or with the assistance of independent consultants or advice from the WIPO Secretariat.

not requested WIPO assistance. Out of the 22 countries requesting assistance, 15 had already completed the formulation process and 7 were in the process of completing it. As of the end of December 2010, 6 countries had elaborated, 12 countries were implementing and 1 country had completed IP action or development plans.[92]

The Review Team's survey asked respondents to comment on the quality of development cooperation activities for the formulation of national IP strategies. Around 30% of survey respondents reported that they had not received assistance in this area. Among those that did, there was a relatively even distribution of ratings, with 22% of respondents rating WIPO's assistance on the poor end of the scale, 15% as satisfactory, and 30% rating WIPO's assistance as good to excellent. However, when asked a number of more specific questions on WIPO's assistance for national IP strategies, over 35% number of survey respondents reported that they had not received or could not comment on the quality of assistance (see Table 4.1.2). The respondents rated WIPO's support for inter-ministerial coordination on intellectual property, stakeholder consultations, and for integrating IP goals into development strategies poorly overall, whereas opinions were more evenly spread across the scale for WIPO's assistance to aid strategic discussion of national IP, creativity and innovation policies to advance national development goals.

Table 4.1.1 IP Strategy Overview

	Africa	Arab States	Asia and the Pacific	Latin America and the Caribbean	Total No. in each Category	With Assistance*	Without Assistance*
IP strategy							
No IP strategy Requested or Formulated	12	13	17	20	62	n/a	n/a
IP strategy formulation requested	12 (12)	1 (1)	4 (4)	5 (3)	**22**	20	n/a
IP strategy formulation process initiated	10 (10)	2 (1)	5 (5)	5 (3)	**22**	21	1
IP strategy formulation process completed	7 (7)	0	8 (1)	0	**15**	8	5
Total No. of Countries in each region with some	**41**	**16**	**34**	**30**			
IP Action/development plan							
IP action/development plan formulated	0	3 (3)	3 (3)	0	**6**	6	n/a
IP action/development plan under implementation	5 (5)	0	4 (3) 1	3 (3)	**12**	11	1
IP action/development plan completed	0	1 (1)	0	0	**1**	1	n/a
Total	**5**	**4**	**7**	**3**	-	-	

n/a – not applicable; ( ) – figures in brackets indicate number of strategies or plans where WIPO's assistance was requested

Source: This table draws on information provided to the Review in the form of an excel sheet entitled 'IP Strategy Baseline Database', last updated in January 2011. The table relies on the accuracy of data provided in that database.

Table 4.1.2. Number of Survey Respondents per Possible View Related to National Intellectual Property Strategies (n/a: not applicable[93]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Integration of intellectual property goals into national development strategies	8	10	1	7	2

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[92] Of 28 respondents, half of respondents (15) had a national science and technology policy/strategy and/or a strategy/policy on innovation, or both. However, only six countries had a national policy, strategy of plan on culture and/or creative industries. In less than three cases, did countries report that they received WIPO assistance for the elaboration of these policies.
[93] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

Inter-ministerial coordination on intellectual property	9	9	5	3	2
Government consultations with stakeholders on intellectual property issues	9	8	4	6	1
Strategic discussion of national intellectual property, creativity and innovation policies to advance national development goals	8	6	3	7	4

Source: Authors' Survey of Beneficiary Countries

Where countries reported that they had a national IP strategy or strategic plan, 9 of 12 respondents that replied that they did have such a strategy or strategic plan replied indicated that they had received WIPO assistance for this. However, only 3 countries indicated that they had received WIPO assistance to ensure that this IP strategy was informed by their national development strategy.

Since the launch of the WIPO Development Agenda, the push for more demand-driven and development-oriented technical assistance has spurred the WIPO Secretariat to learn more about the development priorities and IP needs of countries. CDIP discussions on the WIPO Development Agenda have clarified that such strategies, policies and plans should be consistent with national development plans and any other specific national plans that might exist (e.g., in the area of science and technology, innovation, creativity, public health, industrial development, etc). CDIP discussions have also emphasized that needs assessments ought to be framed and conducted within the context of country IP strategies, policies and plans.

Within WIPO, responsibility for the development of national IP strategies for developing countries lies primarily with the Development Sector, and specifically with Program 9 (the Regional Bureaus). Among Program 9's performance indicators in the 2010/11 Program and Budget are an 'increased number of Member States that have identified needs, formulated, implemented and evaluated national IP strategies for innovation promotion and asset management'. In the same document, the African Regional Bureau includes within its performance indicators that up to 5 countries will have launched IP policy/strategy, four countries will have adopted such a policy/strategy, and 3 countries will be implementing national IP plans (as well as actions to support regional policies/strategies in the field of TK and TCEs at the ARIPO and OAPI level). The Arab Bureau cited among its performance indicators that it anticipated three national IP strategies based on a multi-sectoral consultation and coordination. The Asia and Pacific Bureau expected the formulation and/or adoption of nine new national IP policies, strategies or plans, whereas the Latin America and Caribbean Bureau expected that up to 3 new countries will have formulation or adopted national IP policies/strategies/plans. In addition, the LDC Bureau expected up to five IP policies/strategies by LDCs during the biennium. In total, Program 9 expected the formulation or adoption of some 33 IP strategies, policies or plans during the 2010/11 biennium (Note that it is not clear whether the LDC Bureaus expectations in this would be additional to those by as regional Bureaus, in which case the total number would be 28).

In addition, several other Programs also mentioned national IP strategies in their objectives, expected results, or performance indicators in the 2010/11 Program and Budget. On a positive note, the recurrent references to IP strategies highlight the degree to which, at least at the conceptual and planning level, staff understand that national assistance provided by the many different WIPO Programs should be informed by a broader national strategy in the area of IP.[94] Nevertheless, the 2010/11 Program and Budget also provides evidence of the diverse ways in which the concept of IP strategies emerges across WIPO's work. Programs 1 (Patents), 2 (Trademarks, Industrial Designs and GIs) and 3 (Copyright and Related Rights), for instance, each have a common objective of 'in close coordination with Program 9, assist, upon request, developing countries and LDCs in drafting and updating their IP national legislation consistent with national development goals'. Although each of these three Programs states that it is engaged in legal and analytical work to advance a balanced multilateral legal framework and also to understand flexibilities, practices and development issues in their respective areas, none of the Programs makes explicit mention of how they plan to link that work to IP strategies. Program 30 includes among its objectives 'to encourage national governments to integrate a focus on IP asset management and innovation promotion into all relevant policies and strategies.' Program 10 refers to national IP and innovation strategies, whereas Program 14 refers to national and regional IP strategies. Program 17 (Building Respect for IP) listed among its performance indicators the 'number of requests received and processed to assist with the formulation of national and regional strategies to enhance effective enforcement actions'. Program 18 (on IP and Global Challenges) counts among its objectives, 'to contribute to the formulation and implementation of national IP and innovation strategies, particularly as they relate to innovation promotion and technology management and transfer'. A further objective of Program 18 is to 'strengthen the capacity of Member States to assess

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[94] In addition, Program 10 (Cooperation with Certain Countries in Europe and Asia) mentions the increased number of countries (from 6 to 15) with developed national IP capacity-building programs and strategies.

their IP management situation in order to design, adopt, and implement national and institutional IP management-related strategies'. The challenge for WIPO, and in particular, the CDIP project on IP Strategies is to link with all of this work to minimize overlap and maximize synergies.

The Review Team identified a number of shortcomings in the way WIPO provides support for IP strategies.

First, the Review Team found considerable confusion within the WIPO Secretariat and among its Member States about what constitutes an IP 'strategy', 'policy' or 'plan', and about the purposes of the various strategy and needs assessment tools. In particular, a review of the collection of documents gathered by WIPO revealed considerable diversity in what staff and Member States describe as IP strategies, policies and plans.

Second, the Review Team found inconsistency in the way WIPO supported the development of national IP strategies. In the period under review, each Regional Bureau followed a different approach, offered different honoraria to consultants for projects, and resulted in different products. Some of the differences that emerged were presumably a result of the specific request or circumstances of the country. There was also a lack of clarity about WIPO's role in the formulation of different strategies. In some instances, WIPO hired the consultants and took a lead role in reviewing the TOR and documents. In other instances, it provided financial support for a process largely led by the Member States. Some Member States had already started a process or a drafting group, and then requested that WIPO send or contribute staff expertise or consultants. (As noted above, there were also cases where the processes have been driven entirely by the Member States themselves with no WIPO contribution or with contributions by other international organizations, stakeholders, or independent consultants.) Except in the case of the CDIP project, the Review Team could not establish how widely WIPO's various tools and methodologies described above were actually being used in the development of IP strategies, policies and action plans. Outside the context of the CDIP Project on IP strategies, the process for the development of IP strategies and plans often involved the engagement of an international consultant (sometimes in collaboration with a national consultant), who embarked on desk review, as well as one or two 3-10 day missions to the country for bilateral meetings with stakeholders, and was responsible for drafting a document, which was presented to WIPO for its review, and then to the government for their approval and use. The final document may or may not have then been discussed with national stakeholders in an open forum or workshop. Notably, a number of the WIPO-supported strategies/plans were produced by the same consultants, although there was no evidence of any internal or external evaluation of the quality of the work conducted. The Review Team found the overall quality and development-orientation of the documents produced by WIPO consultants to be variable, as was the degree of remuneration (which ranged from $5,000 to $50,000 in the documents seen by the Review Team).

Third, the Review Team found confusion within the Secretariat about whether WIPO's purpose is to support strategies, policies or plans on 'IP', or on 'IP and innovation'. The Review Team found that the terms "IP strategy", and "IP and innovation strategy" were often used interchangeably, even though the content and focus of the latter would logically necessitate a broader approach than the former. Moreover, a strategy that focused comprehensively on innovation would focus on a range of issues related to technology transfer and innovation promotion that extend far beyond the realm of IP policymaking, administration or enforcement. While the IP Strategies Toolkit developed under the CDIP project has such a 'creativity' dimension to it, the Review Team noted that discourse within WIPO and in its official documents focuses overwhelmingly on IP and 'innovation' strategies. The absence and/or weakness of attention to 'creativity' – a core part of WIPO's overall mandate - is noticeable across the organization's Program and Budget documents wherever IP or 'IP and innovation strategies' are discussed.

Fourth, the Review Team found that most of the strategies and plans that were available in WIPO's compilation lacked a sufficient statement of their development purpose. While there was often a section of strategies/plans that described key national development documents and goals, there was inadequate effort to situate the strategy in that context and to ensure that stated priorities and plans addressed specific development goals. Further, many of the strategies and plans analysed by the Review Team focused attention on the use of IP for development, which while a worthy goal, is not the same as ensuring a development-oriented IP system in terms of the overarching legal, institutional and regulatory framework. In addition, the overall emphasis of the strategies and plans was on how protect and enlarge the benefits that might accrue to national IP right holders, which again while relevant was not matched by similar attention to other public policy considerations relevant to IP systems and development. There was little evidence that strategies incorporated explicitly actions for reducing the knowledge gap between developed and developing countries (such as those related to technology transfer and access to knowledge) or on enlarging the benefits of the IP system of developing and LDCs by reducing the costs of their participation in the IP system. Further, several IP strategies/policies placed significant emphasis on the value of

accession to WIPO treaties. While the recommendations sections of several strategies/plans prepared by WIPO consultants mentioned taking advantage of flexibilities in international treaties, there was little specific attention to which flexibilities might be particularly important for the country to explore and/or what concrete actions they might take. By contrast, some strategies/plans did note specific steps countries needed to take to implement IP provisions in bilateral free trade agreements. Given that the latter are widely criticized for TRIPS-plus provisions that fail properly to balance the development interests of countries, the Review Team found disappointing the lack of specific attention and advice on the implementation of obligations in ways that would maximize available policy space or use of flexibilities.

Fifth, in some cases, the IP strategies reviewed related more to the strategy of an IP office than to the IP-related strategy of a country more broadly, potentially involving therefore dozens of other institutions and organizations. The Review Team found considerable confusion about how an IP strategy should seek to address, link to, or be embedded within, broader public policy strategies in areas such as science and technology, public health, agricultural development, access to culture, business development. The Review Team found a lack of clarity, for instance, as to whether and how an IP strategy should be embedded in broader national innovation, science and technology strategy or a national creativity and cultural industries strategy. In some cases, the IP strategy was intended also to be a vehicle for articulating strategies in these areas, whereas in other cases it was seen as a tool through which the IP system might be harnessed to advance the progress of national innovation, technology and creativity strategies and systems.

On this point, it is important to note that within countries the interests of stakeholders (e.g., Ministry of Health and offices/Ministry of Industry) in terms of the core issues they hope an IP strategy will address varied. In cases where a range of interests (e.g., health, agriculture, environmental, competition and other IP related sector issues) are to be included, it is not clear under whose direction the IP Strategy and Plan should be placed: the IP office, a broader ministry or an inter-ministerial committee. Some countries have also made supplementary requests to WIPO for strategies on particular issues such as IP and public health. A broader challenge that impacts the prospect for coherent IP strategies linked to broader development and sectoral goals is that IP policymaking is often not well coordinated within national governments. On that note, most strategies and plans reviewed by the Team called for appropriate mechanisms to boost coordination and consultation among the various institutions and actors.

Sixth, the Review Team found no evidence of systematic efforts on the part of WIPO Secretariat to collaborate or dialogue international agencies, despite the fact a suite of organizations, ranging from WHO, UNIDO, UNCTAD, WTO, the World Bank, and UNESCO as well as other stakeholders are involved in efforts to devise and implement methodologies for devising strategies on IP and development, or on related strategies such as on issues of innovation, science and technology, cultural industries, and health. Although some WIPO staff interviewed were aware of tools developed elsewhere, there have been no specific efforts to integrate, learn from or collaborate with them. Notably, the Review Team found that several developing countries are working with UNCTAD and with NGOs such as ICTSD to assist the their development of a national IP strategy, which raises the question as to why WIPO was not seen as a more promising partner or collaborator. One interesting is an UNCTAD Report on IP policy in Uganda,[95] where they put development principles into action by examining whether the country's IP policies were in line with access to technology transfer, access to medicines and access to textbooks. The Review found low collaboration between the WIPO Secretariat and the WTO Secretariat on their respective work to devise IP-related needs assessments for LDCs.

Seventh, a further problem related to weaknesses in WIPO's use of these IP policies, strategies, plans and needs assessments to guide its planning of development cooperation work. The Review Team found no evidence in the period under study of country desk officers systematically consulting any existing IP policies, strategies or plans within the country to guide their planning of development cooperation activities in a given country. Indeed, as noted above, in few countries are there any yearly plans to guide the assistance WIPO offers (this shortfall is discussed at length in the Part 2 of this Report on Orientation and Part 5 on Management). The Review Team does not, however, exclude the possibility that some Member States with such strategies, policies or plans used these to inform their own requests for WIPO assistance.

Finally, the Review Team found that there seems to be some confusion about the intersection of WIPO's two concurrent projects to develop processes/frameworks for the development of IP strategies. Each is discussed in turn below, followed by an assessment of their relationship.

The CDIP Project on IP Strategies

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[95] UNCTAD (2010) .

The content and process of the CDIP Project on IP strategies warrants specific attention, especially given its potential as the foundation for future WIPO activities on IP strategies. The CDIP project represents a significant opportunity to bring order and coherence to the efforts to devise IP strategies and policies across the organization. A core motivation behind the CDIP project was to harmonize all of WIPO's pre-existing tools into a tool that was flexible enough to be used in different national contexts. Activities are currently underway to test a proposed methodology for the development of national IP strategies in a selected group of countries, on a pilot basis.

To date, the Review Team found that there has been productive collaboration between the CDIP project and the Regional Bureaus, which are ultimately the intended users the tools and processes under formulation. Questions remain about the extent to which internal coordination within the Secretariat will be sufficient to ensure that the activities of WIPO's substantive Sectors will also be informed by these strategies and the priorities identified in them. There is a clear commitment on behalf of staff responsible for the CDIP project to building on country-level processes and experiences over time, and to developing a tool that can become the foundation for future IP strategies. Meanwhile, alongside the CDIP project, a number of IP strategies and plans have been completed – and some are still underway - without reference to or use of the methodologies and tools being developed by the CDIP project.

In terms of process, a positive feature of the CDIP IP Strategies Project is its emphasis on the process and of the emergence of inter-ministerial committees that consult with or engage directly stakeholders. The process has varied (appropriately) by country according to their particular needs, as has the stage of the process at which WIPO became engaged. Six countries expressed an interest in participating in the pilot project. A selection was then made by the regional bureaus. Three pilot countries are at various stages of the development of their strategy: the Dominican Republic, Mongolia and Moldova. The remaining three countries with have just embarked or are poised to begin are Mali, Tanzania and Algeria. Compared to other policies and plans supported by WIPO during the period under Review, the CDIP process has focused more on working more with national consultants and stakeholders in a consultative and iterative fashion with the aim of ensuring that the ultimate strategy has broad ownership and sufficient 'life' to prompt implementation. The process includes desk-based research to produce an IP audit and a benchmarking of the IP system (Phase 1), followed by interviews with stakeholders based on a questionnaire that assesses current status of IP system, priorities areas and needs relevant to development, strategic goals and technical assistance needs to achieve strategic goals and targets. The project intends that these would be conducted over a six month period. The project staff acknowledge that there may be countries where the whole process could be lead by a national team of consultants, and others where there would still be a need for an international consultant to guide the process. The choice of consultant is in the hands of the national IP office, but the Secretariat acknowledged that there may be challenging identifying appropriate national consultants.

In short, the Review Team found that the process being pursued (as documented in the Practical Roadmap for National IP Strategies for Innovation (NIPS-I) represents an important advance in terms of the ability of the WIPO Secretariat and Member States to better analyse the relationship between IP and national development goals and to devise IP-related needs. Such information should also help WIPO in its efforts to monitor and evaluate the impact of the organization's work on development. Through country visits, the Review Team found that the extent of multi-stakeholder meetings varied, although a significant number of interviews with a diverse range of stakeholders have occurred. An explicit effort to bring around a common table the range of stakeholders should be integrated into the methodology.

With regard to tools, CDIP project staff acknowledged to the Review Team that the tools being used for the IP audit and benchmarking remain imperfect. A positive feature of the CDIP project is this commitment to learning through the pilot phase and to revising their templates and tools in response to the experience gained. The staff characterized these tools as works-in-progress designed to serve as a guideline for skilled consultants. Rather than static documents, they will be refined through pilot testing to fill gaps and to strengthen their methodology.

One of the key tools that form the conceptual basis for the IP benchmarking process is the IP Benchmarking Toolkit (which is essentially a questionnaire) has already been adapted in the pilot phase. In the first country to embark on the CDIP project, the Dominican Republic, the consultant reworked the original questions in the translation process to better suit the national needs and development issues at hand. The revised Toolkit is now being used as a better basis for future beneficiary countries of the project. WIPO staff report that the intention is for the tool to be continually refined and adapted by each of the countries embarking on such a strategy.

In the meantime, the Review Team notes several shortcomings in the original version of the Benchmarking Toolkit that should be avoided and addressed in subsequent iterations of questionnaires. First, the Toolkit lacks equal focus on issues of copyright (including on related rights and on registration of copyrights and related rights), as well as on other laws relevant to regulating the use of IP rights, such as competition laws and public order laws. While there is some emphasis on public interest and public policy goals relevant to development, this is less prominent than the emphasis in the questionnaire on ensuring protection and enforcement of the rights of IP holders. The questionnaire on SMEs lacks questions related to, for instance, the costs of navigating the IP system, such as the those associated with acquiring and licensing IP from others, establishing the patent status of particular technologies, dealing with IP disputes, managing and enforcing IP assets, and assigning a monetary value to IP assets.

The first substantive section (Section II.i) of the Benchmarking survey focuses on a series of questions on IP creation and whether structures are in place for IP creation.[96] The assumption behind these questions, and which prevails throughout the questionnaire, is that IP creation enables a country to meet its development objectives. However, prior questions ought to have been asked about the status and nature of national innovation, science and technology policies as well as national priorities and development objectives, as well as which, if any sectors, are involved in creating IP. A further question that should have been posed is whether intellectual property rights should be sought for such works or inventions and how this would help advance development objectives. This would very much depend on national development priorities and technological capacities. In short, subsequent iterations of the questionnaire must be elaborated in ways that enable the consultant to gather sufficient information on the national development priorities or the national industrial structure, both of which are central to formulating an IP strategy that facilitates development.

A further section (Section II.ii) of the questionnaire poses questions about the range of IP mechanisms and laws available in the beneficiary country, the conditions for granting IP rights stipulated in the relevant IP laws, whether exclusive rights are conferred to IP holders, the term of protection provided under each IP law, etc. However, the section focuses only on aspects that affect the right holder. There is nothing in the section and little elsewhere in the questionnaire that enquires whether and the extent to which flexibilities available in international IP laws are incorporated and used. For instance the questionnaire could have enquired whether the law features flexibilities such as provisions for pre-grant oppositions, exceptions and limitations to IP rights, etc. In short, the questionnaire also does not seek to obtain information on the type of provisions that are incorporated in the IP laws that would balance the interests of IP holders and the interests of consumers, or enable the government to take relevant measures to achieve certain development objectives.

The Review Team also notes that the questionnaire's section on IP enforcement (Section II.iv) is particularly lengthy compared to other sections, which may not reflect the degree of importance that countries themselves place on enforcement. There are several questions under this section that could lead the beneficiary country thinking that its enforcement provisions are inadequate. For instance, one question asks, "Are criminal procedures available to criminalize any IP-related crime?", whereas the TRIPS Agreement only requires criminal procedures in cases of wilful trademark counterfeiting and copyright piracy on a commercial scale. The manner in which the question is posed suggests that all IP infringements should be subject to criminal procedures and sanctions. Similarly another question asks "Does your country have specialized courts to resolve IP disputes". This question suggests that WIPO encourages specialized IP courts although the TRIPS Agreement is very clear that there is no need for special IP enforcement authorities.

A further section of the questionnaire focuses on IP utilization (Section II.v). Questions under this section are focused on provisions related to the licensing of IP as well structures for monitoring such licensing. Under this section there is only one question on compulsory licensing i.e. "Has the current national patent law stipulated compulsory licensing provisions to maximize utilization?" There is nothing in the questionnaire that would elicit information on whether flexibilities have been used (i.e. compulsory licenses in other areas of IP, government use, bolar exception, transitional period). If they have not been used, it would be useful for the questionnaire to probe why and to explore the challenges facing the country in

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[96] Examples of these questions are: Does the governmental provide financial support for IP creation? Is there a national policy to motivate IP creation? Does the government provide advisory inputs to facilitate establishment or improvement of IP policy and infrastructure at IP institutes, organizations and enterprises? Is there a clear national policy to facilitate IP collaboration among institutes, organizations and enterprises? Are information hubs available at the national level to provide institutes, organizations and enterprises with the necessary policy information for IP creation? Is a designated organization to facilitate IP creation?

using the flexibilities. Similarly, if flexibilities have been used, the questionnaire ought to elicit information on the experiences in using the flexibilities.

Finally, the CDIP project stops when the strategy or framework has been produced; it is then up to the country to implement it. What process should countries use to involve various governmental IP and non IP offices in the implementation of plans? How should the IP strategy, and broader national strategies for innovation and creativity of which the IP strategy might be part, be incorporated into the process of defining goals and strategies for overall national development? In the subset of countries that do have IP strategies, plans and needs assessments in place, the actual implementation of strategies to streamline the IP system with development goals and objectives is in early stages and WIPO's role in contributing to such process is not well defined. At present, the Practical Roadmap for the CDIP project does not provide guidance on how countries should build in mechanisms to measure the outcomes and impact of the implementation of their IP strategies or on how technical assistance for the implementation of IP strategies should be approached. WIPO is, however, making efforts to incorporate mechanisms to enable the measurement of progress toward the achievement of strategic objectives and targets contained within national IP strategies.[97] This will help countries monitor, evaluate and promote the contribution of the IP strategies and their IP system to development goals.

Project on 'WIPO Framework for Developing National IP Strategies for Innovation.'

Scheduled for completion by the end of 2012, the project on the *WIPO Framework for Developing National IP Strategies for Innovation* is supported through WIPO's regular Program and Budget (i.e., the project is housed in the Development Sector, but is not a CDIP project per se). At the time of this Review, the concept paper and approach remained in evolution. The underlying purpose is to develop a guide which will serve as an instrument for high-level policy dialogue at the ministerial and senior policy level to inform the formulation of IP strategies. It aims to bring expertise on the economic and empirical angle of the Development Agenda to bear. The project does not aim to delivery IP strategies per se. The guide will be developed through the input of six expert working groups, which will meet twice either in Geneva or in developing countries, and will produce a 20-30 page paper (these details have evolved since the draft report was written). The groups are: public health and IP; industry development, trade and IP; culture and IP; education and IP; environment, energy and IP; and agriculture, rural development and IP. Each group will be comprised of six core members (group leader, rapporteur, 3 development economists and IP experts, and an IGO advisor)[98] and supported by members of the Secretariat. Experts and WIPO colleagues from the CDIP national IP strategy project will be invited to participate in meetings wherever feasible. For cross-cutting issues, such as traditional knowledge, experts will be asked to peer-review the work of the six groups. With assistance from WIPO's Chief Economist, a matrix is being developed to guide the work of each working group and assist them to identify key development goals and indicators and the relevant IP levers or mechanisms that can be used to address those goals and indicators. There will be an online peer review forum for discussion within and among groups. A research component has been built into the IP Strategies Framework project plan to identify and incorporate information on work on flanking policies and strategies taking place in other international organizations and NGOs.[99]

At the time of this Review, the '*WIPO Framework for Developing National IP Strategies for Innovation*' was at the very earliest stage of implementation and so no detailed assessment of its development-orientation was possible. The Review Team notes that there does not yet appear to be clarity on the expected results or performance indicators for this project to ensure that it is aligned with WIPO's RBM framework. In addition, Review Team found that the follow-up to this project has not yet been fully defined: options foreseen include the publication of research studies, or a database, of country experiences with the implementation of national IP strategies as well as an evaluation of whether the Framework has been used in countries. While there is attention to using external experts to produce the Framework or guide, this should be complemented by opportunities for broader public and expert input and commentary.

Relationship between the CDIP IP Strategies Project and the Project for a 'WIPO Framework for Developing National IP Strategies for Innovation.'

The CDIP project takes a bottom or 'ground up' approach building on the experience of national stakeholders to devising national IP strategies, whereas the 'WIPO Framework' project is a more high-level

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[97] WIPO (2010) "Performance Measurement Framework for National IP Strategies for Innovation", Internal WIPO Document, November, 2010.
[98] The project will involve in each expert working group advisors from each of the relevant external organizations (WHO, WTO, UNCTAD, UNESCO, FAO, etc)
[99] Such as World Bank Poverty Reduction Strategy Papers, UNCTAD and International Center for Trade and Sustainable Development (ICSTD) work on national development strategies, OECD programs on national innovation systems, etc.

top-down process engaging international experts in IP, development and sectoral experts. There is a good chance that the two projects can be complementary and inform each other, but this will require an explicit commitment on the part of the Secretariat to ensure this occurs. To date, however, the Review Team found a lack of clarity as to whether the CDIP project should be integrated into the latter project, or vice-versa, and how each will be mainstreamed into the ongoing work of the organization in the area of development cooperation. While both projects are being implemented within the Development Sector, the 'WIPO Framework' project is also working closely with the Global Issues Sector and others Sectors on implementation of the project. In principle, the 'WIPO Framework' project seems most likely to generate an analytically coherent set of sectoral questions and data that will yield information about the trade offs and priorities that may arise within and between sectors in the area of IP policy. These could then inform the questionnaires and content of IP strategies. On the other hand, the CDIP project will yield a complementary ground-up set of insights.

The Review Teams notes that internal communication and coordination channels[100] between managers and teams involved in each project have been established by WIPO staff to ensure synergy in the evolution of the two projects, and that the outcomes of each project are complementary. Such efforts for mutual learning should be pursued as a high priority. They should also be designed in such a way that they serve as a vehicle for a range of WIPO staff to gather internally to review the documents; such internal discussion could serve as a tool for building internal expertise on development within WIPO. Similarly, plans to integrate national consultants used in the CDIP project into the 'WIPO Framework' project process should be pursued as a high priority.

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[100] This includes internal meetings and communications, sharing of documents, involvement in planning and project management, inclusion in expert meetings of relevant WIPO colleagues and experts involved in both projects in order to share experiences, and incorporation of lessons learned in the DA project into the nascent stages of the IP Strategies Framework project.

Selected Recommendations on IP Strategies

Improve Development Orientation

WIPO should improve its support to developing countries for the formulation of national IP strategies that address development priorities. Building on work underway, WIPO's activities in this area should **deploy a consistent set of methodologies that are evaluated, validated and refined over time with an eye to constantly assuring and improving their development-orientation.** Progress in this direction will require several steps.

First, there is a need for WIPO's support for **IP strategies to devote boosted attention to issues of creativity and cultural industries**, in addition to innovation.

Second, the tools that form the basis of the CDIP Project (such as the questionnaire) need considerable refinement to serve as an appropriate tool for drafting of a development-oriented national IP strategy. Questionnaires, or any other tools used to inform the development of IP strategies, should enquire more intently about: the framework/systems for innovation that exist in the particular country (e.g. technological capacity, human capacity, availability of financing, the research strength in the public sector and the private sector), national development priorities and needs by sector and specific area of public policy (e.g. in the education sector, in improving access to health care, in ensuring food security (e.g. by ensuring access to seeds etc.), as well as the economic sectors that are of priority (e.g. pharmaceutical, electronics, cultural industries. etc.).

Questions about the type of IP system that is or should be in place in a country should properly follow, and not precede, efforts to understand the national development strategy, priorities and those aspects of the IP system that might yield the greatest benefits for the country at hand. In some instances, this might shift the appropriate degree of attention in questionnaires and interviews (e.g., it might highlight the need for more attention to focus on IP issues related to protection of genetic resources, TK, industrial designs and utility models as compared to patent-related issues).

Emphasise Consultative Processes for the Formulation of Strategies

WIPO's **support for IP strategies and policies should be embedded in and accompanied by efforts to support the emergence of national IP coordination and consultation mechanisms** that link IP decision-making to a broader, development-oriented public policy framework and to the full range of both government and non-government stakeholders.

Boost External Coordination

Greater efforts should be made to **collaborate with other international organizations and stakeholders engaged in efforts to devise methodologies and tools relevant to the development of national IP strategies**. This collaboration should be enhanced at a country-by-country level during the elaboration of IP strategies as well as in the process of elaborating and refining the IP strategy tools developed and used by WIPO.

Review, Evaluate and Coordinate WIPO's Activities on IP Strategies

The WIPO Secretariat should **ensure that plans for close coordination between the CDIP IP Strategies Project and the DG-led project to formulate a** *'WIPO Framework for Developing National IP Strategies for Innovation'* are realized in practice. As both projects are scheduled for completion by the end of 2012, all support for IP strategies and policies planned for that year or beyond should be led or informed by the combined lessons of these projects, bearing in the mind the need to adapt and tailor to the specific requests of countries.

The Review Team notes that the CDIP IP Strategies Project will be reviewed in 2013 as part of the broader evaluation of the implementation of the WIPO Development Agenda. As part of the evaluation process for the pilot phase of that project, **WIPO should engage an expert Review Team to review the evolution of the tools used to inform IP strategies, their suitably for purpose, their link to the work of other IGOs and of NGOs, the quality and development–orientation of the strategies produced, and the degree of their use by the organization and Member States.** To facilitate the critical review and improvement of WIPO's tools and methodologies over time, these should be made publicly available on WIPO's website.

The WIPO Secretariat and Member States should ensure that the tools and lessons from the CDIP IP Strategies Project and the Project for a *'WIPO Framework for Developing National IP Strategies for Innovation'* are integrated across future development cooperation activities, both those conducted by the

Development Sector and WIPO's substantive sectors. **IP strategies should be used to help devise country needs assessments and as the basis for country plans for development cooperation activities**. Member States requesting other assistance for the formulation of IP strategies should be informed about the tools and methodologies produced by WIPO and by other actors in the field. WIPO should no longer offer ad hoc assistance in the area of IP policies and strategies that is not based on the lessons learned from these tools.

Enhance Transparency

Given their intended centrality to national IP policymaking and to WIPO's technical assistance, **all IP strategies, policies and plans supported by WIPO should be made publicly available for external review by national and/or international stakeholders** before completion. Upon completion, with the approval by individual member states, WIPO should make all IP strategies, policies and plans publicly available on its website.

4.2. Development of Global, Regional and National Legislative, Regulatory and Policy Frameworks that Promote a Balanced IP System

WIPO offers a range of development cooperation activities relevant to the development of global, regional and national legislative, regulatory and policy frameworks. The Review Team's analysis of activities under this Pillar of WIPO's development cooperation activities is divided into two sections: national and regional legislative and regulatory assistance; and support for developing country engagement in global IP decision-making and policy dialogue.

4.2.1. National and Regional Legislative and Regulatory Assistance

Description

WIPO provides extensive legislative and regulatory assistance to developing countries.[101] This assistance focuses primarily on advising and preparing countries for the ratification of WIPO treaties, and their subsequent implementation by Member States, as well as on the implementation on the WTO's the Agreement on Trade-Related Aspects of Intellectual Property Rights. (In 1995, the WIPO Secretariat received a mandate from the WIPO General Assembly to assist both its own Member States and WTO Members in implementing their obligations under the TRIPS Agreement.)[102]

The WIPO Secretariat provides legislative advice on a broad range of subjects, including those where WIPO does not have relevant treaties. WIPO's advice covers, to varying degrees, issues of copyright, patents, utility models, trademarks, industrial designs, geographical indications, traditional knowledge, folklore and traditional cultural expressions, genetic resources, and the enforcement of IP.[103]

WIPO's legislative assistance is provided upon request, on a bilateral and confidential basis. The assistance is provided in one or more formats, including:

- Confidential advice to governments in the form of draft laws or detailed comments on draft laws. The formats and approach taken to the provision of such advice varies according to the specific requests by the country in question;
- Expert or advisory missions by WIPO staff or consultants to the country;
- Training seminars on specific legislative topics at the regional or country level;
- Consultative meetings and policy discussions on topical subjects of legislation at the national or regional level;
- Legal training on IP legislation conducted by WIPO's Programs and by the WIPO Academy;

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[101] As national IP policy frameworks have been addressed in the Part 4.1. above, we refer the reader to that section for more background on WIPO's activities in that area. Further discussion of policy frameworks is also included in Part 4.6 below on WIPO's activities related to the promotion of creativity, innovation, and access to knowledge and technologies.
[102] Between 1995 and 2000, when the Member States of WIPO and of WTO were mainly concerned with the implementation of their TRIPS obligations, WIPO's advice focused on ensuring that national legislation would be in compliance with those obligations.
[103] Notably, the WIPO Secretariat does not provide assistance in the area of plant variety protection, which is the responsibility of its partner organization, the Union for the Protection of Plant Varieties (UPOV). WIPO's Innovation Sector does, however, provide advice on the patenting of plants upon request.

- Provision of information on national laws and regulations, codes, guidelines and practices through an online database (e.g., WIPO's website features WIPOLEX, a search facility for the national laws and treaties on intellectual property (IP) of WIPO, WTO and UN Members);[104] and
- Studies on the legal frameworks of developed and developing countries.

Several WIPO CDIP projects relate to, or have components that relate to, legislative and regulatory issues, including projects on IP and Competition Policy; IP and the Public Domain (including its scoping study on copyright and related rights and the public domain); and the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity.[105]

Beyond legislative, regulatory and policy assistance and advice on specific categories of IP noted above, WIPO also provides some advice on other IP and related issues, although on a much more limited scale. There are, for instance, some examples of WIPO providing advice to countries on competition policy and the abuse of anti-competitive practices in the area of IP as well as on issues related to the administration of the IP system, such as regulations and guidelines used by IP offices in the application of their laws. WIPO's 2010/11 Program and Budget sets out plans for activities to support the national regulatory framework to promote the commercialization of inventions (including those that are publicly funded) as well as advice to specific groups that use the IP system within countries, such as on licensing, technology transfer and IP policies for universities and research centres. In some areas, such as technology transfer, for instance, progress is not yet well advanced. (Advice to such user groups is discussed in Part 4.5 on user-support systems below.)

Assessment

The Review Team's assessment of WIPO's assistance in the area of national and regional legislation and regulatory development to promote a balanced IP system focused on four areas:[106]

- Incorporation of development orientation into legislative advice and training (e.g., flexibilities and options relevant to public health, development, building industrial capacity, supporting local creators and innovators, etc);
- Advice and support given for new issues and areas of IP protection and enforcement (TK, GIs, cultural expressions, vision impaired, public domain issues);
- Advice given for the implementation of national IP obligations deriving from international negotiations conducted outside the context of WIPO, including how to change national laws and practices to implement bilateral agreements with IP provisions (such as bilateral Free Trade Agreements); and
- Support for IP-related regulatory systems (e.g. competition policy).

The Review Team faced significant constraints in reviewing the details of WIPO's legislative assistance and regulatory assistance because it is provided on a bilateral and confidential basis.[107]

Sources of information on the recipients and topics of WIPO's legislative advice in the period under review include:

- WIPO's Report to the TRIPS Council (which lists WIPO activities relevant to the implementation of its Cooperative Agreement with the WTO);
- Data provided in the Program and Budget and in Program Performance Reports;
- Internal Quarterly Management Reports, in which WIPO's Sectors report on their activities to WIPO's Director-General;
- Several samples of draft laws and legislative advice shared on a confidential basis with the Review Team by stakeholders;
- Evidence gathered through interviews conducted during country visits; and
- WIPO's online technical assistance database.

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[104] See http://www.wipo.int/wipolex/en/. WIPOLEX replaced WIPO's earlier Collection of Laws for Electronic Access (CLEA) database.

[105] For background on these CDIP projects, see CDIP/4/4/REV., CDIP/4/3/REV. and CDIP/3/INF/2 as well as the progress report CDIP/6/2.

[106] Note that there are other WIPO activities which arguably could contribute to promoting more balance in the IP system by enabling greater use of the IP system by developing countries, such as IP office modernization activities and those aimed at supporting users of the IP system. See Parts 4.3 and 4.5.

[107] http://www.wipo.int/ip-development/en/legislative_assistance/modalities.html.

However, the Review Team found that none of these sources provided a comprehensive overview of what is offered and to which countries. There were also discrepancies between the sources. WIPO's 2010 submission to the TRIPS Council on Technical and Financial Cooperation related to the implementation of TRIPS, for instance, details far more activities for the period September 2009-2010 than those found in WIPO's online Technical Assistance Database.[108] In that submission, information about assistance is provided by region. However, the document provides no information about the content or the impact of this advice (i.e., the degree to which countries follow the advice given).

The WIPO Technical Assistance Database, on the other hand, has a category labelled 'legal assistance' with two sub-categories, one on 'legal advice' and another on 'TRIPS' (wrongly labelled as Trade-Related IP Services). A search of these two terms yielded 68 records of activities from the period January 2008 to December 2010, with no information for earlier years.[109] Two activities were also listed separately under a category called 'Revision of Law'.[110] The database reveals the title of the activity, the category of assistance (legal assistance), type of assistance (legal advice), the field of IP, and the WIPO Sector providing the advice. However, many of the same activities appear multiple times. For instance, an activity on Domain Names in Geneva in January 2009 appears 40 times, meaning that in reality a search for legal assistance activities reveals at most 30 different activities (several of which were for activities conducted in Eastern European countries and thus not relevant to this Review).[111] Notably, the database does not indicate which WIPO Program provides the advice, and in some cases the categories are inconsistent (e.g. advice may be listed as copyright or 'CR' law, which complicates searching). Moreover, the database does not provide information on the content of the assistance, the cost or the expected or actual results.[112]

The titles of legislative activities that were listed in the WIPO Technical Assistance Database provide a sample of the kinds of assistance provided:
- Review and commentary on draft copyright bills and laws (Brazil, Bosnia and Herzegovina, Afghanistan, Indonesia, Iraq, Maldives, Mauritius) (sometimes these activities are listed as having taken place in Geneva and other times in the country);
- Draft of implementing regulations for industrial property legislation (Burundi);
- Draft Comments on Patents, Utility Models, Integrated Circuits (Bangladesh, Yemen); Draft Comments on Patents, Utility Models, Integrated Circuits and Undisclosed Information (Lebanon, Iraq); Comments on Patents and Undisclosed Information (Mauritius); Draft Comments on Patent Law (Grenada) and Draft Comments on Patents and Utility Models
- Multidisciplinary mission on TRIPS to Algeria;
- Draft Copyright Law or provisions (Maldives, Mauritius, Liberia) and legislative assistance on copyright (Cook islands)

Notably, the list of activities that a search of the WIPO Technical Assistance Database yields reveals much more activity in the area of industrial property (but does not include any activity specifically on trademarks), and copyright, but does not provide any examples of assistance on geographical indications or enforcement, and gives only one specific activity on traditional knowledge and folklore. However, it is clear from conversations with Secretariat staff and the WIPO Submission to the TRIPS Council that advice was provided on such issues.[113] Interviews with WIPO and WTO staff also indicated that there has been increased interest and demand from LDCs in WIPO's assistance on TRIPS implementation given their pending 2013 deadline (although exemptions in pharmaceutical arena remain in place until 2016, and it is possible that LDCs will request and receive an extension of their general 2013 deadline).[114]

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[108] See, for instance, WIPO. 2010. 'Note on Technical and Legal Assistance of WIPO Relevant to the Implementation of the TRIPS Agreement', prepared by the International Bureau of WIPO, October 19, 2010.
[109] The search was conducted on 18 March 2011.
[110] Both entries related to country missions in the context of the EC-WIPO Project for the Modernization of the Industrial Property Administration System at the Bangladesh Department of Patents, Designs and Trademarks, which was administered by the ureau for ASPAC.
[111] Some of the listed activites are not clearly related to legislative advice and might be better described as assistance related to IP strategies or to user groups (e.g., an activity listed on 'Finalization of the national chapter of technology licensing in Uganda and policy briefing on the national IP policy and strategy'.)
[112] Part 5 of this report on Management provides a more thorough review of the database and provides a set of recommendations for its improvement
[113] This was in the form of assistance to Kenya for the implementation of ARIPO Protocol on TK & Expression of Folklore (Bureau for Africa).
[114] At the time of this Review, 44 of the 49 countreis that the UN classifies as LDCs were WIPO members. Thirty two of these LDCs are WTO Members (and thus obliged to implement the TRIPS Agreement by the relevant LDC deadlines), and 26 are members of WIPO's PCT.

The evidence gathered by the Review Team demonstrated that developing country WIPO Members place a high degree of importance on WIPO legislative assistance. Many countries rely heavily or exclusively on WIPO for detailed, technical advice on specific provisions of IP laws and for putting in place a suite of IP laws. The demand for WIPO's assistance and technical expertise on legislative and regulatory issues is strong. WIPO has seen an increase in requests for assistance to LDCs in light of the expiration of their transition period in 2013. Whereas on some specific IP issues, there are alternative and sometimes competing sources of advice available to countries (e.g., on IP issues relevant to public health), for many areas of IP law (e.g., utility models, trademark law, industrial designs, etc), WIPO is the considered to be the primary global authority and source of assistance.

The Review Team found, however, that the orientation of the assistance and the confidence of beneficiary countries in its development orientation were less positive. That said, the Review Team's ability to review in detail the orientation of WIPO's legislative assistance was limited, as noted above, by the lack of transparency regarding the content of country or region-specific advice provided because it is provided on a bilateral and confidential basis.[115] It was also not possible for the Review Team to make any broad generalizations about the degree to which WIPO's advice impacted the laws that are passed, and in some cases are still pending. The question of the specific impact of WIPO assistance among the factors that affect the outcome is a complex one.[116] Consultative and legislative processes vary from very swift to ones that extend over many years. Moreover, within countries, the IP offices and other parts of government may seek and/or receive advice from other international organizations, academics, national stakeholders and NGOs ini addition to that which they receive from the WIPO Secretariat.

Orientation

The TOR called for the Review Team to consider the degree to which assistance is demand-driven, country-specific and transparent, accounts for priorities and levels of development of beneficiary countries, and the particular needs of LDCs, and involves stakeholders. It also called for an assessment of the incorporation of advice on relevant flexibilities in international treaties.

The Review Team found that for many of WIPO's Members, particularly smaller and less developed countries, the WIPO Secretariat is their core source of legislative and regulatory assistance. The Review Team's country visits indicated that WIPO's assistance in this area is perceived to be of high technical quality and more neutral than advice that may be received from bilateral donors or industry advisors. Responses to the Review Team's survey of beneficiary countries indicated a relatively even spread of views from the poor to good range regarding WIPO's support to enable them to ratify and implement WIPO treaties, and to implement the WTO TRIPS Agreement (See Table 4.2.1). Ratings were slightly higher for WIPO's assistance to ratify treaties than for the implementation. Since 2000, and in particular since the beginning of the debate in the WTO TRIPS Council on access to medicines and the launch of the WIPO Development Agenda, developing countries have called for more assistance and advice to exploit the flexibilities available in international treaties on IP.

Table 4.2.1. Number of Survey Respondents Per Possible Ranking of WIPO Assistance Relevant to the Ratification and Implementation of International Treaties (n/a: not applicable[117]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Supporting your ability to ratify WIPO treaties	6	6	3	8	4
Supporting your ability to implement the WTO's TRIPS Agreement	5	9	1	10	2
Supporting your ability to implement WIPO treaties to which your country is a party	4	9	4	8	2
Assisting your country to ratify the WIPO Patent Cooperation Treaty	8	2	0	6	3
Assisting your country to comply with bilateral commitments to join the WIPO Patent Cooperation Treaty (e.g., commitments in a bilateral free trade agreement (FTA))	9	2	1	5	3
Assisting your country's efforts to implement the	4	4	3	8	1

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[115] http://www.wipo.int/ip-development/en/legislative_assistance/modalities.html.

[116] For more on issues of impact and attribution with regard to WIPO technical assistance, see Part 3 of this report.

[117] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

WIPO Patent Cooperation Treaty					
Providing legislative advice to aid national compliance with the PCT	10	4	0	4	1

Source: Authors' Survey of Beneficiary Countries

However, of those survey respondents that indicated that they had received WIPO assistance on IP legislation in the period from 2008-2010, Table 4.2.1 shows that a number of countries had a higher appreciation for the support WIPO gives to legislative and regulatory development in general than for its incorporation of advice on the flexibilities and options related to the implementation of international IP agreements. For instance, when asked to rank WIPO's support for the formulation of legislative and regulatory frameworks, ten countries ranked WIPO's support as good to excellent on a scale of 1 to 7. However, when asked to rank WIPO's advice on drafting, reviewing and updating domestic legislation, 8 respondents gave a ranking in the poor range (1-3), 5 respondents ranked it as satisfactory, and only 5 respondents gave it a ranking in the good to excellent range (5 to 7). Further, on the specific issue of advice on flexibilities and options in international IP treaties, eleven survey respondents that had received WIPO assistance in this area ranked it in the poor range or as satisfactory, with only 5 countries ranking it positively (See Table 4.2.2). A similar question on WIPO advice on the incorporation into national legislation of such flexibilities and options further reinforced this finding. Of 19 respondents that provided a rating, 14 rated WIPO's assistance in this area in the poor range.

Table 4.2.2. Number of Survey Respondents per Possible Ranking of WIPO TA for Legislative and Regulatory Developments (n/a: not applicable[118]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Development of national legislative and regulatory frameworks	10	4	3	10	1
Advice on drafting, review and updating of domestic legislation	7	8	5	5	3
Advice on flexibilities and options in international intellectual property treaties (e.g., options with regard to the scope, extent and duration of intellectual property rights, exceptions, limitations and exemptions)	6	8	3	5	4
Tailoring your implementation of international treaties to reflect national development needs and priorities	9	7	4	3	3
Advising your government on the incorporation into national legislation of the flexibilities and options available in international intellectual property agreements	5	14	2	3	3
Assisting your government to put into practice the intellectual property flexibilities that are included in your national laws (e.g., through patentability guidelines, advice on issuing a compulsory license; guidelines on differences between your national patent laws and those of countries which may assist your country in patent search and examination)	8	13	1	2	3
Adaptation of WIPO legislative advice to reflect national development priorities in areas such as public health and access to education	7	10	0	1	8
Tailoring of legislative advice on PCT implementation to national needs	11	5	0	3	2
Training and advice on differences between results of search and examinations conducted by an international search authority, and patentability criteria according to national law	15	1	1	1	1

Source: Authors' Survey of Beneficiary Countries

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[118] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

Table 4.2.1 similarly shows that respondents overwhelmingly poorly rated WIPO's efforts to adapt its legislative advice to reflect national development priorities in areas such as public health and access to education. Similarly, WIPO's assistance to put into practice the IP flexibilities that are included in their national laws (e.g., through patentability guidelines, advice on issuing a compulsory license; guidelines on differences between their national patent laws and those of countries which may assist their country in patent search and examination) was predominantly ranked by respondents in the poor range (i.e., from 1 to 3 on a scale of 1 to 7). Further, with regard to WIPO advice to tailor the implementation of national treaties to reflect national development needs and priorities, 11 of 14 respondents that provided a ranking, rated WIPO's assistance in this area as in the poor range or only satisfactory. Interviews with stakeholders during the country visits conducted by the Review Team also affirmed that while WIPO's legislative assistance is appreciated, particularly by IP offices, WIPO is not proactive in providing advice on flexibilities and officials do not perceive that they can rely on WIPO for tailored or pro-development advice. Several country visits by the Review Team also highlighted that countries sometimes perceive that a request for advice on the use of flexibilities would not be an appropriate request to make of WIPO and/or that it would likely be refused. Interviews with WIPO staff did not yield any examples of specific requests from LDCs, for instance, on the use of particular TRIPS flexibilities.

The Review Team identified several factors contributing to the weaknesses in the development-orientation of WIPO's legislative assistance.

The first problem is the lack of transparency about the content of WIPO's legislative assistance. In its submission to the TRIPS Council, the WIPO Secretariat states that it has 'strengthened its assistance to help countries in integrating IP into overall national development and public policy in areas such as health, trade, education, research, technology transfer and competition policies, including advising countries on the flexibilities available under international IP treaties, and in particular the TRIPS Agreement'.[119] In the absence of access to a range of substantive examples of WIPO's legislative assistance, the Review Team could not establish the degree to which this statement is true. Even if the full content of WIPO's legislative assistance were available for public review, specific judgements of its orientation and relevance to development would not be possible outside the context of national strategies and policies on IP and development.

Second, WIPO lacks framework documents or other instruments to guide the details of advice on the substantive issues that arise in the course of providing legislative assistance. After considerable criticism of the model laws previously used to provide WIPO legislative assistance to countries,[120] the WIPO Secretariat has reported to the Review Team that model laws are no longer used. The shift away from 'one size fits all' model laws may bode well for the prospects for more tailor-made and country specific assistance, but in their absence it remains even less clear what guides the WIPO Secretariat's work. The Review Team's interviews WIPO staff found that the development-orientation of advice varies by topic, the Sector or Program providing the advice, and the predilections and motivation of individual staff. Although in some cases, countries make very specific requests for legislative assistance and have considerable national knowledge of the technical issues and policy implications at hand, many smaller or weaker countries, or those with less experience on IP issues, do not provide much guidance on the particular objectives or outcomes they hope to achieve in receiving advice. In such instances, there is considerable scope for WIPO staff to interpret what may be a very broad or general request. Indeed, the Review Team's country visits revealed that where national expertise on the technicalities of IP law is low, there is considerable deference to the technical authority of WIPO staff. As noted earlier in this report, most developing country WIPO members have weak national IP expertise, minimal parliamentary knowledge or oversight of areas of law such as IP that are perceived to be highly technical and specialized, and minimal processes for national needs assessment or stakeholder consultations. As recognized experts in their respective fields, WIPO staff responsible for legislative advice have considerable discretion as to the nuances of their legislative advice and considerable scope for influence. The duty of care that should thus

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[119] See WIPO (2010) Note on Technical and Legal Asssistance of the World Intellectual Property Organization Relevant to the Implementation of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), prepared by the International Bureau of WIPO, October 19, 2010, page 1.
[120] The WIPO Draft Law On Copyright And Related Rights was, for example, criticized by several stakeholder groups for not addressing the needs of libraries and library users in developing countries adequately. The model law did not, for instance, cover the digital environment, definitions were narrower than required under international obligations and it included additional obligations for which there is no corresponding international treaty e.g. public lending right. Some of these provisions were, however, later reflected in the copyright laws of several countries including Cambodia (2003), Swaziland (2004) and Ghana (2005). In response, the NGO EIFL developed its own draft law in 2009 - based on the WIPO text - to provide a counter-point that reflected contributions from international library and archive copyright experts. It is designed to be a practical guide to assist librarians, as well as their legal advisors and policy makers, which contains provisions that support access to knowledge and the public interest of libraries and consumers. See EIFL-IP Draft Law on Copyright Including Model Exceptions and Limitations for Libraries and Consumers, available at: http://www.eifl.net/eifl-draft-law-copyright.

be exercised on the part of WIPO's legal teams, which effectively serve as default legal departments for countries, is particularly significant. There are also topics of IP for which lack of knowledge (e.g., of utility models as a legal option) may explain the relatively low levels of demand for advice on those issues. The Review Team did not find evidence of any mechanisms existing or under development to ensure that the lessons learned and insights from WIPO studies called for by the various WIPO Committees (such as a study on Limitations and Exceptions presented to the SCCR,[121] a CDIP study on the Public Domain,[122] and a CDIP study on the national implementation of patent-related flexibilities[123]) are integrated into the work of those providing legislative assistance.

Third, the Review Team's review of the lists of legislative assistance provided to countries showed that WIPO sometimes bundles legislative assistance on the many categories of IP property and enforcement in one draft Act. Legislative advice requested and provided to developing countries is often motivated by the objective of putting in place a full spectrum of IP laws. For instance, a draft law prepared by WIPO for an LDC viewed by the Review Team covered patents, utility model certificates, industrial designs, layout-designs (topographies) of integrated circuits; traditional knowledge and handicrafts; trademarks, service marks, collective marks, certification signs and trade names; geographical indications; protection against unfair competition and enforcement provision on the different categories of IP. While the draft Act acknowledges the possibility of different sections of the Act entering into force on different dates, the formulation of one combined Act may obscure the complex legal issues and development and sectoral implications of the many provisions, many of which warrant serious national debate and in-depth consideration prior to adoption. From a bureaucratic and administrative stand point, the limited resources of IP offices and low levels of awareness in LDC governments means that they are unlikely to have the capacity to ensure adequate reflection on or implementation of all categories of IP law simultaneously. Thus although a single, comprehensive Act may facilitate quick adoption (as it would only have to go through legislative/executive bodies once), the risk is that countries adopt the law without proper understanding of the content of the proposed law or its development implications. (By contrast, in many larger developing and most developed countries each of the IP categories are adopted as separate Acts.) Further, some of the categories of IP may be viewed as a much lower priority than others; the approach taken by WIPO implicitly recommends simultaneous adoption of provisions for all types of IP. A final challenge with the presentation of combined Acts to LDCs is that this could obfuscate the ability of countries to take advantage of LDC transition periods under TRIPS. Notably, however, TRIPS still enable countries to request a further extension for implementation in view of their "economic, financial and administrative constraints, and their need for flexibility to create a viable technological base" (Article 66.1 of TRIPS).

Fourth, the Review Team found that it many countries also turn to other parts of the UN system for IP legislative advice, including UNCTAD, UNAIDS and UNDP, particularly in order to gain information about flexibilities and options. That is, WIPO member states rely on the activities of a number of other IGOs or non-government stakeholders to fill the gaps left by WIPO's assistance. A 2010 submission to the TRIPS Council by the UNAIDS Secretariat, and on behalf of UNDP, highlights a broad range of support to governments to incorporate public health related TRIPS flexibilities into appropriate domestic legislation, including on the use of non-voluntary licenses and on the implementation of IP commitments made through FTAs, as well as on training patent examiners in Africa, the Arab States, and Latin America on the examination of pharmaceutical patents.[124] In addition, UNAIDS, UNDP and WHO jointly issued a policy brief on 'Using TRIPS flexibilities to improve access to HIV treatment' in 2010.

Fifth, the survey results indicate that WIPO's assistance on certain other IP-related regulatory issues is less prevalent, and that satisfaction and knowledge of its availability on the part of Member States is low. WIPO includes within its Program activities on issues related to competition and anti-competitive abuse of

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[121] WIPO distributed a questionnaire to Member States on their use of limitations and exceptions. A number of regional studies on exceptions and limitations for the purposes of teaching, research activities or educational purposes were also commissioned (available at http://www.wipo.int/meetings/en/details.jsp?meeting_id=17462). These were preceded by earlier studies, including: WIPO (2008) Study on Copyright Limitations and Exceptions for Libraries and Archives (by Kenneth Crews), Geneva: WIPO; WIPO (2006) Study on Copyright Limitations and Exceptions Rights for the Visually Impaired (by Judith Sullivan), SCCR/15/7. WIPO: Geneva. WIPO (2003). WIPO Study on Limitations and Exceptions of Copyright and Related Rights in the Digital Environment (by Sam Ricketson), SCCR/9/7. Geneva: WIPO.

[122] The CDIP Project on Intellectual Property and the Public Domain (CDIP/4/3 Rev) included preparation of a "Scoping Study on Copyright and Related Rights and the Public Domain.' The Study, by Severine Dusollier, was completed in 2010 and is available in the six official languages of WIPO. The scoping study includes an illustrative comparison of national legislations that directly, or indirectly, define the public domain; and a survey of initiatives and tools, which may affect access, use, identification and location of public domain material. See WIPO (2010) "Scoping Study on Copyright and Related Rights and the Public Domain.' Geneva: WIPO.

[123] WIPO (2010) Patent Related Flexibilties in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels, CDIP/5/4. Geneva: WIPO.

[124] WTO. 2010. Council for TRIPS – Regular Session, Annual Review of Paragraph 6, Doha Declaration on the TRIPS Agreement and Public Health Agenda item 4 – Capacity Building on the Paragraph 6 System and related TRIPS flexibilities, Remarks by UNAIDS Secretariat and on behalf of UNDP, 27 October 2010.

intellectual property rights. However, Table 4.2.3 shows that few respondents receive such advice. Where it has been received, survey respondents rated it in the poor range. A core challenge in this respect is that most developing countries lack a broader competition policy or institution. Even where such frameworks do exist, understanding of the links to IP issues and interactions among the relevant authorities are weak. The implementation of CDIP Project on IP and Competition Policy (CDIP/4/4/REV) could offer improvements in this area, but it is not yet far enough advanced for the Review Team to offer an assessment.

Few survey respondents reported having received WIPO assistance on legal practices related to avoiding, settling and resolving IP-related disputes and was rated poorly where it was received. The Review Team's country visits revealed that such activities to help countries 'use' the IP system had only recently emerged as subjects for requests to WIPO. A further explanation for the relatively poor result in this area is that while formal responsibility and expertise within WIPO for such activities falls with Program 17 (Building Respect for IP), the Review Team found that the Program is not systematically consulted on enforcement and dispute-settlement issues. While the Program reports that it is consulted in cases where specific 'enforcement' legislation is concerned (e.g., on a draft anti-Counterfeit Act, draft Customs Act, etc), it is often not consulted when WIPO assists with substantive draft laws (eg., on Patent or Copyright, etc), that have chapters or provisions on enforcement.

The Review Team also found no evidence of systematic attention within WIPO to the practical challenges developing countries face in enforcing the rights of their own IP rights-holders abroad. While WIPO Member States are discussing the formulation of international norms to help countries protecting against the misappropriation of their traditional knowledge and related assets, there is currently no practical advice or mechanisms to support developing countries to legally challenge instances of misappropriation of their intellectual property, of any category, in developed countries or other developing countries. Finally, over two-thirds of survey respondents that provided a view on WIPO's advice on other issues related to the practical challenges of administering the IP system (e.g., on guidelines with respect to patentability criteria) rated WIPO's advice in these areas as either satisfactory or in the poor range (see Table 4.2.3 below).

Table 4.2.3. Number of Survey Respondents per Possible Ranking of WIPO Assistance on IP-related Regulatory Issues (n/a: not applicable[125]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3	Satisfactory (4)	Good to Excellent (5-7)	d/k
Advising on regulations and policies for competition and to control anti-competitive abuse of intellectual property right	6	4	1	0	9
Advising on internal guidelines with respect to granting intellectual rights (e.g., on patentability criteria)	7	10	1	5	3
Advising on legal practices to avoid and resolve intellectual property-related disputes	8	9	2	2	6
Arrangements for the settlement of intellectual property disputes	12	9	0	2	4
Advising on legal practices to enforce IP laws and prosecute infringement/violations (e.g., civil, provisional, administrative or criminal procedures)	5	12	3	3	4
Respect for and enforcement of intellectual property rights	7	6	3	8	3
Respect for an enforcement of intellectual property rights held by your nationals overseas	12	5	1	3	4

Source: Authors' Survey of Beneficiary Countries

Sixth, WIPO's advice and support to developing countries on new areas of IP protection and enforcement was uneven. On the one hand, WIPO offers growing support, upon request, to countries on issues such as geographical indications, traditional knowledge/folklore and traditional cultural expressions, as well as on copyright issues in the context of the internet. In addition to legislative advice, an example of an activity undertaken on new areas of IP protection is the provision of online databases of legislative texts on the protection of traditional knowledge, traditional cultural expressions, folklore, and genetic resources. There is also a WIPO database of biodiversity-related access and benefit-sharing agreements, and a database of existing codes, guidelines and practices with regard to cultural documentation.[126] On the other hand,

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[125] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).
[126] WIPO's Global Challlenges Sector offers an Indigenous Intellectual Property Law Legal Fellowship.

however, WIPO is less engaged in the provision of legislative advice on the negotiation and implementation of treaties with IP provisions that are negotiated or under discussion outside WIPO, such as in bilateral agreements,[127] other multilateral fora (with the exception of the TRIPS Agreement), and plurilateral initiatives, like the Anti-Counterfeiting Trade Agreement (ACTA) and the Trans Pacific Partnership (TPP) (see Table 4.2.4). Regarding advice on IP matters in bilateral or regional trade agreements, over 50% of survey respondents indicated that they had not received such advice or could not comment on the quality of assistance received. Of the remaining respondents, the majority gave the WIPO's assistance a weak ranking of between 1 and 3.

Seventh, limitations in available evidence meant it was not possible for the Review Team to undertake a thorough review of the overall orientation and balance of WIPO's seminars and workshops on legislative matters. The agendas and/or content of national seminar and trainings on legislative issues are not generally available online. Further, there have been no evaluations of the relevance of such workshops/seminars to development goals (although participant satisfaction surveys are often conducted). That said, the Review Team gathered evidence during country visits and through the stakeholder questionnaires that while WIPO staff do increasingly make note of the flexibilities available in the TRIPS Agreement and other international treaties in seminars, the full range of flexibilities is not necessarily conveyed, nor is information presented in a manner likely to facilitate an understanding of the flexibilities or how they can be used at the national level. Further, the Review Team heard of examples where legislative advice provided in the context of WIPO seminars includes discussion of provisions that go beyond the minimum requirements set out in international agreements, such as the TRIPS Agreement (e.g., TRIPS-'plus' provisions). The Review Team also learned that only a small segment of several day WIPO seminars and trainings is devoted to flexibilities, options and public interest considerations. As few stakeholder groups have the resources to consistently organize side-events at the vast number of WIPO meetings, more effective processes and systems need to be established to ensure that WIPO seminars incorporate greater development orientation and to guide WIPO's engagement with a diversity of stakeholders holding varying opinions and expertise on IP legislative and regulatory issues.

Table 4.2.4. Number of Survey Respondents Per Possible Rankings on WIPO Assistance Related to Bilateral and Regional IP Agreements (n/a: not applicable[128]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Technical advice on the negotiation and/or implementation of bilateral or regional intellectual property agreements (e.g., such as those in free trade agreements (FTAs)).	10		2	3	4

Source: Authors' Survey of Beneficiary Countries

Eighth, while the Review Team found that WIPO received high ratings from respondents to the survey of beneficiary countries for its efforts to support their ability to ratify and implement WIPO treaties (see Table 4.2.9), the ratings were less favourable when it came to advice on the use of flexibilities in international treaties and tailoring of advice to national priorities (See Table 4.2.2). Importantly, the Review Team found that beyond the formal legislative advice provided by WIPO, the organization's support for IP Strategies and plans also have components relevant to the nature of national legislative and regulatory frameworks (See Part 4.1 of this Report). The Review Team found, for instance, that several WIPO-supported IP strategies and plans emphasized the need for legislative action to meet the requirements of the WIPO Internet Treaties and the Madrid Protocol (and advocate their ratification). In the area of copyright, much of the commentary in those plans was targeted toward updating laws to respond to the digital environment. While this objective may indeed be important to beneficiary countries, the orientation of the advice was one of enabling compliance with the WIPO Internet Treaties than to discerning and recommending how countries might tailor laws for the digital environment to the particular priorities and needs of the country at hand. (Notably, developing countries have no obligations to join the WIPO Internet Treaties (although some have made commitments in bilateral FTAs to do so). Further, although the final 'recommendations' section of several WIPO-supported strategies and plans recommended consideration of flexibilities, they provided no guidance on what this might mean concretely. In regards to copyright and the digital environment, WIPO's strategies and plans could have better assisted countries by suggesting those limitations and flexibilities that would, for instance, facilitate educational activities in the electronic learning environment in

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[127] Only one instance of such legislative advice was listed in the WIPO technical assistance database, namely a mission to Panama's IP Office on the Draft Law on Geographical Indications and Related IP Elements in Free-Trade Agreement Negotiations.
[128] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

developing countries (e.g. in relation to electronic course packs and virtual learning environments, inter-library document supply, orphan works and translations).

A ninth concern is that neither WIPO nor the intended beneficiary countries systematically gather or analyse data on the implications of different legislative options on development goals (See Table 4.2.5). In the absence of such efforts, and indeed the limitations of the scholarly literature on the relationship between IP and development more broadly, it remains unclear to the Review Team on what grounds WIPO staff recommend certain legal options over others. Indeed, the Review Team's consultations and interviews revealed that beneficiary countries do not necessarily receive any explanation or justification from WIPO as to the development impacts of what is proposed in the draft law and that development assessments are not conducted by WIPO or by the Member State.

A related finding is that the WIPO Secretariat does not seek specialist advice on legislative issues or the overall orientation of its legislative advice from a diversity of international stakeholders (e.g., libraries, consumers' organizations, public health advocates, and educators) and there are no transparent mechanisms for such stakeholders to convey their views. Similarly, at the national level, responses to the Review Team's survey indicate that WIPO has not made strong efforts to engage stakeholders at the national level in processes related to legislative reform. The survey responses and stakeholder questionnaire also provided evidence that WIPO has not made systematic efforts to involve relevant stakeholders in its training and capacity building efforts on legislative issues at the national or regional level. Where involvement occurs, stakeholders reported to the Review Team that the opportunities are often ad hoc, short notice and that the participation of stakeholders that are not WIPO consultants is not necessarily funded by WIPO. While national and regional law-making processes are led by governments, not WIPO, there is scope for WIPO to have encouraged or facilitated greater use of local expertise, local input, or consultative processes (See Table 4.2.6). At both the national and international level, the Review Team found that a range of stakeholders have offered to provide such assistance, if required, and would welcome the opportunities for engagement. The challenge for WIPO is to ensure that such opportunities are transparent and open, such that they do not favour the input of one set of stakeholders over others or those which have a greater capacity for informal or undue influence. One opportunity to facilitate such opportunities is through the engagement of stakeholders in the process of formulating broader IP strategies (See Part 4.1. of this Report).

Table 4.2.5. Number of Survey Respondents per Possible Rating of WIPO's assistance for Data-gathering and Analysis of Impact of IP Laws (n/a: not applicable[129]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Data-gathering and analysis of the impact of national intellectual property laws and policies on development	11	7	3	4	4
Providing expertise or analysis on the potential development impacts of different options for intellectual property legislation	7	10	1	2	5

Source: Authors' Survey of Beneficiary Countries

Table 4.2.6. Number of Survey Respondents per Possible Ranking of WIPO Support for Stakeholder Engagement (n/a: not applicable[130]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Support for engagement of stakeholders in providing input for review and updating of intellectual property legislation	8	10	0	4	3
Ensuring a diversity of views in seminars and workshops relevant to legislative development in our country	6	12	1	3	5

Source: Authors' Survey of Beneficiary Countries

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[129] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).
[130] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

Finally, through its public consultation process, the Review Team received two examples of WIPO legislative assistance in the form of a draft law and commentary for a developing country on patents as well as a draft law and comments for an LDC that covered the full range of IP issues. One of these draft texts was dated 2005 and one was used in 2008. The Review Team notes that these two examples may not be representative of WIPO's assistance on other IP topics or to other countries. Moreover, the Review Team acknowledges that improvements in the quality and orientation of assistance may (and should) have occurred since 2008. These two samples of WIPO legislative assistance did, however, provide concrete examples of TRIPS-'plus' advice on several key issues, such as patent term extension, data exclusivity, exhaustion of rights and compulsory licensing. While the Review Team acknowledges the considerable debate among WIPO Member States, international experts, and stakeholders about appropriate legislative provisions on such issues, the Review Team found it unacceptable that even one example of WIPO's legislative advice to a developing country from 2008 included TRIPS-'plus' advice on controversial IP issues with critical public policy implications, some four years after WIPO Member States called for more development-oriented WIPO legislative assistance (see Development Recommendation 13). The Review Team recommends that an in-depth and comprehensive review of the content and orientation of a broad spectrum of WIPO's legislative advice (including advice provided by WIPO's legislative advisors as well as through its other activities) from 2008 until present should be conducted by a team of international experts (see Recommendations below).

Internal Coordination

The Review Team found that legislative assistance is not grounded in systematic internal processes within WIPO that facilitates careful consideration of the development needs and interests of developing countries or to gather the information or external input needed to ensure that advice provided is consistent with their levels of development.

The potential for development-oriented legislative assistance is linked to the allocation of roles and responsibilities for the provision of legislative assistance within WIPO, which has fluctuated over time.[131] The latest reorganization has distributed responsibility for the provision of WIPO's legislative assistance across the substantive Sectors of the organization. As such, patent related legislative advice is provided by the Innovation and Technology Sector (Program 1), copyright advice by the Culture and Creative Industries Sector (Program 3), advice on geographical indications, trademarks and industrial designs is handled by the Brands and Designs Sector (Program 2), and advice on enforcement is provided by the Global Issues Sector (Program 17). The number of professional staff working on the provision of legislative and policy advice for developing countries in each sector is generally between 1 and 3.

In short, there is an urgent need for mechanisms to ensure coherence and learning across the Programs responsible for the provision of legislative assistance so that it is informed by the development goals of countries. Several WIPO staff interviewed by the Review Team who are involved in the provision of legislative assistance observed that without a holistic view across sectors, and absent country or region-specific political knowledge, individual WIPO staff experts on a particular area of IP cannot alone provide a country adequate advice on the substantive implications of the advice on offer. They further noted that the legal systems of countries may vary significantly and not all Sectors may have legal staff sufficiently versed in the complexities of common law and civil law and the legal heritage of the country in question to deliver appropriately oriented advice.

4.2.2. Engagement of Developing Countries in Global Dialogue and Decision-making on IP Issues

Description

A major item in WIPO's cooperation for development budget relates to the travel costs of developing country officials and experts to WIPO's official meetings, conferences, seminars and other international events.[132]

Activities that the Review Team includes in the category of support for the engagement of developing countries in global dialogue and decision-making on IP issues include:

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[131] While at one point offered by the substantive sectors of WIPO, legislative assistance was later unified within what is now known as the Development Sector.

[132] In the view of the Review Team, this justifies the inclusion of activities related to the engagement of developing countries in global dialogue and decision-making on IP issues, as part of the range of development cooperation activities of the organization.

- Support for travel costs to WIPO Standing Committees and other regular committee meetings. These meetings include the Standing Committees on the Law of Patents, Law of Trademarks, Industrial Designs and Geographical Indications, and on Copyright and Related Rights, as well as the Committee on Development and Intellectual Property and the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC), the WIPO Coordination Committee, the Program and Budget Committee, the WIPO General Assembly, the WIPO Committee on Standards and the Advisory Committee on Enforcement.

- Support for organization and travel costs for participation in global, Regional, and Sub-Regional Conferences hosted or co-hosted by WIPO.

Notably, the analysis in this section focuses on meetings, events and conferences that are relevant to global dialogue, debate and decision-making on the direction and nature of the global IP system. It does not focus on national seminars or dialogues, or seminars which are predominantly for the purposes of training or a specific national purpose.

Assessment

The Review Team's findings in this section draw from survey results, interviews and desk reviews at WIPO, as well as from a study of a sample of WIPO regional and global events conducted by the Organization between 2008 and 2010 (See Annex 13).

The Review Team found evidence that developing countries rely heavily on WIPO support to facilitate their engagement in the international IP system and that much of this support is highly appreciated. In the survey, there was a relatively even spread of respondent views on the overall quality of WIPO's assistance to countries for their participation and engagement of their country in international IP negotiations and discussions. Respondents gave high ratings, for instance, to WIPO's assistance for the participation of national delegations in WIPO committee meetings and WIPO negotiations (See Table 4.2.6).

The Review Team found evidence, however, of the following shortcomings in the way WIPO supports developing countries to engage in the global IP system. First, the Review Team found that while WIPO offers considerable support for the physical participation of developing country delegates, this not complemented by the adequate provision of a organized activities and analyses to support the *informed* participation of delegates. While individual delegations or missions represents can and do sometimes request individual meetings, more systematic activities are needed. Some WIPO Programs do make efforts to inform Geneva-based delegates, but reported that these opportunities are not widely used. Before each Standing Committee on Patents, for instance, the Secretariat asks Geneva-based missions if they would like an advance briefing on the upcoming session, but reported that uptake is low. In 2010, the Patents Program also initiated information meetings on the patent system, with several modules ranging from general to sophisticated information, which two regional groups have attended so far. Where engagement in such opportunities is low, the Secretariat should explore the reasons. Instead, many developing country delegates appear to rely on information from stakeholders, other IGOs, and news services (such as Intellectual Property Watch, BRIDGES (published by ICTSD) and Third World Network's SUNS newsletter as well as various blogs). There are important challenges to a greater role for WIPO in supporting more effective and informed participation, including concerns about the potential for undue influence on countries on issues under negotiation or discussion. Nonetheless, the issue of effective participation deserves far greater attention by the WIPO Secretariat and the Member States, particularly given the level of resources spent on ensuring countries are represented.

Second, the costs of organizing Committee meetings represent a significant portion of the overall budgets of the various Programs. Given the amount of money spent, it is vital that the organization, its Members and the beneficiary countries get value for the resources invested. The cost of travel for meetings highlights the importance of ensuring quality of participants and raises questions about the appropriate length of WIPO meetings. The longer meetings are, the question arises as to whether countries can afford for senior staff to be away for an extended period (e.g., the April 2011 SCCR lasted 10 days).

Third, the criteria driving the process for *s*election of developing country participants in WIPO committees, global events and conferences is unclear. The process varies according to the kind of event and WIPO Committee (e.g., the criteria for accessing the IGC process, the Annual Assemblies and the work of various standing Committees differ). The fact of variation is not a problem in itself, but selection for whatever kind of events should be guided by a clear process and criteria. Several possible sets of criteria seem relevant: a) ensuring the best quality of participants best able to contribute to discussions at hand; b) geographic

diversity; c) rotation of participants to allow exposure of different officials to the international process; and d) seniority of officials, etc. The practice of calling on regional groups to select appropriate beneficiaries of WIPO's travel support from among their Members warrants review. In many instances, such selections are made on a rotating basis among countries. Some WIPO staff reported that where they believe that proposed delegates are of inappropriate seniority or lack relevant expertise to engage in the specifics of discussions underway, they sometimes request the selection of an alternative participant

Fourth, the absence of comprehensive publicly-available information on the suite of WIPO's global and regional events from 2008-2010 limited the Review Team's ability to assess their development orientation. On WIPO's website, the Review Team found listings of 57 regional or global events that had occurred in the period under Review, and compiled all of the available information on those events from the website. (A list of these meetings is provided in Annex 13.) The Review Team found, however, that for none of these events was a summary report available on the website (See Table 4.2.7). There is thus no public information available on the nature of discussions that took place, the results of the meeting, evaluation results, costs or expected follow up. For more than half of these 57 events, no information about speakers or presentations was available, although in some of these cases, there was some form of background documentation on the meeting available. Of the remaining events, most lacked the full suite of presentations or had partial information (e.g., information on speakers but no presentations or other content). In some cases, there was also no agenda posted (See Table 4.2.7).

The Review Team's interviews with staff confirm that the topics of regional and global meetings often arise from the recommendations of various intergovernmental committees, specific Member requests, or the Programs of the Secretariat. A review of events for which agendas and/or presentations were available, reveals that the topics of meetings has evolved to incorporate many newer, breaking issues in the world of IP and several meetings focused specifically on development related issues and priorities. However, the Review Team found that, although there are some exceptions, in general the details of the agendas, composition of speakers, and content presented at global and regional conferences do not yet fully reflect the spirit of the Development Agenda and there are no clear internal processes for ensuring that the design of events is filtered through that lens.

Table 4.2.7. Summary of Publicly-available Information on WIPO Regional and Global Events

No Information Available	20 out of 57 events
No Summary Report Available	57 out of 57 events
No Participants List	23 out of 57 events
No Presentations Available	27 out of 57 events
Some Presentations Available	19 out of 30 events that had access to presentations
No Agenda Available	21 out of 57 events

* Source: These data were compiled by the authors from a review of 57 regional or global WIPO events listed on its website as being held in the period 2008-2010, 23 of which were held in Geneva.

For instance, the Review Team found that the range of partners with which WIPO collaborates in the organization of international events was limited. There were few events that feature WIPO co-organizing global or regional events, for instance, with an NGO or a development agency. Further, WIPO does not have a policy on support for the participation of stakeholders, particularly, NGOs, which thus often participate at their own expense. Further, a compilation by the Review Team of available information on speakers at 36 global and regional events conducted between 2008 and 2010 indicates that the overall diversity of speakers/experts used at international conferences remains limited (See Table 4.2.8). For those events for which speaker information was available, approximately 30% of speakers were from IGOs (with 18.5% from WIPO) and a further 30% government (over 22% were from regional or national IP offices). Of the remaining 40%, half (20%) were from industry. Only 5.4% were from developing country academic or research institutes, and 5.4% from NGOs or user communities. Further, only 2.5% were from other stakeholder groups, such as inventors associations, creators, musicians, artists or scientific organizations. While the Review Team acknowledges that some individual speakers are intentionally invited to represent a particular point of view, the Secretariat should ensure that a balance of perspectives is provided. The Review Team found no evidence of systematic processes for speaker selections to ensure development orientation and appropriate balance. In some cases, selections were made by Program staff and in other instances Member States were invited to provide input on desirable speakers.

Fifth, the Review Team found that the rationale for, and follow up to, many events held at the regional level was unclear and weakly linked to particular Programs. At present, many regional-level activities are the responsibility of the Regional Bureaus and are organized in response to specific requests from Members to host events within their region. While there are good reasons for hosting some meetings at the regional level (e.g., regional meetings may facilitate interaction and cooperation between governments that speak

common languages within or across regions and may also be more cost-effective than supporting travel to global meetings), they are expensive undertakings. The Review Team's analysis of regional events held during the period under Review is that while many events may well have been on useful and important topics, many appeared to be conducted on an ad hoc basis, without clear links to broader multi-year planning or to other Program activities and expected results.

Table 4.2.8. Review of Diversity of Speakers at Selected WIPO Events (2008-2010)

	Number of Speakers	Percentage
WIPO Staff Participants	97	18.5%
Staff of other International Organisations and UN Agencies	61	11.7%
National IP Offices	102	19.5%
Regional IP Offices	15	2.9%
National Ministry of a Country	36	6.9%
Inventors Associations, Creators, Musicians, Creators, Artists and staff of scientific organizations	13	2.5%
Staff of NGOs and User Communities	28	5.4%
Staff of Companies	53	10.1%
Lawyers/Law Firm Representatives	21	4.01%
Staff of Industry Associations	27	5.2%
Developing Country Academics/Research Institutes	28	5.4%
Developed Country Academics/Research Institutes	42	8%

Source: These data were compiled by the authors from a review of 36 WIPO events in the period 2008-2010 for which information on speakers was available, 23 of which were held in Geneva.

Finally, the Review Team's survey of beneficiary highlighted important gaps in the areas in which countries received support for their engagement in the international IP system. As noted above, there was little support available or provided to countries for bilateral IP negotiations, international negotiations such as those related to the plurilateral negotiations for an Anti-Counterfeiting Trade Agreement, or for their engagement on IP related negotiations at the WTO or in other international processes (such as those related to food, health, etc). Most survey respondents indicated that they had either received no support during the period under review or that support received was in the poor range (1 to 3) for each of these issues (See Table 4.2.9). While the Review Team does not suggest that WIPO has a role to play in supporting the physical participation of countries in these negotiations, WIPO could play a stronger role in providing factual information on these negotiations to the extent that they have a bearing on the legal frameworks, policies and activities that developing countries undertake with WIPO assistance. (The Review Team acknowledges, however, that the Secretariat faces limitations when requested to provide support for either confidential negotiations (such as the ACTA negotiations where WIPO was not admitted to negotiations and had no formal access to any negotiation texts) or negotiations among several WIPO Member States, where conflicts of interest may emerge.)

Table 4.2.9. Number of Survey Respondents Per Possible Ranking of Assistance Related to Engagement in International Intellectual Property Decision-making and Debate (n/a: not applicable[133]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Participation and engagement of your country in international intellectual property negotiations and discussions	5	7	3	10	2
Supporting ability to ratify and implement WIPO treaties	5	6	1	9	6
Assisting the participation of national delegations in WIPO Committee meetings and WIPO negotiations	2	6	2	14	3
Technical advice on intellectual property negotiations at the World Trade Organization	8	9	2	3	6
Technical advice on intellectual property negotiations in other international processes (climate change, health, biodiversity, etc)	9	9	0	5	6

Source: Authors' Survey of Beneficiary Countries

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[133] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

Selected Recommendations on Legislative, Regulatory and Policy Support for Balanced IP Systems

Boost the Transparency and Evaluation of Legislative Advice

WIPO should, with the consent of Member States, make the content of its legislative advice to countries publically available. Beneficiary countries should simultaneously make publicly available the advice and assistance received from WIPO to facilitate evaluation, review and debate by external experts and national stakeholders.

WIPO and its Member States should **devise a mechanism whereby, without abusing confidentiality assurances and in consultation with WIPO staff, an in-depth review of legislative assistance could be conducted by a team of external legal experts**, to evaluate its attention to the expressed request of countries, development priorities, country circumstances and to the full range of flexibilities and options available to countries, in consultation with WIPO staff. This Review should include an in-depth examination of the content of draft laws and comments on draft laws provided by WIPO, as well as of the content of seminars on legislative matters.

WIPO's senior management should ensure that all Sectors and Programs submit full information to the WIPO technical assistance database on their legislative activities.

Stronger efforts should be undertaken to define appropriate expected results and indicators for WIPO's legislative assistance.

Use Country Needs Assessments and IP Strategies to Inform Legislative and Regulatory Advice

Before responding to a request for legislative assistance, WIPO should work with the country to investigate its development priorities, its sector-by-sector needs (e.g. agriculture, health, education, information technology, etc), and its relevant international commitments. A key resource in this process should be national IP strategies or processes for their formulation (as discussed in Part 4.1 of this report).

Adopt a Proactive Approach to Development Priorities and Flexibilities

The objective of WIPO legislative assistance should be to serve the developmental objectives of the beneficiary country. A narrow compliance-oriented approach to international commitments must be avoided. In the case of requests from LDCs, WIPO staff should not hesitate to advise countries where they do not require IP laws or where some IP laws or provisions may be inappropriate until they reach a higher level of development. Similarly, where the country seeking technical assistance is not a WTO member, WIPO should not advocate in favour of TRIPS standards or TRIPS-'plus' standards.

WIPO should **present developing countries the range of options and flexibilities available in international laws. It should also explain and/or share experiences of how different options may hinder or advance their pursuit of development targets.** WIPO should also build the technical capacity of countries to pursue a coherent development-oriented approach to the implementation of international IP commitments; to decide whether and how to use in-built flexibilities in international agreements to advance pro-development policies; and to promote coherence and mutual supportiveness with other relevant international instruments. Assistance should extend to options related to ensuring a vibrant public domain, boosting access to essential technologies and knowledge, and to different models for stimulating innovation and technology transfer.

WIPO should publish, in collaboration with international experts and stakeholders, a series of development-oriented framework documents on the legislative issues for which WIPO provides advice. These documents should set out: basic legal requirements for meeting international obligations in that area of IP; the range of relevant public policy goals and public interest considerations; a coherent set of definitions; explanations of possible exemptions, exceptions and limitations to IP rights; implications for various stakeholder groups. Each framework document should be accompanied by a short explanatory note; and relevant evidence of impacts and experience in other countries.

Promote Impact Analysis and Information-Sharing

WIPO should increase support for analysis of the positive and negative impacts on national development and public policy goals of new international IP agreements, as well as on the opportunities and constraints provided by various exclusions, exemptions, flexibilities and options available in international laws.

WIPO should promote information-sharing among developing countries about their experiences with IP legislation and development outcomes, including information on comparative law and the range of options available. This should include analysis of the historical experience of developed countries when they were building their industrial base and development potential.

WIPO should support Members to evaluate the costs and benefits of acceding to WIPO Treaties. This should include presenting WIPO Treaties and their implications to a range of national stakeholders, including parliamentarians expected to ratify such treaties.

WIPO should unify its various databases on legislation and regulatory practices to make them accessible through one common portal (rather than through issue specific websites) and link these to legislative databases of related laws hosted by other international organizations (e.g., the WHO, UNESCO, FAO, World Customs Organization (WCO), etc). In collaboration with the WTO, WIPO should provide a web-based tool for comparative cross-national search and analysis of legislation, which should include the abilitiy to compare national use of flexibilities and options.

Improve Internal Coordination on Legislative Advice

WIPO should **ensure greater communication and collaboration among staff located in different Sectors that are responsible for legislative assistance**. The Regional Bureaus should play a stronger role in promoting such collaboration and pooling of staff knowledge about national policy debates and priorities, lessons from legislative assistance in other areas of IP, and experiences of countries with similar legal regimes and development challenges. The Regional Bureaus should ensure that staff or consultants providing legislative assistance are properly aware of any IP strategies and policies the beneficiary country may have as well as relevant policy debates, local expertise, stakeholder consultations and inter-ministerial processes that could be used to ensure that the advice reflects development considerations.

Provide More Assistance on Emerging Legal, Regulatory and Policy Issues for Developing Countries

WIPO should **explore ways to devote greater attention to advising and informing countries on IP negotiations and treaties, and their potential effects, whether positive or negative.** WIPO could organize, for instance, open seminars with external speakers and other international organizations on topical issues of negotiation. Fact sheets and policy briefs could be developed on issues of complex negotiations for national governments and stakeholders, including IP offices, Geneva-based delegates and other government agencies.

WIPO's activities on legislative, regulatory and policy frameworks should include **greater support for development-oriented advice on the negotiation and implementation of bilateral, regional and South-South IP arrangements, negotiations, dialogue and cooperation** (such as those advanced through regional economic communities, regional political organizations, or regional intellectual property offices).

WIPO should devote greater attention to legal and regulatory challenges related to the misappropriation and enforcement of developing country IP in the global arena, emerging IP issues of great interest to developing countries (such as those related to traditional knowledge, folklore and genetic resources), **and on practical regulatory and administrative issues relevant to the promotion of a balanced IP system**. For instance, WIPO should explore the potential for providing advice on the practices and strategies of companies that abuse the IP system (e.g., through ever-greening of patents), and how countries can guard against and/or manage such practices; methods for opposing patents that are wrongfully granted in the country of origin and in foreign countries (e.g., patents on inventions in the public domain, patents that fail to acknowledge prior art in developing countries, or patents that concern the national genetic resources of developing countries); and patent opposition proceedings and patent examination processes that safeguard the public interest.

WIPO should also support mechanisms that would help developing countries and their stakeholders to overcome the legal, financial and practical barriers they face in challenging the wrongful granting of IP rights and/or abuse of developing country IP rights in other countries, and boosting the recognition and enforcement of their IP rights in developed countries.

Improve Collaboration with other Actors with a Diversity of Views and Expertise

WIPO should boost its collaboration with other international organizations and seek greater input from a diversity of stakeholders to guide its approach to the provision of legislative and regulatory assistance.

Improve Guidelines on Participation and Development-orientation of Global and Regional Events

WIPO should develop, in consultation with Member States, guidelines for the selection of developing country nationals to participate in WIPO meetings to maximize the development benefit to countries and cost-effectiveness. WIPO should increase web-casting of events and take advantage of technologies to enable remote participation of speakers.

As part of the proposed WIPO Policy on Stakeholder Engagement, WIPO needs guidelines on ensuring an appropriate development orientation and balance of speakers in WIPO's global and regional meetings and events, with a particular focus on increasing the range of national and international stakeholders and developing country experts involved (discussed in Recommendations for Part 2 of this Report on Relevance and Orientation and Part 3 on Impact).

4.3. Building Modern State-of-the-Art National IP Administrative Infrastructure

Description

This section concentrates on WIPO's activities and services to modernize IP offices in developing countries. (Part 4.5 of this report addresses support-systems for users not withstanding that some of these activities are also part of the activities to modernize IP offices).

WIPO self-describes its activities on modernization as being organized to respond to three objectives:

- *Efficiency.* The main services offered by WIPO to meet this objective are consulting and advisory services, and automated software systems for the efficient administration, registration and examination of IP rights. Automated systems are designed to improve the productivity in an office, to provide standardized business processes such as search and examination of applications, and to increase quality of the granted IP rights.

- *Online Services.* WIPO assists IP offices with the digitization of their IP records and with the preparation of data for online publication and electronic data exchange. It also provides patent search services and assistance with online filing systems and online registries which are increasingly demanded by IP applicants, IP agents, researchers, local industry and policy makers.

- *Integration into International and Regional Networks of IP Offices.* For countries that are members of the PCT, Madrid or Hague systems, WIPO offers assistance to exchange data and documents

electronically with the International Bureau and with other offices. In the patent area, WIPO is developing systems to assist offices with the exchange of priority documents, search and examination results, and other information-sharing on IP applications in order to increase efficiency and quality of the granted IP rights.

Specifically, WIPO offers Member States the following development cooperation activities products and services:

1. *Consultancy Services.* This includes the provision of technical advice and guidance in institutional building; assistance in preparing automation strategic plans; benchmarking of existing systems and gap analysis; needs assessments; project scoping and planning; simplification of business procedures; and evaluation of the effectiveness, impact and sustainability of modernization activities.

2. *Automation, Digitization and other IT Projects.* These projects includes customization of a WIPO standard automation product (the Industrial Property Automation System (IPAS)) to adapt it to the specific individual needs of IP offices, including national IP legislation, regulations, administrative procedures and workflow control (See Box 4.3.1); data analysis, extraction, transformation and migration of data from legacy systems into digital new systems; digitization of bibliographic data from paper files (WIPOScan Software Package) (see Box 4.3.1.); digital access service for priority documents (WIPO DAS) (See Box 4.3.1); upgrading of IT infrastructure to support automation; and the deployment, testing and putting into operation of the automation system.

WIPO's PCT International Cooperation Division (located in the Innovation and Technology Sector) also provides a number of IT services to facilitate the use of the PCT system, including WIPOCOR (Communication on Request) (a web application to view, download and order PCT documents related to published International Patent Applications at the time and in the format of their choice, e.g., Internet, on CD/DVD and on paper); Electronic Data Exchange (a web-based facility to exchange PCT data and documents between IP offices and WIPO); and specifications for the collection of PCT National Phase Information.

WIPO also offers activities to national copyright administrations to improve automation and efficiency of their operations, including of their state-run and private collective management entities (e.g., such as WIPOCOS and AFROCOS) (Support to private collective management entities is addressed in Part 4.5. on WIPO assistance for user support systems).

3. *Capacity-building on ICT and IP Infrastructure.* Activities in this area include: training on the transition from existing work practices to the new workflow and automation procedures; training of office staff on how to use the automation system to perform their day-to-day tasks, procedures and actions at each stage of IP administration; training of management on how they can use the systems for planning, performance monitoring, statistics and analytical queries; knowledge transfer to local IT staff on the system operation, configuration, maintenance, first-level support, backup and disaster recovery; and technical support, as required, for trouble-shooting and resolving system problems or to respond to technical queries.

4. *Workshops and Seminars.* WIPO conducts and participates in national, regional and international workshops and seminars focusing on aspects relating to modernization of IP institutions.

5. *Products and Services to Improve the Efficiency of IP Offices and Examination Processes in the Industrial Property Area.* These include PATENTSCOPE; the Access to Research for Development and Innovation (aRDi) program; and the Access to Specialized Patent Information (ASPI) program. WIPO also offers various booklets on the use of Patentscope and various forms of accessing technology, namely: i) WIPO Guide to Using Patent Information[134], ii) Finding Technology Using Patents[135], iii) Access to the World of Technology.[136] (Note that some of these services are also targeted to benefit users of the IP system, see Part 4.5). WIPO also provides the WIPO Search and Examination Service enables countries to request state-of-the-art search reports, search and examination of patent applications filed with IP Offices participating in the International Cooperation for the Search and Examination Program, equivalent patent

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[134] The *WIPO Guide to Using Patent Information* is intended to assist users in using patent information, describing different search strategies and techniques as well as approaches for analyzing search results. This guide is available in English, French and Spanish.
[135] *Finding Technology Using Patents* is an introduction to finding technology using patents provides a general overview of the information contained in patent documents and sources from which patent information can be obtained. It is available in English, French, Japanese, Polish and Spanish.
[136] Access to the World of Technology is designed to familiarize users with the features of the PATENTSCOPE® search service and related resources. This publication is available in English, French, Japanese, Korean, Polish, and Spanish.

documents and copies of individual patent documents. In addition, WIPO's Patent Legal Status Project conducts activities to improve the availability, reliability and comparability of legal status information of patents and patent applications worldwide.

WIPO invests in ongoing enhancements and new versions of its products to respond to the changing legislative and administrative requirements of IP institutions and to take advantage of emerging technologies. This includes the development of new features and functionality to facilitate automation efforts and the development of online services (such as electronic filing and registration). Specific examples include: the development of e-communication modules for interface with WIPO Treaties, the development of a data exchange module for PATENTSCOPE; and the development of interfaces between the WIPO products and regional IP organizations.

6. Modernization of Institutional Frameworks of IP Offices and Coordination Mechanisms. In some cases, WIPO's advice extends to options regarding the institutional framework for national IP systems. In the industrial property arena, for instance, this includes advice regarding the institutional options for the structure of patent offices (i.e., whether to have an independent industrial property institute, a semi-autonomous body or an office within a government ministry). Activities in this area include advice on institutional structures for the collective management of copyrights and assistance in making the transition from state-run to privately run collective management bodies and designing copyright regulatory authorities. There is, for instance, a project on enhancement and networking of collective management offices in West Africa, which includes assistance to many copyright offices and state run collective management administrations in the region. A further aspect of the modernization of national IP administrations concerns efforts to boost the resources and collaboration among government agencies responsible for the enforcement of IP rights. More broadly, WIPO has also advised countries on questions of whether to combine all of their IP offices into one overarching office.

In addition, WIPO offers several free and fee-based patent information products and services that allow subscribers to purchase all or part of the database of PCT published international patent applications, and to subscribe to weekly updates of newly published international applications. (The patent data of national and regional patent offices is not currently available from WIPO).[137] The WIPO 'Gateway to Patents' website also makes available the guidelines and manuals of the national/regional patent offices, as well as national and regional patent laws through its WIPOLEX database.

A number of WIPO CDIP projects are related to the modernization of IP offices and institutions in developing countries, as well as to the modernization of the IP system more generally, including: a) the Smart IP Institutions Project; b) Project on Innovation and Technology Transfer Support Structure for National Institutions; c) Project on Strengthening the Capacity of National Government and Stakeholders Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations; d) Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity; e) Pilot Project for the Establishment of 'Start Up' National IP Academies; f) Project on Specialized Databases' Access and Support; and g) Project on Developing Tools for Access to Patent Information.[138]

For the CDIP Project on ICTs, the Digital Divide and A2K (DA_19_25_27_01), for instance, the Infrastructure Modernization Division assisted six countries and one regional office in 2010 (Dominican Republic, Colombia, Vietnam, Argentina, Kenya, Zambia and ARIPO).[139] For the CDIP Project on Smart IP Institutions, the Division has activities ongoing in OAPI and two of its Member States (Senegal and Gabon) as well ARIPO and two of its Member States (Kenya and Botswana), three LDCs (Laos, Cambodia and Bhutan), and Algeria. The Division is also supporting Regional Workshops in the Caribbean, LAC and Africa and contracting specialists within the African region to support its modernization activities there, and hosted a workshop in Egypt for IP offices in the Arab region in 2010. No evaluation of the impact of these CDIP projects has been undertaken as yet.

Assessment

IP office modernization is a central aspect of WIPO's technical assistance work, and features under several of the organization's Strategic Goals. Goal IV (Coordination and Development of Global IP Infrastructure) aims "…to strengthen the IP infrastructure of least developed, developing and transition countries, to enhance international cooperation in infrastructure and data flows throughout the system and to develop

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[137] A 50% discount is offered to not-for-profit organizations on PATENTSCOPE ® electronic data products.

[138] For background on these CDIP projects , see CDIP/3/INF/2 and CDIP/4/6 as the progress report CDIP/6/2.

[139] Countries targeted for 2011 are Tunisia, Panama, Guatemala, Namibia, Botswana, Malaysia, Thailand, Turkey and Azerbaijan.

global IP databases and voluntary platforms for increased technical cooperation…". Goal IV aims to improve standardization, work sharing and data-exchange between offices around the world to help meet the demand on the IP system. The modernization of IP offices also contributes to WIPO Strategic Goals II (Provision of better IP services), III (Facilitate use of IP for Development) and V (Be the world reference source for IP information). Work on IP office modernization also directly addresses Development Agenda recommendation 10: "…to assist Member States to develop and improve national IP institutional capacity through further facilities with a view to making national IP institutions more efficient and promote fair balance between IP protection and the public interest…" In addition, work to boost national IP an infrastructure indirectly contributes to the fulfilment of Development Agenda recommendations 8, 30 and 31 (see Box A.7).

When asked about development assistance priorities, respondents to the Review Team's survey of beneficiary countries, which were mostly from industrial property offices, ranked modernization of their IP system as their top priority for development cooperation. Within that category, the modernization of technical infrastructure and business software systems of national institutions for IP administration (e.g., copyright office and industrial property office, state-run collective management societies) was the activity that the greatest number of respondents (18) listed as their highest priority for IP-related TA. Similarly, country visits conducted by the Review Team affirmed that for IP offices, the modernization of their offices and work processes is a high priority and an area in which they rely heavily on WIPO for support.

In terms of their priorities with regard to the modernization of IP systems, over two-thirds of survey respondents (22 respondents) ranked the following over 5 on a priority scale of 1 to 7 to: a) improving registration of IP and related rights; and b) support for cooperation with other IP offices in other countries in their region. In addition, two thirds of respondents (20 respondents), gave a rank of between 5 and 7 on a scale of priority from 1 to 7 for: a) modernization of technical infrastructure and business software systems for national institutions for IP administration; and b) modernization of human and financial resources management, governance, work practices and technical expertise of national IP institutions.

Box 4.3.1. Examples of WIPO IT Products

The Industrial Property Automation System (IPAS)

The Industrial Property Automation System (IPAS) is a system to automate business and administrative processes in IP offices from application reception to registration, including post-registration actions such as amendments, assignment, renewal, annuities, etc. IPAS and its new web-based version 'IPAS Java' are developed by WIPO's Infrastructure Modernization Division and can be customized according to the levels of development, resources, capacity, skills and infrastructure of different IP offices.

WIPOScan

WIPOScan is a digitization software package owned by WIPO to assist its Member States to create national Intellectual Property (IP) databases. With this software package, all paper-based IP documents, including patents, utility models, trademarks, and industrial designs, can be converted into digital format.

The core functionalities of the system are scanning, editing of scanned documents, indexation, bibliographic data try, dossier viewer including filter, and data management. The default language of the user interface of the system is English but localization support is available to enable offices to change the language of the interface to their preferred one.

The system is designed to facilitate its integration with a diverse range of IP administration and document management systems. Although the system works as an integrated software package, each module can serve as stand-alone software system.

The WIPOScan Software Package supports a digitization business process so that paper documents are prepared, scanned, image quality enhanced followed by indexation, and optional bibliographic data capture. The digitized IP database is then exported to CD/DVD for data exchange with other IP offices and WIPO, archiving, and development of other added-value systems.

PATENTSCOPE

PATENTSCOPE is an on-line search facility which enables any member of the public to search over 8 million patent documents from 23 countries and two regional patent offices, including over 1.9 million published international patent applications (PCT).

Patentscope Priority Document Access Service

Impact

Table 4.3.1 provides an overview of the geographic distribution of WIPO's assistance for infrastructure modernization in the area of industrial property. It indicates that the distribution and intensity of activities varies according to the kind of assistance. In general, it shows that IPAS for Trademarks (and its Arabic version called AIPMS) has been deployed in a number of countries each region, and that its reach has been greater than for IPAS Patents (or AIPMS for Patents). Table 4.3.1 also shows that most Latin American countries have upgraded to IPAS Java, but that this has not yet been undertaken in other regions. Notably, Table 4.3.1 highlights that WIPO's Global Infrastructure Sector has undertaken a large number of business needs assessments with IP offices across regions. Evidence gathered through the Review Team's Desk Review of WIPO documents indicated that Business Needs Assessments have been conducted for 66 developing country offices across the four regions (two of which are ARIPO and OAPI). In addition, 26 developing country offices have signed Cooperation Agreements with the Infrastructure Modernization Division to undertake joint activities (one of which is ARIPO). IPAS for Trademarks has been implemented in 39 developing countries, IPAS for Patents in 23 developing countries (with upgrades to IPAS JAVA in 7 countries). These figures do not include activities undertaken in Europe and Certain Countries in Europe and Asia. In addition AIPMS for Patents has been implemented in 7 Arab countries (an Arabic Version of IPAS). WIPOScan has been implemented in only three developing countries (Argentina, the Dominican Republic, Kenya) and ARIPO. No developing country uses WIPO CASE.[140]

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[140] To respond to concerns about patent quality and efficiency of the global patent system, WIPO CASE was developed to allows for the sharing of confidential search and examination information between IP offices and is already being used or evaluated by other regional groupings. WIPO CASE offers a platform for patent offices to share information and reports relating to patent search and examination.

Table 4.3.1. Overview of the Distribution of WIPO Assistance for Infrastructure Modernization in the Area of Industrial Property across Regions.
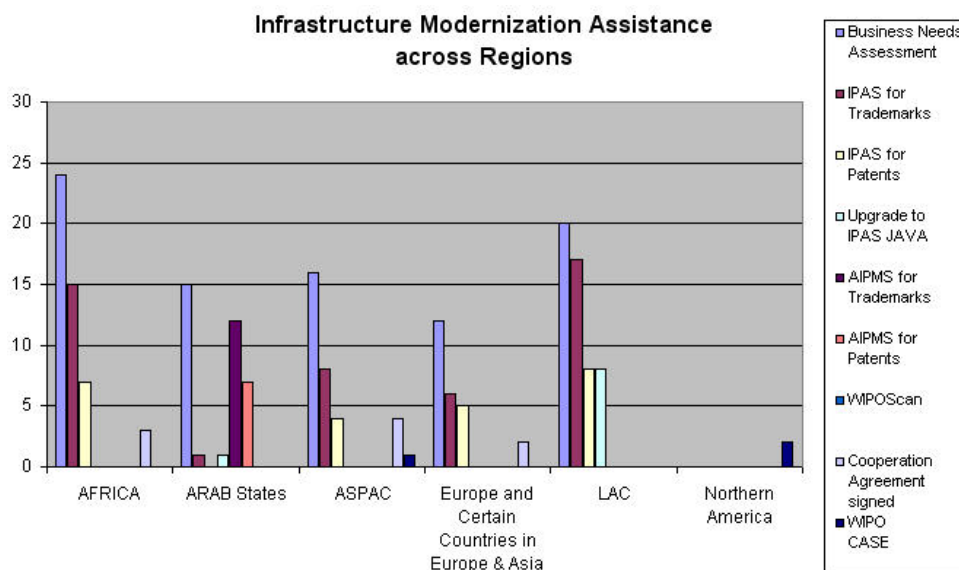
Source: WIPO Website, December 2010.

When asked to rate WIPO's assistance for modernizing their national institutions, 57% of respondents ranked WIPO's assistance as good to excellent (i.e., from 5 to 7 on a scale of 1-7); 5% as satisfactory; and 23% rated it in the poor range (1 to 3 on a scale of 1-7). A further 15% of respondents indicated that they did not know or that the question was not applicable to their country (See Table 4.3.2). Table 4.3.2 also shows the rankings respondents gave activities for specific aspects of modernization. WIPO's support for improvements in the registration of IP rights and for the modernization of technical, technological and physical infrastructure of IP offices was rated particularly highly. However, the satisfaction with support for the modernization of human resources management, governance, work practices and expertise within IP offices was lower, with more than half of the countries ranking WIPO's assistance as satisfactory or in the poor range (i.e., from 1 to 4 on a scale of 1-7). Assistance for the administration of IP services (such as the collection of licensing fees in the area of copyright) was similarly poorly ranked, although a number of respondents indicated that they did not know or had not received support in this area. (This response may be partly explained by the fact that most respondents to the survey were from industrial property offices and that only in a sub-set of the respondent's countries are collective management societies state-run).

On more specific questions regarding satisfaction with the modernization of offices, for many questions, a high proportion of respondents indicated that they had not received WIPO support on that specific issue during the period under review. Table 4.3.3 suggests that there was slightly higher satisfaction with WIPO's ICT support for software related to automation than with WIPO's provision of hardware. There was an even spread of opinion on WIPO's advice on training and modernizing office operations, work practices and processes. About half of the survey respondents indicated that they had not received support related to their office building or management practices (such as financial management), but those which had expressed a low overall degree of satisfaction. A higher number of countries indicated they had received support for project management of modernization projects, but the spread of opinion about its effectiveness varied. Finally, the survey respondents indicated that an area where they received least support was on the governance and institutional design of their office, and on staff retention and trainings. Where assistance had been received in these areas, the majority of countries ranked the assistance as satisfactory or in the poor range.

Table 4.3.2. Number of Survey Respondents per Possible Rating of WIPO Support for the Modernization of IP Infrastructure (n/a: not applicable[141]; 1: very poor; 7: excellent; d/k: don't know.)

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[141] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

	n/a	Poor range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Modernization of intellectual property offices – technical, technological and physical infrastructure (e.g., copyright offices, industrial property offices as well as state-run collective management societies)	2	4	5	14	3
Modernization of IP offices – human resources management, governance, work practices, building expertise (e.g. copyright offices, industrial property offices, as well as state run collective management societies)	5	9	3	8	4
Registration of intellectual property rights (patents, trademark, industrial designs, copyrights, traditional knowledge, genetic resources)	5	4	1	16	3
Administration of intellectual property services (e.g., collection of licensing fees in the area of copyright)	7	7	5	3	7

Source: Authors' Survey of Beneficiary Countries

Table 4.3.3. Number of Survey Respondents per Possible Rating on WIPO Support for Specific Aspects of IP Infrastructure Modernization (n/a: not applicable[142]; 1: very poor; 7: excellent; d/k).

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Information and communications technology (ICT) support for automation of your office (hardware)	9	9	0	7	0
Information and communications technology (ICT) support for automation of your office (software)	7	9	1	11	0
Advice and training on modernizing office operations and work processes/practices	10	7	1	8	0
Advice and training on management practices in your intellectual property office (e.g., financial management in your office)	12	8	2	3	0
Support related to your office building	12	8	1	2	2
Support for project-management of modernization projects in your office	7	8	2	6	2
Advice on the governance and institutional design of your office (e.g., public, semi-private or private approach to collecting societies; autonomous or semi-autonomous industrial property office; combined intellectual property office)	14	6	1	2	2
Advice on staff retention and training strategies	15	6	1	2	1

Source: Authors' Survey of Beneficiary Countries

Staff involved in modernization projects highlight a number of challenges in assessing impact. On the one hand, impact of automation can be measured concretely by measuring the reduction of backlogs of patent processing or by automating the production of Gazettes of patent applications and approvals. However, they argued that it is far more difficult conceptually to measure the impact of modernization activities on variables such as local innovative capacity or economic development more broadly. Further, the IT modernization process is one that occurs over several years, meaning that a multi-year evaluation framework is required.

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[142] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

The impact of modernization projects also depends on a number of prerequisites on the part of beneficiary countries. The WIPO staff responsible for work in this area advised the Review Team of a number of countries where systems put in place by WIPO are still not used effectively several years after their provision. A key challenge noted by WIPO staff and in each of the country visits is that the success and sustainability of WIPO technical assistance relies on adequate resources and support on the part of beneficiaries. In some country visits, the IP offices reported a high degree of satisfaction with software and training provided, indicating that any shortcomings in terms of the impact were due to inadequate resources, commitment, time, management or training on their part (e.g., such as where staff continue to prefer using manual procedures). Similarly, in one country visited by the Review Team, WIPO is supporting projects to modernize both the industrial property and copyright offices, most notably through the provision of WIPO software and support to advance the automation and digitization of various registries of protected rights. WIPO twice provided computer equipment and software as well as training to the office's staff. However, after seven years of efforts to automate registries at copyright office, the Review Team found limited results. One challenge was that the necessary server was only purchased recently, and the software originally installed now needs upgrading.

While the WIPO Secretariat is often blamed for problems that arise, there is a need to be realistic about the potential for effective assistance. WIPO staff reported to the Review Team that as much as two-thirds of developing countries did not have the groundwork conditions in place to properly absorb WIPO assistance in the area of office modernization. Indeed, where countries lack computer servers, predictable electricity supply and internet connections, for instance, the prospects of a meaningful partnership and thus for the effectiveness of WIPO's modernization efforts are very limited. The Review Team's country visits confirmed that challenges at the national level ranged from inadequate technical/skilled personnel to absorb the training and assistance provided, changing priorities within IP offices, and lack of adequate resources or national commitment to maintaining and using equipment and preparing the data and files needed to make use of the electronic systems.[143]

Industrial Property Automation System (IPAS)

In the case of IPAS, some of the steps involved in the modernization process include: provision to the country of an 'automation kit (e.g., servers, workstations, printers, scanner, etc); customization of IPAS to local needs; deployment of IPAS in the country over a two week mission; training (e.g., on the use of the Vienna classification system for staff); a follow-up mission to extend the use of IPAS with more training; a later mission for customization for local needs with respect to patents and industrial designs; subsequent follow up from Geneva; and a post-deployment evaluation mission after at least two years. As such, the successful installation and use of IPAS relies on a number of prerequisites at the country level, including: the establishment of a local area network (LAN); preparation of data and databases for migration to IPAS; internet connectively and up-to-date anti-virus software; and the provision of air-conditioned rooms for server. WIPO's success also relies on planning at the national level for budgetary resources to maintain and operate the IT network, internet and other IT components, as well as basic training on computer skills by office staff and identifying appropriate staff for training on the system. Moreover, it relies on the governments own commitment to modernization and its ownership of the project from senior management down to data entry clerks, to ensure that the transition from manual to automated procedures is managed efficiently and consistently.

In reality, however, the Review Team found that IPAS projects faced a number of challenges. These challenges included lack of capacity and qualifications on the part of national staff, staff turnover without knowledge transfer, lack of government support, power interruptions, political instability, inadequate national budgets for updating equipment, weak IT infrastructure, selection of inappropriate staff for training, inadequate government commitment to the project, lack of continuity and availability of senior staff to ensure smooth collaboration, and problems related to the physical location of beneficiary offices.

The Review Team's country visits confirmed that for many IP offices the various enhancements to WIPO products are much more difficult to adapt and require more expertise than initially anticipated. For instance, the Review Team found that the transition from IPAS to IPAS Java has generated confusion and wasted resources in some instances. Staff in some IP offices reported that IPAS was not sufficiently user-friendly and challenges with training and learning among staff meant that the full range of functions of the software was not being enjoyed. Moreover, they noted that by the time they had become familiar with its details, the newer IPAS Java was being deployed. For some offices, staff this demotivated offices from pursuing

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[143] Notably, several countries have worked to develop and tailor their own software systems for IP administration (e.g., the Dominican Republic and Peru), but for reasons ranging from managerial and financial to technical, abandoned these. The Review Team was not able to conduct an assessment of whether or how WIPO had worked to support such national efforts and whether the national systems ultimately have been more or less effective than those proposed by WIPO.

projects and/or led them to return back to manual procedures. Further, some countries instead try to maintain the two systems (manual and automated) simultaneously, which is even more resource-intensive. IP offices also highlighted the difficulties of matching the provision of WIPO equipment with the national government budget and time-frame for supplying complementary equipment and other infrastructure facilities. The Review Team heard from IP office staff interviewed during its country visits that the IPAS system would be enhanced if it were also integrated to encompass other IT services related to their office needs ranging from computer security and human resources management to financial management and communications.

Digitization and Database Projects

In several of the countries visited by the Review Team, digitization projects had advanced considerably, but offices noted that implementation takes considerable time.

A particular issue that arose was the need to have staff not only technically trained to use the software but also to use the various international classification systems. In one country, IP office staff observed that while external consultants are hired by WIPO install the software and train the users, they do so only in broad terms in a short period of time, with inadequate transfer of ownership to the office, particularly in the face of sometimes significant resistance from local staff to the transition. The country visits also showed that the digitization of databases is not useful if the information they contain is not effectively shared with other relevant government offices or agencies. For instance, in the area of trademarks, one country visit highlighted a lack of cooperation between the IP division of the Customs Department and the IP office in analysing suspected counterfeit goods. The case also highlighted that the usefulness of databases also relies on having experts in analysing them (i.e., training for customs officers in falsification and distinctive signs is also needed).

The Review Team notes that WIPO's digitization and database efforts focus considerable attention on industrial property issues. Notably, for some Member States, a greater or equal priority may be to establish national approaches to the creation and/or digitization of databases of traditional knowledge, folklore or genetic resources. The Global Issues Sector, through Program 4 (TK, TCEs and Genetic Resources) provides some assistance to countries on this count. While it provides useful practical activities in this area, these have mostly been concentrated on providing information and documentation of possible practices and approaches (See Part 4.5 on user support systems for a description of these activities). Further, the resources available to it are considerably lower than those for industrial property offices.

PATENTSCOPE and Patent Information Services

PATENTSCOPE was designed to facilitate search of international patents by patent offices to aid in the search and examination process, as well as by inventors and researchers around the world. It currently includes the PCT collections and the national collections of 23 countries, as well as the collections of the EPO and ARIPO. However, PATENTSCOPE has important limitations. The scope of what is included varies. For many national collections, only the bibliographic data and/or abstract are available. For countries where full text is available, not all document images are included. Further, the time period covered by the national collections varies, with some countries providing records for extent periods (e.g., from 1930 to 2010 or from 1965 to 2010), while others provided information only for the last 3 years. In total, the 5 million + patent documents from regional and national collections represents only around 10% of the 60-70 million patent documents worldwide. At present, PATENTSCOPE lacks several of the largest national patent collections, most notably those of the USPTO, the Japanese Patent Office, and the Chinese IP office. WIPO is undertaking significant ongoing efforts to update PATENTSCOPE by negotiating the inclusion of new national collections. New features have also been added such as machine translation tool in PATENTSCOPE to facilitate searches in multiple languages.

Notably, participation in PATENTSCOPE demands considerable investment on the part of member states. Once software has been installed, countries must then scan patent files to put them on the database. In some developing countries, for instance, third parties have been hired to log up the patent information into the patent formats. Further, in some countries, the Review Team found concerns that while developing country IP offices and researchers may derive enhanced abilities to search some international patent databases through PATENTSCOPE, the same facility opens up developing country technological creations to the developed world in the English language in ways that could offer far greater benefits to developed countries (i.e., competitive intelligence to which developed country industry can respond) than to developing country IP offices or researchers, particularly local innovative communities are as yet small and some alternatives for searching developed country collections are available. For this reason, although some countries are digitizing their national patent, trademark and industrial design collections, they have chosen not to share their patent collections with PATENTSCOPE.

The Review team found that beyond WIPO, several major patent offices are also involved in the provision of patent search facilities that are available to developing countries. Notably, while the EPO's EPOCH database is currently available only to EPO IP offices (and is more comprehensive and detailed than PATENTSCOPE), the EPO also provides the esp@cenet® platform, which is available to the public at large, including to developing countries. A draw back with esp@cenet® is that it does not provide the same search facilities as WIPO's system and it is available only in English, French, German and Spanish. It also does not include many developing country patent collections. Notably, a number of specialized commercial patent search facilities have also been developed for specific areas of technology, which provide more detailed search options than PATENTSCOPE for specific areas of invention, although at extremely high prices. Given the multiple concurrent initiatives and the high costs involved in preparing documents for digitization and sharing, the Review Team found that efforts among IP offices and WIPO to coordinate or seek joint collaboration in the development of their distinct patent search services were disappointingly weak. A further option that could be pursued would be for WIPO to intervene on behalf of regional IP offices and/or regional cooperation efforts to negotiate, for instance, cheaper subscriptions to such specialized databases.

Challenges also arise with some of the specialized services supported by WIPO for least developed countries. To address the problems of access to patent information in developing countries (e.g., Subscriptions for access to specialized patent databases can cost as much as US$300 per hour), WIPO has arranged for access at discounted rates to some developing countries (i.e., through the Access to Specialized Patent Information (ASPI) database). Interviews with WIPO staff, however, revealed that the number of developing countries and institutions within developing countries are using the ASPI facility is low and that there has not yet been a systematic effort to learn whether and how the database has been useful, and what the constraints to use are. While, WIPO's access to Research for Development and Innovation (aRDI) program was developed in close cooperation with similar initiatives already established by UN agencies in their respective field of activity to promote free journal access. [144] While important, the Review Team notes that the sustainability of such models is uncertain in the long term (because commercial publishers can arbitrarily withdraw the free access they grant to researchers in developing countries), a risk which warrants greater consideration by WIPO.[145]

PCT-specific Services

In the case of PCT-related assistance, the length of time a country has been a PCT member also influences how quickly various impacts should be expected. Preliminary results from a survey of PCT members by the PCT Treaty System (Program 5) suggest that only a small proportion of countries that undertake PCT cooperative activities have a 'PCT Cooperative Work Program' to guide their activities. A high proportion of PCT members participate in PCT trainings and seminar activities or in its IT related projects. There are also a considerable number of requests to the International Bureau for PCT legal assistance (such as advice on how the implementation of the PCT system affects national practice or on how to respond to questions from PCT applicants). Survey respondents reported a high degree of satisfaction with the PCT cooperative activities overall, and in each of these areas (with the majority of respondents reporting that they were highly or totally satisfied) with WIPO's activities. The satisfaction ratings were slightly lower for WIPO's IT related cooperation than for other activities. A further set of questions were asked specifically on the PCT's IT related services. While the overall satisfaction ratings for these services were high, for several of the services or products (e.g., PCT-ROAD, PCT-COR, PCT-EDI), the majority of countries replied 'not applicable' indicating that they were not aware of or do not use them. Around half of the respondents reported satisfaction with the PCT-SAFE services, and over 90% of respondents indicated that they were satisfied or more than satisfied with PATENTSCOPE (on WIPO's website). Half of countries replied N/A to a question on PATENTSCOPE's XML website services, implying a lower use or awareness of this service.

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[144] The Research4Life program is the collective name for three journal access programs: the Health InterNetwork Access to Research Initiative (HINARI), managed by the WHO and Yale University; Access to Global Online Research in Agriculture (AGORA), managed by the FAO and Cornell University, and the Online Access to Research in the Environment(OARE), managed by UNEP and Yale University. These initiatives are each public–private partnerships between major commercial publishers and United Nations (UN) agencies.
[145] See, for instance, Brown (2007) and Chan, Kirsop and Arunachalam (2011).

Table 4.3.4. Number of Survey Respondents per Possible Rating of Satisfaction with WIPO's patents-related development cooperation activities (where n/a: not applicable[146]; 1: dissatisfied; 7: highly satisfied; d/k: don't know.)

	n/a	Dissatisfied (1-3)	Satisfied (4)	Highly Satisfied (5-7)	d/k
Providing software to improve efficiency of your office (e.g., WIPO's Industrial Property Automation System (IPAS))	10	6	2	8	2
Improving access to effective patent search systems	5	8	2	9	3
Providing access to online patent databases	5	4	5	9	3
Services provided through Patentscope	2	5	4	9	5
Assisting the work of digitizing and making your national patent collections available on-line	8	6	0	10	3
Providing online portals for access to your national patent collections	8	4	2	8	4
Integrating your national patent collections into Patentscope	9	3	1	9	4
Increasing access to Research for Development and Innovation (aRDi) Program (providing free or reduced-fee access to scientific journals)	12	4	2	4	4
Improving coordination between aRDi and other initiatives to enable access to journals	12	4	1	3	6
Improving access to patent and scientific databases that are not free	8	6	2	4	5
Training on the use of WIPO patent software and patent databases	3	7	3	10	3
Upgrading technical infrastructure in the national industrial property office (e.g. information and communication technology (ICT) tools)	5	9	0	4	2
Improving coverage of patent and non-patent technical databases for use by your patent office	5	7	1	5	2
Improving the quality of patents granted by your office	8	4	1	6	1
Harmonizing work practices in your office with other patent offices	8	4	0	6	2
Improving the quality of international search and examination reports (if these are established by your office in its capacity as an International Searching and Preliminary Examining Authority)	15	2	0	2	1
Providing information and communications technology (ICT) support to improve communications and increase access to technical information relevant to the PCT	7	6	1	4	1

Source: Authors' Survey of Beneficiary Countries

Note: For respondents from countries that are PCT members, 15 respondents were PCT Receiving Offices, 13 were PCT designated or elected offices, and 3 were PCT International Searching and Preliminary Examining Authorities.

Orientation

In the period under review, WIPO faced several challenges in tailoring its activities to national needs. First, modernization-related needs are dispersed across several different offices and types of intellectual

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[146] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

property, and they may change over time. In some countries, the administration of the IP system is spread across more than two or three different offices and sometimes up to ten of fifteen government agencies. As an IP Office develops its capacity, and as the IP system becomes a more important part of the economic activity of a country, offices are expected to meet new challenges and provide better and more advanced services to their stakeholders. Many of the modernization services that WIPO provides may take several years to install and implement successfully, requiring a multi-year commitment from governments. In the meantime, technological options as well as the needs and institutional structure of offices may evolve. Second, the level of modernization, functions and needs of countries may vary widely, as do the governance, technical capacity, budget and administrative cultures of IP offices as well as their language of operation. A request from a middle-income developing country will be of a more complex nature than a request from a smaller office or an office from an LDC. A further concern that was expressed to the Review Team during interviews conducted on some country visits was that activities to modernize IP offices is most helpful to those who are already the greatest users of the IP systems, which for the vast majority of developing countries, means foreign companies, universities or research institutes, acquire and maintain their IP rights more efficiently.

On a positive note, the Review Team found that several WIPO modernization services can be used by developing country governments to boost participation in the international IP system and thereby promote greater balance in the IP system (e.g., the Patent Legal Status project and WIPO's Search and Examination Services). On the other hand, the Review Team's survey and country visits revealed that the focus of modernization activities is not necessarily on those areas of particular priority for developing countries. For many IP offices, coordination with IP offices of other developing countries, particularly at the regional level, and the decentralization of some of the IP offices' activities at the national level to reach various districts and sub-regions within their countries, are high priorities. Interviews during country visits revealed dissatisfaction with the level of attention from WIPO to each of these objectives. Survey respondents also rated WIPO's attention to regional and South-South cooperation among IP offices poorly (See Table 4.3.5).

That said, the Review Team found that WIPO does provide considerable assistance to the two regional IP offices in Africa (ARIPO and OAPI). At present, WIPO's assistance to Latin American countries for regional cooperation is undertaken on a case-by-case basis, as there is no medium-term technical assessment of needs and priorities. In 2011, for instance, WIPO responded positively to a request by a group of nine South American countries – Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Suriname and Uruguay – to assist their project PROSUR, a regional cooperation system designed to improve services to local and international users of the IP system, initially through sharing patent examination results and other IP resources.[147] WIPO will assist PROSUR members in this regional integration project by developing the necessary infrastructure, including use of the WIPO CASE platform, training of patent examiners and other IP professionals, as well as supporting ongoing horizontal cooperation efforts (As noted above, the bulk of the financial support for PROSUR has been provided through the Inter-American Development Bank (IDB)). It is not clear whether experience from other IP cooperation platforms, such as the one created by the Vancouver Group (Canada, Australia and United Kingdom)[148] or under development by the IP-5[149] or in the context of the initiatives such as the Patent Prosecution Highway[150] are being taken into consideration in WIPO's approach to supporting regional cooperation efforts.

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[147] See http://www.wipo.int/pressroom/en/articles/2011/article_0006.html.

[148] The Vancouver Group is an initiative between IP Australia, the Canadian Intellectual Property Office and the Intellectual Property Office of the United Kingdom to share information and experiences on common issues and areas relevant to managing a mid-sized national IP office; and contribute to a more effective multilateral approach to work sharing. In 2011, the Vancouver Group and WIPO launched a pilot system to make use of WIPO CASE, WIPO's Centralized Access to Search and Examination system (CASE), which provides a digital library of search and exam reports which can be shared by participating IP offices.

[149] The Five IP Offices (IP5) is a forum of the five largest IP offices in the world: the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the State Intellectual Property Office of the People's Republic of China (SIPO), and the United States Patent and Trademark Office (USPTO). It was established in 2008/9 to improve the efficiency of the examination process for patents worldwide.

[150] The Patent Prosecution Highway (PPH) is a set of initiatives for providing accelerated patent prosecution procedures by sharing information between some patent offices and for enabling each participating patent office to benefit from the work previously done by the other patent office, with the goal of reducing examination workload and improving patent quality. A PCT/Patent Prosecution Highway (PCT/PPH) pilot program was started in 2010 for a planned period of two years. This pilot program enables [fast-track] patent examination procedures for PCT applications that have received a positive written opinion of either the International Searching Authority or the International Preliminary Examining Authority, or an international preliminary examination report from the European Patent Office (EPO), the Japan Patent Office (JPO) or the United States Patent and Trademark Office (USPTO).

In addition, in the area of copyright, WIPO is making significant investments through the WIPOCOS and AFROCOS projects to boosting the modernization of copyright offices and collective management societies, as well as the coordination among offices and societies within regions.

Views on the reform of the PCT system and its usefulness to developing countries shape the discussion of what kind of development cooperation WIPO should pursue in this area. A core current preoccupation for the PCT system is the disconnect between the increasing number of PCT applications, and the inadequate capacity of countries to process these, which in turn has led to high backlogs of applications, with a range of impacts on the quality of patent examinations, which in turn raises risks of low quality patents or invalid patents. There are two concerns related to quality – one relates to the substantive criteria for patentability used and the second concerns the quality of technical procedures used in the examination of patent applications. Discussions within WIPO's PCT Working Group highlight that national patent offices in developed countries feel that they cannot necessarily rely on the quality of international search and examination reports, and that their quality must be improved. In the meantime, however, many developing country offices rely on them significantly. Although no patent office is under any obligation to accept any report by any other national patent office or the validity of an international search and examination report, the reality is that many developing countries lack the legal capacity or staff resources to review and consider such reports (or the applications) in detail. A risk is that the PCT system will be divided among those offices that are international search and examination authorities (ISAs) and those that limit themselves to validating the work of the ISAs. For many developing countries, there is considerable and understandable concern that this scenario will generate the false perception that there is no need for them to build their capacity for conducting substantive examinations of patents or for assessing the consistency of PCT applications with national laws. Many developing countries do not perceive the repetition of search and examination by national authorities when it enters the national phase as 'wasteful duplication' (including where national authorities acted as the International Authority). Rather, they consider it an issue of national sovereignty and responsibility to citizens to ensure that patents granted within their territory properly comply with national law. At present, however, the Review Team found that WIPO provides little assistance to countries to assist with the challenges of assessing the compliance of PCT applications with national laws.

Table 4.3.5 Number of Survey Respondents per Possible Rating of WIPO's Support for Interaction Among IP Offices (n/a: not applicable[151]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Platforms for sharing information and documents between intellectual property offices for more efficient processing of intellectual property applications	7	8	4	4	2
Support for improving information and communications technology (ICT) links to intellectual property offices in other countries (e.g., through WIPOCOS in the area of collective management)	9	6	2	1	7
Support for information and communications technology (ICT) links to international data and research sources on intellectual property	6	11	1	3	4

Source: Authors' Survey of Beneficiary Countries

In regard to modernization of IP administration in the area of enforcement, WIPO has not yet devoted significant resources to this task, which is supported more heavily by a range of bilateral donors and some companies and industry associations from developed countries. WIPO does, however, regularly incorporate into its advice (such as through WIPO-financed IP strategies), seminars and trainings recommendations that countries establish mechanisms for coordination among the various agencies responsible for IP enforcement. There is no systematic effort, however, at WIPO to gather or analyse lessons learned about other 'modernization' projects that might facilitate enforcement efforts. Staff implementing WIPO's Program on Building Respect for IP (Program 17) are, however, exploring activities that would better enable WIPO to serve as the multilateral resource for information on what kinds of enforcement strategies work, the development implications and prospects of success for various kinds of enforcement-related technologies and regulations.

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[151] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

The Review Team found that many IP modernization offices have the need for greater assistance with the project management of software and hardware efforts. Further, it found that many IP offices are interested in advice on the management, governance and institutional design of offices, including on issues such as centralization/decentralization of services within their countries, regional cooperation, the appropriate degree of autonomy of offices, the costs and benefits of single IP offices, etc. The Review Team notes that some advice is provided by the Regional Bureaus and the Infrastructure Modernization Division on such issues.[152] Further, WIPO provides implicit advice and guidance through some of the IP plans and strategies drafted by WIPO consultants. A review of such documents reveals that a common recommendation is for countries to combine their offices into one IP office and to move toward some degree of autonomy for the office. At present, however, such advice occurs in the absence of detailed analysis by the Secretariat of the various costs and benefits of different possible institutional approaches or a structured framework for advice in this area. The Review Team recommends that future activity in this area should be informed by a rigorous effort to learn about the experiences and challenges of other developing and developed countries with different institutional models and approaches to the national governance of their IP systems, with an eye to helping countries elaborate models that would best advance their development objectives and respond to national circumstances.

Management and Efficiency

The Review Team was informed that demands for assistance from IP offices come abruptly and responsiveness is difficult in a short span of time. WIPO staff active in this area indicated that the challenges they faced were less to do with financial resources, but rather difficulties in finding people that can combine the appropriate technical and 'soft' skills to deliver complex projects in developing countries. They observed that it is often easier to send equipment, than to deploy the right staff for the appropriate time needed to obtain results. At present, the Infrastructure Modernization Division, for instance, relies on 6-7 international experts to solve particular problems (some of whom are recruited locally or within regions).

In the meantime, however, WIPO staff react on demand to requests and reported that they feel under pressure to do so, although several recognized that they should work to say no or to seek alternatives. Some staff also cautioned, however, that while the risk of failure is high, there are also risks of not investing in such countries, such as the risk of creating a two-tier system of PCT members.

The Review Team is not able to offer an assessment of the impact or cost-efficiency of WIPO's modernization activities due to inadequate detailed information and reporting on their scale and scope, their costs and the results achieved. For instance, a search of assistance for 'equipment' on the WIPO Technical Assistance Database from 2007 to 2010 yielded a list of only 21 activities from June 2009 to December 2010, all of which were in Africa, whereas it is well known that WIPO provides equipment and related support to IP offices across the world.[153]

With such high organization-wide investments in software and other modernization-related technologies, a thorough review of the efficiency and practices of the organization in this area is warranted. A key question for attention is whether a large inter-governmental organization, facing a range of constraints to flexibility and rapid change, is well-positioned to develop and deploy technology flexibly a dynamic global context, particularly when they face an additional constraint of working with counterparts with significant institutional constraints of their own.

Internal Coordination

The Review Team identified several challenges associated with the coordination of this assistance that likely affect both its impact and cost-effectiveness.

Several WIPO Programs are involved in IP office modernization activities. Program 15 (led by the Infrastructure Modernization Division in the Global Infrastructure Sector), for instance, has as its objective to develop and strengthen national and regional IP institutions of all sizes, through the provision of modernization services, to enable them to participate in the global IP infrastructure and to maximize their

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[152] Notably, the Japan Office conducted a study of best practices in IP offices, featuring case studies of China, Japan, Korea, Singapore and Thailand, conducted by the WIPO Japan Office.
[153] These 21 activities related mostly to ICT equipment supply (Congo, Comoros, Cameroon, Algeria, Angola, Botswana, Burundi, Djioubit, Egypt, Ethiopia, Liberia, Libya, Mali, and Mauritius). This assistance was mostly listed as provided by the Africa Bureau for the benefit of IP offices, with no further information available in the database on its specific purpose, use or impact. In some instances, this equipment was financed through the Japan FIT. In the case of Niger, South Africa, Togo and Zambia, the database specified that the purpose of equipment was for the implementation of the WIPOCOS project. In the case of assistance to Kenya, the purpose was for the provision of a server to the Kenya IP office in the framework of a WIPO-ARIPO-KIPI E-communication project. While no equipment projects outside Africa were listed in the database, there is clear evidence that such projects were indeed undertaken.

benefits from the access and use of its collective resources. As noted above, the activities range from the provision of software systems for administration of IP rights to the setting up of platforms to facilitate exchange of data and information related to IP rights between regional and international groups of offices.

The Global Infrastructure Sector's Global Information Service (Program 14) also delivers development cooperation activities through its Patent Information Section, Innovation and Technology Support Section, and Global Databases Section. The Innovation and Technology Sector is also involved in modernization activities, most notably through the PCT International Cooperation Division (Program 5), which provides PCT-specific technical assistance and general assistance in the area of patents. Infrastructure modernization activities in the Creativity and Cultural Industries Sector are managed independently of these other activities. Further, software Programs and web-based services, such as the WIPO Global Brand Database (created by the Global Infrastructure Sector) and related technical services are provided by the Global Infrastructure Sector's Division on International Classifications and WIPO IP Standards (Program 12) and PGOLD was created by the WIPO Communications Division. Finally, Program 9 is also involved in many additional activities related to improving the administration and organization of IP services within national offices, including the organization of workshops on management experiences, and receiving ideas on how to enhance new products and develop new tools for improving IP business services (patents, trademarks, copyrights, etc).

Among the specialized areas, the Review Team found inadequate attention to the potential for synergies and learning between the many Programs and activities related to the design and deployment of equipment, software and training in countries. PCT specific software is designed, for instance, within the Innovation and Technology Sector, whereas software for other aspects of industrial property administration, copyright, and trademarks are developed elsewhere in the organization. Discussions with WIPO staff affirmed that coordination is done on individual and ad hoc basis, rather than through a clear delineation of roles and responsibilities. In practice, the specialized areas and Bureaus are not fully aware of the activities of the others.

External Coordination

WIPO is not alone in the effort to boost the modernization of developing country IP offices. The EPO, USPTO and Japan Patent Office, among others, are active in the provision of technical and infrastructural support. Beyond assistance from other IP offices, some countries have also successfully harness financial and technical support from regional development banks, such as the Inter-American Development Bank (IDB). In the copyright arena, countries receive support from actors such as CISAC, UNESCO and from national copyright offices and collective management societies in developed countries. The Review Team found, however, that WIPO's collaboration with such external actors was highly variable.

In Latin America, there has been close collaboration with the IADB,[154] which has been supporting the efforts of several countries to modernize their industrial property and copyright offices. There has also been collaboration with the EPO and with the Spanish Patent Office in the implementation of LATIPAT, a Spanish language software to share patent information from Spanish-speaking countries. However, in other areas there has been too little attention to avoiding the potential for confusion, overlap and duplication, particularly given the limited resources of countries.

Some countries also use software for IP administration tools and patent databases developed by other countries, such as Japan, Korea and the EPO. An advantage of WIPO's provision of such infrastructure services is that offices can save the resources that may otherwise be used to create multiple, parallel systems. A challenge, however, is to ensure these are tailored to national needs.

Selected Recommendations on IP Office Modernization

Improve Support for IP Office Modernization and Broaden Attention to Emerging IP Issues

WIPO should continue efforts to improve the effectiveness of its provision of IT equipment, software and training to national offices. To boost effectiveness in this area, WIPO should devise and implement a process and criteria for a detailed impact assessment of its activities for office modernization.

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[154] In Panama, for instance, activities in the Action Plan include: a) a study on institutional and organizational constraints in the management of the IP system, b) advice on organizational structure, functions, and job characteristics of IP offices, and, c) advice on improvements of technical and administrative processes, including manuals and procedures. Other major modernization elements of this work are proposals to create a new single Intellectual Property Authority, activities to strengthen to the work of enforcement agencies in Panama, and the digitization of information at the intellectual property offices.

WIPO should pursue consider strategies for greater differentiation in the kinds of modernization activities and packages it provides for larger, more advanced offices as compared to smaller, start-up offices.

WIPO and its Member States should also explore aspects of modernization, digitization and automation that might be of greater or equal to member states than priorities currently being pursued. In some Member States, for instance, **support for national approaches to the creation and/or digitization of databases of traditional knowledge** may be key priorities.

Boost Attention to the Institutional Aspects of IP Office Modernization

WIPO should **devote greater attention to studying and reporting on the impacts of different approaches to the governance, structure, financing, and scope of IP offices** at both the regional and national levels. o ensure these are tailored to respond to the particular circumstances and priorities of each country. To supplement its work on technical modernization, WIPO should document lessons-learned and commission comparative studies on how different approaches to the institutional framework, governance and management of IP offices. Issues that could be covered include: human resources management; the benefits and challenges associated with building a search/examination IP office (and options such as work-sharing and building capacity on a sub-set of substantive IP issues); different institutional models (e.g., such as the decision to be an autonomous or semi-autonomous IP offices); benefits and trade-offs associated with pursuing a combined national IP office; and considerations relevant to broadening or decentralizing the range of IP office functions).

Increase Support for Regional and South-South Modernization Priorities

WIPO should offer greater **support to modernization activities designed to boost cooperation, facilitate exchanges and information-sharing between developing country IP offices and related government agencies within and among regions**. WIPO should **strengthen support to enable South-South sharing of experiences in regard to office modernization**. WIPO should commission a detailed study of the various options, benefits and challenges with regard to different potential levels of regional cooperation in the area of IP legal frameworks, institutional structures and administration.

Improve Risk Assessment and Management

Greater attention should be paid to up-front assessment of risks and to dialogue with beneficiary countries on the conditions for success of IP office modernization projects and the ongoing follow up and commitment required on the part of beneficiary countries.

WIPO should conduct **a detailed analysis and risk assessment of its activities to design and deploy various software and online services for developing countries**. Key issues for consideration include: synergies/coordination between the various software packages under development; the challenges of delivering cutting-edge products and services in the context of rapid technological changes and of how can WIPO and beneficiary countries could adapt the implementation of activities more swiftly as country needs evolve. The studies should include consideration of whether and which aspects of its activities could better be undertaken in-house, out-sourced, or conducted through regional experts.

A detailed risk assessment is needed to review the comparative advantages and cost-effectiveness of PATENTSCOPE in a context where a number of other public and private patent search services exist. WIPO's Access to Research for Development and Innovation (aRDi) program and its Access to Specialized Patent Information (ASPI) program should also be reviewed to understand reasons for the relatively low rate of use of these services by intended beneficiaries and to address the risks that the business model may not be sustainable (e.g., the changing business environment means that major companies providing content may not be willing to continue the low-cost or free licensing that underpins such services).

Broaden Range of Assistance to National Governments

In some countries, there is a need for diversification of national stakeholders trained to use databases and other outputs of modernization efforts (e.g., several survey respondents highlighted the need for greater training of customs officers in the use of trademark-related databases). In many offices, for instance, greater efforts to simplify procedures or boost training related to using international standards for the classification of IP rights is vital to improving the rate of use of WIPO software.

In the patent area, WIPO should provide **countries greater assistance to review international search and examination reports and/or reports by any other national patent offices, in light of national legislation, particularly in areas of critical importance to national development goals**. It should also explore how better to assist those countries keen to build and focus their expertise on particular areas of public policy concern or where they have particular provisions of their laws that are distinct from those of other countries.

Recommendations from survey respondents included requests for boosting the intensity of training for supervisors in industrial property offices, including through attachments to other offices; assisting interested developing countries to become part of the PATENTSCOPE Document Access Service (DAS); helping countries to reduce the patent backlog; and supporting the translation of patent claims. Some survey respondents also called on WIPO to broaden its outreach activities on the PCT system for the benefit of industry and SMEs. In addition, some survey respondents proposed that WIPO should do more to facilitate the use of the international patent system, such as through the provision of more comprehensive information on effective patent search strategies.

In the copyright area, survey respondents called on WIPO to **boost attention to the modernization of copyright offices and collective management societies**. To this end, WIPO should initiate studies and continue activities that assist countries to review and select appropriate models for the collective management of rights, particularly in light of the changing digital environment.

4.4. Training and Human Capacity-building in Developing Countries

Description

Training activities and resources for developing countries are provided by many of WIPO's Programs. Among these, one Program, the WIPO Academy, is entirely devoted to training. This section of Review assesses first those training initiatives conducted across the various Programs, and then focuses specifically on training provided by the WIPO Academy. The purpose of this section, like those above, is not to provide an in-depth evaluation, but rather to capture the breadth of activities underway and to offer a broad assessment, drawing on specific examples.

This section addresses training and human capacity building activities that include training courses, specialized seminars, educational materials (such as handbooks, course materials, manuals, etc offered by WIPO and in partnership with others, to benefit governments and stakeholders in developing countries. Further aspects of WIPO's training and human capacity building activities are research products (such as case studies) as well as its website to the extent that it is used as a resource and reference tool by actors in developing countries. (The Review Team notes, however, that while many of the materials and publications released by the organization could be classified as training and human capacity building related, some may also better considered as as outreach materials on WIPO and its treaties or on the IP system in general.)

Following is a brief review of WIPO's training activities across the organization and those specifically by the WIPO Academy.

Training across WIPO

Many of WIPO's 29 Programs undertake training activities, whether in the form of on-site, in-country or online courses or training courses, seminars or workshops, as well as individualized training for IP offices (i.e., on the use of WIPO software). In some cases, these are conducted in collaboration with the WIPO Academy, but many are undertaken independently. WIPO's Innovation and Technology Sector, for instance, undertakes a number of training activities. The PCT distance learning course provides an introduction and general overview of the Patent Cooperation Treaty (PCT), an international system for seeking patents on a global scale. The course was developed by WIPO specialists on the PCT using the pedagogical and distance learning methodology of the WIPO Academy. The SME Program also provides training and 'training of trainer' courses and materials. It provides distance learning Programs on IP asset management based on the IP PANORAMA™. Similarly, the Global Issues Sector conducts trainings in the form of workshops and seminars on a range of different issues, ranging from traditional knowledge to enforcement. Training is provided for instance by the staff responsible for traditional knowledge and traditional cultural expressions and folklore. They have a Creative Heritage Cultural Document and Intellectual Property Management Training Program, and a WIPO Regional Training Program on the Protection and Licensing of Traditional Knowledge is under development (in addition to a WIPO Indigenous Intellectual Property Law Fellowship where successful applicants spend nine months at the WIPO headquarters with travel expenses and a monthly stipend contributing to the delivery of core Program outputs).[155]

WIPO also makes available a range of textbooks, course materials and training Materials and Resources. The key textbook issued by WIPO is called *Teaching of Intellectual Property: Principle and Methods*.[156] There is also a text book published for the WIPO Academy's Summer School and an IP Handbook is available on WIPO's website.[157] WIPO also has a dedicated section of its website for IP teachers (http://www.wipo.int/academy/en/teaching/) that includes sample curricula and four case studies. Other training resources include the WIPO Journal (an academic journal with an independent Editorial Board published in collaboration with Thompson Reuters), the WIPO Library and its archives, and WIPO Lex. WIPO Lex is designed to be a one-stop search facility for national laws and treaties on intellectual property (IP) of WIPO, WTO and UN Members. Further, in general WIPO's website, to the extent that it is used as a

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[155] In December 2008, WIPO Member States inaugurated an Indigenous IP Law Fellowship, so as to respond to the "reciprocal needs for stronger capacity in the rapidly growing domain of indigenous IP law and for strengthened capacity on IP law and policy for indigenous lawyers and policy advisors." This program was launched in August 2009. So far, there have been three fellows, one from Tanzania, Australia and the Ukraine. For further information, see http://www.wipo.int/tk/en/training/fellowship/index.html.
[156] Yo Takagi, Larry Allman and Mpazi A. Sinjela (edited by the Academy and published by Cambridge University Press, published in April 2008.
[157] Available at www.wipo.int/export/sites/www/academy/en/courses/summer_school/summer_school_textbook.pdf.

resource and reference tool for governments and user groups in developing countries, can also be considered a vehicle for the organization's development cooperation activities.

The WIPO Academy

The WIPO Academy was founded in March 1998. The Academy offers a wide and growing range of general and specialized courses on IP and its management. Its programs cater to different target audiences - inventors and creators, business managers and IP professionals, policy makers and government officials and administrators of IP institutions, diplomats and representatives, students and teachers of intellectual property and the civil society. To implement this work, the WIPO Academy had 15 staff in the period under Review.

The WIPO Academy's activities are organized in nine areas, each described briefly below:

A. Distance Learning: WIPO offers distance learning courses in Arabic, Chinese, English, French, Portuguese, Russian and Spanish. These courses are delivered primarily via the Academy's website (http://academy.wipo.int). CD-ROM versions of distance learning courses are also available, depending on users' demand and where appropriate, videoconferencing sessions are organized to simulate an academic environment by linking remote sites. Teaching and tutorial services are provided by a core faculty of academics from various universities around the world, with the interaction between students and teachers taking place online or by email. At the end of the Program, students receive a certificate acknowledging completion of the course. The Program offers a general course on IP, as well as a series of specialized courses on selected IP topics. Courses are specifically adapted to allow student-teacher interaction, student tests, course monitoring, and on-line registration and evaluation systems.

B. Professional Development: The WIPO Professional Development Program covers all fields of IP at WIPO headquarters in Geneva, Switzerland. It offers practical training for staff of national or regional industrial property or copyright offices, as well as collective management organizations, relevant Ministries and research and development (R&D) institutions with a mandate that covers IP issues. Candidates are expected to continue their service in the field of intellectual property, or in related institutions, on completion of their training.[158] A certificate of participation is issued to the participants at the end of each training Program. Regular attendance is compulsory throughout the training period. For government officials, applications need to be endorsed by the Director General of the IP Office or a senior official of the relevant Ministry and candidates must state clearly defined training objectives. The selection of candidates is carried out by WIPO. Travel and subsistence expenses are borne by WIPO and/or by the governments or organizations cooperating with WIPO in organizing the training course. Participants receive a daily subsistence allowance adequate to cover the cost of accommodation and meals. I

C. Collaborations with Academic Institutions: The Academy's Academic Institutions Program assists universities throughout the world to design courses on IP and cooperate on IP teaching and training. Institutions offering joint Programs with the WIPO Academy include the University of South Africa, the University of Yaoundé II, Queensland University of Technology, the University of Lund, the University of Turin and Africa University. In brief, these include Masters Degrees and Diploma courses on IP laws. The Programs target audiences ranging from graduate students, young university professionals, teachers of IP to government officials dealing with IPR protection, researchers and the general public. Teaching methods include lectures, case studies, group discussions, in some cases practical training and distance learning. Top students are given the opportunity for hands-on experience through internships at WIPO, certain regional IP offices and national IP Offices or in private companies. The courses are taught by faculty of the partner institutions and staff from WIPO. The Program also seeks to encourage developing countries to increase IP awareness generally by introducing IP more broadly into their education systems. To that end, the Program organizes colloquia and symposia for IP education, training and research in collaboration with universities, regional and national IP offices and international organizations

D. WIPO Summer Schools on IP: The WIPO Summer Schools are designed to provide an opportunity to senior students and young professionals to acquire deeper knowledge of each domain of intellectual property and of the role and functions of WIPO. The Program consists of lectures, case studies, simulation exercises and group discussions on selected IP topics, with an orientation towards the interface between IP and other disciplines. A certificate of participation is awarded to participants who successfully complete the Program requirements. In 2011, for instance, WIPO Summer Schools will be held in Geneva, Croatia, Korea, Russia, the Ukraine, Washington, D.C., Mexico, Brazil, South Africa and Fiji.

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[158] Candidates for the training courses and seminars offered under the Professional Development Program should have completed the Distance Learning Course (DL-101) "General Course on Intellectual Property" and pass the examination.

E. WIPO-University of Geneva Summer School on Intellectual Property: WIPO offers a two-week Summer School on Intellectual Property, jointly with the University of Geneva (UNIGE) which involves one week at WIPO's headquarters in Geneva and one at UNIGE. Fifty students are selected from developing countries and countries in transition and residing in those countries. Pre-selected candidates are required to successfully complete a special session of the Academy's distance learning General Course on Intellectual Property (DL-101). The Program consists of lectures by eminent experts in the field of IP, including WIPO staff. The Program also includes case studies and group discussions on selected IP topics. A certificate of participation is awarded to those who successfully complete all requirements of the Program. The rates for participation are US$150 students and $250 for young professionals. Participants are responsible for their own travel to and from Geneva, accommodation and living expenses during their participation of the Program.[159]

F. Executive Program: The WIPO Executive Program offers general and specialized courses for business managers and senior executives of industry tools for using and valuating intellectual property for competitive advantage. It is also designed for entrepreneurs who are responsible for the development, licensing, and marketing of intellectual property

G. Global Network on Intellectual Property Academies: The Global Network is designed to facilitate international cooperation and exchange of various and actual experience in IP education. A web page has been launched in order to support the work and sharing of resources, including training programs and to provide a forum for exchanging of views and experiences among the members of the network.[160] The Network was a response to the initiatives on the part of some 20 countries to set up national IP Academies or training institutes/centers as national nodal points for IP education at universities and for stakeholders of the IP system, such as innovation-based companies, creative industries and IP. WIPO hosts the Secretariat of the Global Network on Intellectual Property Academies, which also comprises the Global Intellectual Property Academy of the United States Patent and Trademark Office (USPTO) and the International Intellectual Property Training Institute (IIPTI) of the Korean Intellectual Property Office (KIPO).

H. Start-up Academies: In 2009, the CDIP approved a Pilot Project for the Establishment of National IP Academies (Project Code DA_10_01). The objective of this 2-year project is to "test a new model to help developing countries and LDCs to establish an IP training institution with minimum resources to meet their increasing demand from IP specialists, professionals, government officials and other stakeholders." Project activities include: (i) providing advice on the institutional set-up of the Academy, including the preparation of a needs assessment report and a detailed implementation plan, agreed in consultation with beneficiary Member States; (ii) supporting the development of curricula and detailed and tailor made Programs according to the development goals for beneficiary Member States, taking into consideration the importance of ensuring a balance between IP protection and the public interest; (iii) providing beneficiary Member States with the training Programs offered by the WIPO Academy for trainers of national universities and R&D institutions, whenever possible; and (iv) assisting beneficiary Member States in the establishment of an IP Library.

I. WIPO-WTO Colloquium for Teachers of IP: WIPO and the WTO hold an annual two-week colloquium in Geneva for 22 IP teachers from developing countries and countries with economies in transition. The colloquium aims to provide those teaching and researching in intellectual property and closely related disciplines with an update on the activities and instruments of WIPO and the WTO. The organizers cover the travel, accommodation and subsistence costs for participants. An additional five places are available for applicants from developed countries, but they participate at their own expense.

Assessment

The Review Team's analysis of WIPO training and human capacity building draws on country visits, survey results, public questionnaire results, a review of syllabi, participant lists, evaluations of WIPO trainings by participants, and evaluations where these were conducted by Programs involved.[161] The assessment focuses on coordination and strategic questions. A fuller review of the quality, content and impact of training is beyond the scope of this study, but is worthy of its own external evaluation effort.

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[159] Students and young professional from developed countries pay double these rates.
[160] The first symposium for Intellectual Property (IP) Academies was held in 2007 in collaboration with the National Institute for Industrial Property of Brazil. Annual symposia were then held in China (with the State Intellectual Property Office of China (SIPO) and with the assistance of the China Intellectual Property Training Center (CIPTC) in 2008), in Munich with the European Patent Office in 2009, and in Korea with the International Intellectual Property Training Institute (IIPTI) of the Korean Intellectual Property Office (KIPO) in 2010.
[161] The Review Team also benefitted from a 2010 study by deBeer and Oguamanam (2010), commissioned by ICTSD.

Impact

While the WIPO Academy and many training Programs run by other WIPO Programs regularly request participants to complete satisfaction questionnaires, there are no systematic evaluations of the impact, results of individual activities or WIPO's training portfolio collectively on developing country capacity, either at the level of IP institutions, in government more broadly, or among the society at large.[162] Much of the reporting focuses on the total number of participants trained, for instance, than on how trained personnel or stakeholders made a difference to, for instance, the benefits derived from the IP system or the quality of national debate on particular IP-related policy issues.

To date, there has been no country-by-country assessment of the impact of the totality of WIPO's training. This is an important shortcoming, particularly given the number of activities and resources devoted on a country-by-country basis. In the period from 2008 to 2010, for instance, there were 92 regional or national seminars and training courses provided by WIPO in Indonesia. The country visit, however, revealed little institutional memory of the content and beneficiaries of various types of courses and trainings. The fact that the intended beneficiaries of WIPO's training may spread across many different parts of governments or constituencies amplifies the challenge of discerning impact.

Little information was available to the Review Team about the overall geographical distribution of WIPO's training efforts. There is evidence of differences in the accessibility and impact of WIPO's training by region. For instance, the WIPO Academy has not up to present had any joint LLMs in Spanish, and the coverage of WIPO's distance learning programmes in Chinese and Arabic is more limited than for other languages. It would be useful to know what proportion of scholarships/ and fellowships were used by region and the extent to which potential participants without internet connections are excluded from taking advantage of WIPO training opportunities (and the degree to which they take up options to access information on CD-ROMs).

The Review Team found that WIPO's training and capacity building activities benefit a great number of people each year, most notably IP officials in countries, but also stakeholders from a number of government agencies and from the society at large in developing countries (See Table 4.4.1.). (Importantly, WIPO training is not only for the benefit of developing countries. Many of the participants in the PCT distance learning course, for instance, are paralegals in developed countries). Around 45% of survey respondents to the Review Team's survey of beneficiary countries indicated that 25% or more of their staff benefitted from WIPO training (30% of respondents did not answer the question). However, survey respondents reported a lower instance of activities and knowledge of WIPO training for the purpose of expertise in IP management in research institutes, local business, universities, among non-government stakeholders and among the public at large. Where respondents offered a rating of WIPO's assistance for such constituencies, they gave poorer ratings than assistance received for IP offices.

Table 4.4.1. Number of Survey Respondents per Possible Ranking of WIPO Assistance for Building Intellectual Property Expertise and Capacity (n/a: not applicable[163]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Building intellectual property expertise in your national intellectual property offices	4	3	2	14	4
Building intellectual property expertise in your government more widely	6	5	4	5	6
Building expertise in intellectual property management in research institutes, local business, universities, etc.	4	7	2	7	6
Building IP expertise among non-government stakeholders	9	4	1	2	11
Building broad public awareness of intellectual property	3	8	3	9	4

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[162] Evaluations at the end of each professional development course or seminar, are intended to serve as a basis for assessing the value of, as well as to enrich, the various courses and seminars in order to help WIPO improve its courses in the future. Each participant in the WIPO training program is also required to transmit a report on the course or seminar following completion. The participants are invited to submit brief comments on the content, organization and other relevant aspects of the course or seminar, as well as recommendations for improvement.

[163] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

| Developing national technical expertise in patents | 8 | 5 | 2 | 4 | 1 |

Source: Authors' Survey of Beneficiary Countries

Table 4.4.2 indicates which kinds of WIPO training activities were considered most useful, notably regional seminars involving experts from developed and developing countries, issue-specific trainings of experts in country, as well as expert vists/advice from WIPO staff and international experts funded by WIPO.

Table 4.4.2. Number of Survey Respondents per Possible Ranking of Types of WIPO Assistance for Training Assistance (1: very poor; 7: excellent; d/k: don't know.)

	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Issue-specific training of experts in country	1	3	23	1
Expert visits/advice from WIPO staff	1	0	27	0
Expert visits/advice from local experts funded by WIPO	4	2	18	4
Expert visits/advice from international experts funded by WIPO	2	1	23	1
Expert visits/advice from international experts from other developing countries funded by WIPO	2	4	21	1
Study visits to other intellectual property offices in other countries	1	0	25	2
Regional seminars involving experts from both developing and developed countries	1	1	26	0
Regional seminars involving experts or officials from other developing countries	2	1	25	0
Sub-regional seminars involving experts or officials from other developing countries	2	2	22	2
National or regional seminars involving a diversity of stakeholder viewpoints	2	0	23	2
International conferences or seminars on policy issues in Geneva	3	2	18	5
High-level national policy for and dialogues	4	2	15	7
High-level regional policy fora and dialogues	3	2	15	8
High-level policy fora and dialogues at the global level	4	2	15	7

Source: Authors' Survey of Beneficiary Countries

In response to another set of questions posed by the Review Team in the survey of beneficiary countries, the WIPO training activities that had the highest number of good to excellent rankings were WIPO distance learning programmes (18 respondents), WIPO seminars and workshops in the country (18 respondents) or region (15 respondents), and WIPO seminars/conferences in Geneva (16). The rankings were poorest for WIPO's activities to support post-graduate courses on intellectual property in a national university, support for integration of intellectual property issues into national university curricula, and support for nationals of their country to study intellectual property in universities overseas. WIPO's activities related to support for national IP academies were ranked by only 35% of survey respondents (reflecting the fact that only a sub-set of WIPO's Member States are beneficiaries of the relevant CDIP project), over half of which gave them a good to excellent rank of between 5 and 7. Further, the survey respondents rated WIPO Summer Schools in Geneva poorly in terms of their effectiveness in building expertise and capacity on IP and development in their country, with almost 40% ranking them in the poor range (i.e., from 1 to 3 on a scale of 1-7), and 47% of respondents stating that their country had not received such support or don't know. Less than 30% of respondents replied to questions on WIPO Summer Schools on IP in their country, again reflecting the fact that only a subset of Members has thus far received such support.

Of the survey respondents, over 40% indicated that they had not received assistance in the period under review for training to address specific skill-shortages in their IP office (e.g., in necessary technical fields). Where countries had received assistance there was a balance of views on its usefulness ranging from poor to excellent. More than 40% of respondents reported that their governments had not received training for their staff to train local inventors and companies on patent drafting. Training to increase the number of patent examiners in their country was rated less well (with less than 25% of countries rating it as satisfactory or in the good to excellent range) than training to increase the expertise of patent examiners in the field of search and examination (where around 45% of respondents ranked it as satisfactory or in the good to excellent range). However, the number of countries that indicated they had not received assistance in each of these areas was 42% and 35% respectively. There was a fairly even spread of views from poor to excellent in terms of the provision of seminars to increase awareness among users about the PCT

system, and 7 of 12 respondents ranked the efforts to make the PCT more useful to users in countries between 5 and 7 on a scale of 1-7. Views on training for the judiciary on IP issues were spread across the spectrum from poor to excellent.

The survey responses revealed that many beneficiary countries are making efforts to ensure that training is beneficial and that its results are multiplied. Survey respondents were asked to indicate which criteria they most used to determine which of their staff are involved in WIPO training opportunities. The criteria most commonly-cited by survey respondents were the potential to train other staff upon return (cited by 21 respondents), and ability to multiply or echo learning within the office upon return (cited by 20 respondents), followed by experience (cited by 15 respondents) and merit (cited by 14 respondents).[164]

Countries also provided examples of efforts made to ensure retention of staff and multiply the impact of WIPO training in their countries. One country, for instance, requires that the participant spends a minimum of two years with the relevant government agency after training and other countries signed similar kinds of agreements to ensure permanent contracts to those that participate in training. They also prioritize career public servants who enter the public service through a competitive process and have a stable long-term employment position. Other offices organize internal trainings and staff upon the return of trainees from WIPO courses. Another country reported that: "to ensure retention of staff, our office provides promotion scheme and career development for the employees, including selecting some of them to attend WIPO training courses". The respondent further stated that: "[i]n order to multiply the effect of WIPO training, the trainees from the office have to write mission reports after the training, and they will become trainers on future possible occasions." Some countries also reported that they have ongoing professional development and training programs to keep staff motivated and further develop their skills. In addition, some countries reported that they have a high-level of employment stability within their civil service, and especially in the IP office because work conditions are good and because their offices do not rely entirely on pubic budgetary resources, which enables them to maintain a more stable budget. Finally, some countries also reported that they deployed those staff that have benefited from WIPO training to engage in local training initiatives at universities, business, SMES, and schools to multiply the knowledge acquired in favour of these sectors.

The WIPO Academy also makes efforts to ensure results, by for instance, requiring that those attending its courses and benefiting from scholarships and fellowships attend the trainings with a serious attitude. For the professional development courses, for instance, WIPO reserves the right to terminate the fellowship of any participant who fails to meet this requirement. Candidates are expected to continue professional service in the field of IP afterwards. As noted above, some governments conclude specific agreements to ensure this. However, WIPO conducts little follow-up to promote the subsequent practice use of skills learned through its training or their translation into a broader impact or capacity at the national level. The courses delivered by WIPO's substantive Sectors, such as those that focus on staff of IP offices have a higher prospect of subsequent iterative engagement with WIPO staff over time, particularly on specific capacity building projects, which means that training is not conducted in a void. However, in the case of the Academy, the risk is higher that many trainings will be one-off opportunities, whether these are professional development opportunities, distance-learning courses or participation in the Summer Schools. While such trainings may indeed significantly enhance the skills of some staff and translate into improvements in national capacity, there is no Program of ongoing interaction to ensure this.

The challenge of implementing appropriate follow-up to WIPO training, particularly that provided by the WIPO Academy, raises a broader question: Should WIPO be in the business of mass training to a broad range of interest groups and potential beneficiaries or rather focus its attention on building a critical mass of expertise in developing countries? These are different tasks that require different strategies. After all of WIPO's training over the past decade, the question that should be answered is whether there is now a greater mass of critical expertise in developing countries? In the area of the administration of IP systems, for instance, there is little doubt that the number of patent examiners has grown. How significantly has the hitherto small community of developing country experts on national and global IP policy issues and development debates relevant to the future and balance of the IP system grown, and to what extent can any improvements be attributed to WIPO's training efforts? No efforts have yet been made to measure overall progress in this respect.

Orientation

The Review Team found that that there are no systematic processes of review to ensure the development orientation of trainings conducted by WIPO's various Programs or that they are appropriately tailored to national needs. The Review Team did, however, find positive evidence of the WIPO Academy's efforts to

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[164] Other methods countries used to decide upon participation include self-nominated by staff and responses by staff to calls for interest, professional career development opportunities, consideration of prior participation in WIPO trainings, prospects of retraining staff after training, rewards for staff performance, and relevant language skills.

promote a greater balance of the suite of available courses to ensure that these better reflect a range of development priorities and to improve curricula to incorporate development-orientation (and the specific details of the WIPO Development Agenda). In the case of some distance learning Programs, for instance, this has involved extensive review and engagement by tutors and external experts in revising curricula to reflect the WIPO Development Agenda.

One measure of the orientation of WIPO's assistance is the degree to which it addresses the needs of a diversity of national stakeholders. The degree to which respondents to the Review Team's survey judged WIPO training to meet the IP-related needs of different government and non-government stakeholders in their country varied widely. For over half of the range of stakeholders listed, more than half of the survey respondents indicated that they did not know whether WIPO's assistance met their needs. For instance, 16 of more of 26 survey respondents indicated that they could not comment on whether were parliaments, local designers, artists, musicians, performers and writers, ministries of planning and development, competition authorities, science and technology ministries, consumer protection authorities or NGOs benefited from WIPO's training activities. Training activities for Ministries of industry, commerce, trade and the judiciary were given the highest number of good to excellent ratings (i.e., ratings of 5 to 7 on a scale of 1 to 7). A third of survey respondents reported that WIPO courses and seminars do not adequately involve stakeholders (i.e., consumer groups, NGOs, scientific community, research institutes, universities, government offices other than IP offices). Stakeholders whose training needs were reported to have received the weakest attention (i.e., that received a rank of 1 to 3 on a scale of 1 to 7) were customs offices, local manufacturers, local universities, research institutes, NGOs, local manufacturers and SMEs.

The Review Team's survey of beneficiary countries posed several questions regarding the orientation of WIPO's training and capacity building activities. On the content of courses, a high proportion of survey respondents reported that WIPO training gives adequate attention to the importance of a balanced IP system (78%); encourages and facilitates evidence-based debate about IP and development (73%); and reflects a diverse range of viewpoints on IP and public policy issues, including critical perspectives on the benefits and costs of IP protection, and its implications for society at large (80%). Around 60% of respondents agreed that WIPO course curricula and materials were relevant to their country's level of development and its development priorities. Importantly, however, 20% of respondents indicated that they did not know whether WIPO training places adequate emphasis on the flexibilities and options in international IP treaties or whether WIPO training places adequate emphasis on the relationship between IP and development. Further, more than half of respondents either disagreed that WIPO courses and seminars adequately involve IP right-holders and users from their country, or indicated that they did not know. Similarly, around 33% of survey respondents reported that WIPO training does not place adequate emphasis on the relationship between IP and public policy goals. Only half of the respondents agreed that WIPO training was complemented adequately by follow-up activities (e.g., ongoing mentoring of participants).

Management and Efficiency

The Review Team notes that there are definitional uncertainties within WIPO about what constitutes 'training' and human capacity-building that complicated the task of discerning the total amount of activity and related questions about impact and cost-efficiency.

There is no overall budget line or information available on the total number of training activities undertaken by WIPO or their cost. The WIPO Technical Assistance Database does little to illuminate this issue. It includes some eight categories of activities that could be considered relevant to training, each of which generates a separate list of activities (although there is some overlap among them). According to the WIPO database, several hundred training activities were conducted since January 2009, but this list is not necessarily accurate because reporting to the database was not necessarily complete and the list contains some overlap.

Training is the area of WIPO's development cooperation activity where one most finds satisfaction surveys and other forms of evaluation conducted. However, these efforts do not necessarily translate into internal learning and changes in how activities are conducted. On the one hand, the Review Team found that the WIPO Academy makes concerted and successful efforts to use state of the art technologies and pedagogical methodologies to boost the impact of its work. For instance, the distance learning Program has been restructured and modernized to take advantage of the latest technologies, such as Internet-supported virtual classrooms, and is exploring video-conferencing techniques. Survey respondents also reported that WIPO engages top-quality instructors in the provision of its courses and training (88% of respondents).

On the other hand, the Review Team found that there were too few internal processes dedicated to learning from past experiences with training. For instance, a 2009 internal WIPO discussion paper on 'Strengthening Development Cooperation' presented a number of recommendations related to training missions and seminars. But the Review Team found limited knowledge of this discussion paper among

WIPO staff and that no processes were devised internally to discuss and discern how to apply its findings and recommendations across the training activities of WIPO's Programs. The paper argued, for instance that: 1) specific or specialized missions could be better done through video conferencing instead of physical presence because it increases flexibility and reduces it costs, 2) national seminars and workshops should generally be of short duration and combined with consultations and focus groups, 3) case studies and simulation exercises should be used as they are effective tools for interaction and learning, 4) the quality of speaker or experts should be improved, and 5) ex-post rating of experts and trainers must feedback WIPO´s into WIPO's institutional memory files.

In sum, the issue is not whether there is a need for WIPO engagement in training, but rather what areas are of greatest priority for developing countries, what are the best ways to ensure value for money for the resources WIPO spends in this area, and how can WIPO approach training in ways that will maximize the potential for a development orientation to its efforts. The Review Team notes the diverse scope of activities undertaken by the WIPO Academy, raising questions about whether it has a comparative advantage in each of these areas.

Internal Coordination

The Review Team found that there is a weak relationship between WIPO Academy and training activities conducted by other Programs and Sectors. Moreover, the Review Team found no evidence that the Academy's activities in given countries are linked to national needs assessments.

The Review Team notes the need for greater internal consideration of whether the Academy should be 'the' professional training arm of the organization as a whole, conduct its own activities, or do a combination of both. At present, the specialized sectors most often conduct specialized training without collaboration or input from the Academy. At the same time, the WIPO Academy is not well integrated into the mainstream of the organization's work, but rather operates as a relatively independent institution with its own projects and activities for different markets. (There are examples, however, of collaboration: There is, for instance, a PCT distance learning course on the basics on the patent system to which the PCT International Legal Division contributes content and the WIPO Academy helps facilitate participation.) While there may be a case for the WIPO Academy or the Programs to operate some of their own independent or parallel activities, these should certainly not result in duplication and all such activities must be closely linked to the broader expected results and development objectives set out in WIPO's Programs.

External Coordination

To implement its training initiatives, WIPO currently collaborates with a number of universities and IP offices around the world. There are, however, fewer examples of collaboration with other international agencies (e.g., UNCTAD, WHO, UNIDO, UNESCO, UNEP and WTO). Further, there is little systematic collaboration between WIPO, the EPO and the USPTO, which each have their own training academies. In the EPO's case, all of the organization's substantive training is done through their academy. At WIPO, by contrast, the Academy is not the organization-wide vehicle for the delivery of all of WIPO's training, but rather has its own activities. Further, WIPO's choices of which training activities to pursue are not underpinned by an in-depth mapping of other actors in the realm of IP-related training, and a consideration of where WIPO should augment, decentralize or outsource some of its activities, build partnerships with others, or cease its activities.

The Review Team notes that there has been inadequate consideration of the role and strategic niche of WIPO's training, particularly the work of the WIPO Academy, in light of the range of options available for IP-related training worldwide. In a global context where teaching on international IP issues is growing, are there areas in which WIPO should be working (or not), and where is its niche or comparative advantage highest?

An assessment of WIPO's role and niche should include an in-depth mapping of other actors in the realm of IP-related training, and a consideration of where WIPO could augment, decentralize, outsource, partner in order to advance particular training goals, or whether there are some areas where it should exit. There is, for instance, a diversity of top academic Programs at universities, for which WIPO could subsidize developing country participation without having to run its own joint programs.

The Review Team highlights that there are at least three elements that WIPO could uniquely bring to bear: knowledge of international and regional dimensions; expertise on the multilateral context with respect to negotiation and implementation of international treaties and conventions; and experience of the diversity of IP cultures and levels of development within which the IP system operates. It is not clear, however, that the WIPO Academy has made a clear 'development case' for many of its specific activities, except that 'more training is needed'. The notion that 'all training is useful' needs to be supplemented by a more targeted set of objectives at the national level (discussed in more detail below).

The Review Team found no evidence of serious review by the WIPO Secretariat or its Member States of WIPO's niche and comparative advantage in training amidst the range of other international, bilateral, or private training initiatives. Does WIPO need to be an implementing agency or could it rather be facilitating and channeling participation in training provided by others (such as by financing participation) or on building collaborative training programs with other donors? In what ways can WIPO bring to bear what ought to be its particular comparative advantages (knowledge of developing countries, location at the centre of multilateral IP policy debates, and mandate to pursue a development-oriented approach) to the suite of training activities available across the world? As some developing countries advance, their own experience and training efforts expand, they may be those most worthy of support.

For professional, specialized training, such as that for patent offices, WIPO should explore the possibility of a partnership among the key bilateral training institutes of developed and developing countries.

Selected Recommendations on Training and Capacity Building

Strategic Prioritization

WIPO should **devise more strategic and specific goals, priorities, and expected results for its portfolio of training and human resource capacity-building activities**. The focus of training should be transformed from one of training 'more and more' people to building a critical mass of substantive, politically-informed expertise within developing countries on IP and development through more intensive capacity building and mentoring of experts. In terms of reporting and evaluation, WIPO should move beyond reporting on the number of individuals and types of beneficiaries trained to how training was used in practice and its contribution to the achievement of development goals.

Review Development-Orientation of Training

An independent panel of leading academic authorities should review all WIPO training materials and curricula to ascertain and ensure their development-orientation. The Review should include a focus on the quality, design, deliverty and orientation of training by the WIPO Academy and by WIPO Programs, as well as on the overall balance of training activities with an eye to ensuring they reflect the Development Agenda recommendations.[165]

The Review should include an assessment of emerging best practices in development-oriented IP courses at universities around the world. Such best practices include making curricular and course materials transparent, relying on open access learning materials whenever possible, reflecting a diverse range of views on public policy-related issues, and empowering participants and students to think critically and independently.

The Review Team recommends that **IP education should not be pursued in isolation but linked to other areas of education and with broader public policy issues, such as innovation policy, science and technology, education, cultural industries, etc.** WIPO's efforts to support IP-related capacity-building in national academic contexts, such as in national universities, should be evaluated and reoriented in light of this recommendation. In particular, before further expansion, the CDIP Project on National IP Academies should be carefully evaluated with an eye to learning lessons and to ensuring that the approach and type of training activities is consistent with this development-oriented approach to IP training.

WIPO should **increase the availability of development-oriented IP-related educational materials on its website and their translation.** It should build, for instance, an accessible on-line inventory of scholarly literature and teaching materials on IP and development and support public access to new multidisciplinary research publications and curricular materials on these topics. All of WIPO's curricula should be distributed and publically available free of charge to academics around the world, particularly those in developing countries who otherwise have constraints in updating and accessing relevant teaching materials.

There should be systems for ensuring that trainings provided by all and any WIPO Programs are of the highest possible pedagogical quality to maximize impact, are aligned with WIPO Development Agenda Recommendations, and are consistent with development-oriented expected results as set out in the Program and Budget and in country plans.

WIPO's Niche and External Partnerships

There should be an **in-depth and critical external review of the strategic niche of WIPO's training activities, and particularly those of the WIPO Academy, in the context of other training initiatives around the world**. The review should include an examination of the offerings of leading academic institutions on IP, and on related issues of technology, innovation and development. It should explore the potential for such institutions to advise or partner with the Secretariat with an eye to broadening the development-orientation of its training. The review should explore opportunities to reduce overlap with and

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[165] In this regard, the Review Team notes that the IAOD is currently conducting an Audit of the WIPO Academy.

improve collaboration and coordination with other training institutions on specific technical IP issues (e.g., EPO, USPTO academy and with IP offices from developing countries). To complement (or replace) fellowships for participation in courses that WIPO runs or co-organizes, WIPO could explore opportunities to support fellowships for courses run by leading international academic centres.

Improve Internal Coordination on Training

All of WIPO's training activities, whether conducted by the Academy or Program/Sectors, should be more transparent and better coordinated. For instance, there should be stronger synergies and joint planning of **of the professional training activities of the WIPO Academy and the Programs/Sectors,** whether short-term or long-term, for a small target group (such as operators of new software) or a larger community (such as on broad policy issues for government officials at large).

Improve Cost-efficiency

WIPO should seek to enhance cost-efficiency through **greater use of on-line courses, partnerships with regional training centres, video-conferencing tools, training of trainers, and evaluation** of where and how WIPO training is used by various stakeholders and how it makes a practical difference.

4.5. Support Systems for Users of the Intellectual Property System in Developing Countries

Description

WIPO conducts a range of activities intended to improve support systems for users of the IP system in developing countries. The users addressed include universities, research institutes, inventors, trademarks and copyright holders and their respective associations, local entrepreneurs and inventors associations, as well as small and medium-sized enterprises (SMEs). While most of these activities fall within the framework of Strategic Goal III (Facilitating the Use of IP for Development), some fall within the framework of several other WIPO's strategic goals including Strategic Goal IV (Coordination and Development of Global IP Infrastructure), Strategic Goal II (Provision of Premier Global IP Services), and Strategic Goal V (World Reference Source for IP Information and Analysis). Following are brief descriptions of a sample of WIPO activities and tools for users, a number of which have links to or are supported by CDIP projects, follows:

1. IP Information Services. As noted in Part 4.4 above, WIPO provides a number of services to IP offices, that also potentially benefit users of the IP system in developing countries, most notably services to boost access to IP related information, including the aRDi Program (which provides free or low-cost access to scientific and technical journals), ASPI which provides low cost access to specialized patent information) and PATENTSCOPE.[166] Access to these services is available on-line through the WIPO website's Gateway to Patent Services and Activities. WIPO also provides IP-related information services that benefit users (and governments in developing countries) in the protection and enforcement of trademarks, such as WIPO GOLD.[167]

2. PCT-related Support Services for Users. A number of PCT-specific support services for users exist, such as, the PCT Information Service (telephone/fax/email help line), the *PCT Applicant's Guide* (updated weekly), a monthly *PCT Newsletter*, information resources on the PCT website (www.wipo.int/pct/en/), PCT Distance Learning Course in ten languages, and national outreach seminars on the PCT system for stakeholders in developing countries.

3. Technology and Innovation Support Centers (TISCs). TISCS are supported through the CDIP Project on Specialized Databases Access and Support (CDIP/3/INF/2) to help local users in developing countries to access IP-related information and to related innovation support services.

4. Technology Transfer Offices (TTO) and the WIPO University Initiative: WIPO offers support to universities and research institutions to transfer and license new technologies for commercialization, and to establish technology transfer offices for this purpose. The WIPO University Initiative aims to assist interested universities and R&D organizations in establishing IP information services through IP University Coordinators (who provide information and advice on IP matters to students and university academic, research and administrative staff) and in developing and implementing a customized university IP policy.

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[166] The provision of ASPI and aRDi is linked to a CDIP Project on Specialized Databases Access and Support (CDIP/3/INF/2).
[167] Launched in 2010, WIPO GOLD is a free, on-line resource designed to provide quick and easy access to a broad collection of searchable IP data and tools relating to, for example, technology, brands, designs, statistics, WIPO standards, IP classification systems and IP laws and treaties.

Activities include exchange of information on best practices and/or university IP policy statements. The underlying goals are to help create an awareness about the IP system in universities, build capacity within the university to extract and analyze various information contained in IP documents (such as technological information contained in patent document), identify, assess and develop their IP assets, and to take appropriate decisions relating to technology transfer and licensing.[168]

5. Licensing and Patent-related Support: WIPO has developed a number of tools to provide support to users in developing countries on technology licensing, including booklets entitled: 'Successful Technology Licensing' (aimed primarily at businesses, technology managers and scientists who deal with licensing questions in the course of their work); and 'Exchanging Value – Negotiating Technology Licensing Agreements: A Training Manual' (which provides practical guidance on negotiating techniques for licensing contracts, including an outline of a Program schedule for creating and managing teams/groups for conducting mock negotiations during a five-day practical workshop on negotiating technology licenses).[169] WIPO also offers tools, training and workshops on patent drafting, as well as the commercialization and valuation of patents

6. Small and Medium-Sized Enterprises Program: WIPO's SMEs Program (Program 30) works to build awareness among policy makers, SME support institutions (such as chambers of commerce, business support institutions, universities and relevant government departments) and SMEs on the potential role of IP asset management in strengthening SME competetiveness.[170] Its activities include work to understand the IP-related needs of SMEs; encourage national governments to integrate IP asset management into relevant policies and strategies; strengthen the capacity of SME support institutions and other SME stakeholders to deliver IP related information and services to SMEs; create capacity on IP asset management; and help investors and financial institutions to better assess the value of IP assets in making decisions to invest in or provide financial support to SMEs. Assistance is delivered through WIPO's SME website, an SME newsletter, expert missions, organizing of events, distance-learning courses on IP asset management, and development content such as for the IP PANORAMA™ multimedia toolkit for SMEs on using trademarks and distinctive signs; an IP for Business series of publications, and the distribution of information on best practices for providing IP support to SMEs.

7. Support to Collective Management Organizations. WIPO has a number of activities designed to promote and create collective management infrastructures at the national and regional level, and to boost the institutional and operational capacities of collective management organizations (CMOs). Some of this work is being undertaken in the context of the CDIP Project to 'Strengthen the Capacity of National IP Government and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations (CDIP/3/INF/2). Activities underway during the period under review included: the development, design and deployment of WIPOCOS (a WIPO software platform to facilitate the modernization, automation, internal management processes of CMOs and digital networking among them) and AFROCOS (a WIPO software platform tailored for the African context). WIPO also assist countries to make the shift from government-run to independent CMOs. WIPO also provides assistance to countries to understand and respond to the challenges that digital technologies, new business licensing models and forms of content delivery pose to CMOs, including by working to facilitate access to international databases and data distribution networks.

8. Support for Creators and Performers. WIPO has a Division in the Creativity and Cultural Industries Sector devoted specifically to the support of creators and performers.

9. Support for Use of the IP System to Protect Particular Developing Country Products. WIPO provides some support to countries for their efforts to identify opportunities to use the IP system to add value to particular products, including by branding of products or by the use of geographical indications. The CDIP Project on Intellectual Property and Product Branding for Business Development in Developing Countries and LDCs (CDIP/5/5) is, for instance, conducting activities in three pilot countries to identify products that have the potential to be protected with the appropriate type of IP and then devise a marketing strategy based on that.

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[168] http://www.wipo.int/uipc/en/index.html.
[169] The Manual addresses both 'licensing in' or 'licensing out' of technology. It places licensing within the broader context of business strategy and deals with key business and legal issues in a licensing agreement for technologies protected by patent and trade secrets. It provides practical guidance on negotiating techniques for licensing contracts, explains a number of basic rules pertaining to business, legal and financial aspects of the negotiating process, and illustrates the points made with a number of clear and cogent examples.
[170] Note that the SME Program's activities are offered for the benefit of both developed and developing countries.

10. Public Awareness and Outreach about IP rights and IP Enforcement Activities. WIPO supports a range of training and outreach activities at the national level to help government's and right-holders build awareness about the IP system, IP rights and the rights of IP-holders and improve the capacity of countries to enforce IP rights, including through collaboration between governments and stakeholders. This includes the publication of information brochures for the public at large, ranging from primary school students to policymakers on IP issues, as well as documentaries targeting creators and inventors.

11. Indigenous Communities and Holders of Traditional Knowledge. Activities in this area include a number of studies on IP issues relevant to indigenous communities and holders of traditional knowledge, a Creative Heritage Cultural Document and Intellectual Property Management Training Program, and a WIPO Regional Training Program on the Protection and Licensing of Traditional Knowledge.[171]

In addition to CDIP projects described above, a number of further CDIP have components targeted to the benefit of particular user groups, such as the CDIP Project on Capacity Building in the use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges (CDIP/5/6/REV). There are also activities for user groups in the Project to Improve National, Sub-Regional and Regional IP Institutional and User Capacity (CDIP/3/INF/2). In addition, WIPO provides some of its treaty-related services at reduced rates to users from developing countries to facilitate their use of those treaties.

Assessment

The activities described above show that WIPO is responding to the Development Agenda's call for more activity to support actors in developing countries to use IP and the IP system as tools for development.[172] That said, while there are many different types of activities, the overall level of resources devoted to these activities and their scale is relatively low compared to other pillars of development cooperation. This diversity of activities prevented the Review Team from an in-depth analysis of any one area of activity and complicated the task of generalizing about the overall impact or orientation of this pillar of activities.

Impact

In terms of impact, WIPO's activities to support the use and users of the IP system were ranked less favourably by respondents to the Review Team's survey than WIPO's activities in other areas (See Table 4.5.1.). The survey responses highlighted that although most respondents viewed strengthening of the capabilities of and support systems for users of the IP system as a high priority, government agencies remained much higher recipients at the national level than stakeholders such as local inventors, local artists and creators, R&D institutes, universities, and TTOs was smaller than for government agencies in countries. Moreover, the survey responses highlighted a number of activities for which many countries received no support or were not able to comment when asked to rank a range of possible activities for users (see Table 4.5.2). Those respondents that provided a view ranked WIPO's activities as either satisfactory or in the poor range. Only WIPO's activities related to the creation of TISCS and strengthening of private collective management societies received an equal or greater number of ratings in the good to excellent range (See Table 4.5.2). The views of PCT members or acceding members on PCT-related activities to boost the usefulness of the PCT to users in developing countries were more favorable (See Table 4.5.3), although between ¼ and 1/3 of respondents in each case indicated that they did not receive such support or could not assess WIPO's assistance in that area. Notably, respondents indicated that WIPO's assistance to national residents to use the IP system was poorer than the support WIPO's activities gave to foreign applicants to the use the PCT as a filing tool in their country.

Table 4.5.1. Number of Survey Respondents per Possible Ranking of WIPO Support to Aid Users to Make Use of IP for Development (where n/a: not applicable[173]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Promoting understanding and use of intellectual property by SMEs in your country	4	8	4	9	2
Supporting understanding and effective use of IP	8	6	4	6	3

[171] In December 2008, WIPO Member States inaugurated an Indigenous IP Law Fellowship, so as to respond to the "reciprocal needs for stronger capacity in the rapidly growing domain of indigenous IP law and for strengthened capacity on IP law and policy for indigenous lawyers and policy advisors." This program was launched in August 2009. So far, there have been three fellows, one from Tanzania, Australia and the Ukraine. For further information, see http://www.wipo.int/tk/en/training/fellowship/index.html.

[172] The DA recommendations 8, 9, 19, 30, and 31 are all related to these particular objectives.

[173] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

licensing by government and stakeholders in your country					

Table 4.5.2. Number of Survey Respondents per Possible Rankings of Technical Assistance to Government or Non-government actors on Aspects of the Use of the IP system (where n/a: not applicable[174]; 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Developing policies and systems to support the commercialization of national inventions and creations	9	6	1	3	7
Advising on regulations to support international research partnerships	8	7	1	0	10
Advising on regulations to support research-business partnerships	8	5	2	2	9
Advising and training government and stakeholders on licensing of intellectual property	9	6	1	2	8
Advising on regulations to support business-business partnerships.	9	7	0	1	9
Advising on the relationship between IP and standards	9	5	0	1	10
Advising on alternative approaches to licensing technologies and creative works (e.g., non-exclusive licences, creative commons licences, humanitarian licences)	10	8	1	0	8
Advising on incentives for creation and use of intellectual property (regulatory framework to facilitate creation of IP related assets by research institutes, universities and companies)	4	8	1	2	10
Creation of Technology and Innovation Support Centres (TISCS) in your country	7	4	3	4	8
Creation of R&D Centres in your country	10	5	2	0	8
Support for use of the intellectual property system by small and medium-size enterprises (SMEs) (e.g., local creative industries or R&D companies)	3	11	1	4	7
Support to boost the use of the IP system by individual national inventors, creators, artists, etc.	3	8	4	3	8
Creation and capacity-building of technology transfer offices in your country's universities	6	6	0	4	10
Advice on the development of regulations to support the commercialization of research conducted by national universities, research institutes or publicly-funded research	6	6	2	1	10
Support for strengthening private collective management societies	3	4	2	5	12

Source: Authors' Survey of Beneficiary Countries

Table 4.5.3. Number of Survey Respondents per Possible Rankings of Technical Assistance for Users of the PCT System (where n/a: not applicable;[175] 1: very poor; 7: excellent; d/k: don't know.)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Making the PCT more useful to businesses, research institutes and universities in your country	7	4	1	7	1
Increasing the use of the international patent system by national residents	8	3	3	5	1
Increasing patenting activity in your country by foreign applicants through the use of the PCT as a filing tool	6	4	0	8	2
Providing seminars to increase awareness, understanding and use of the system among PCT applicants in your country	5	5	0	9	0

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[174] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).
[175] The 'not applicable' option is provided to allow for cases where no WIPO technical assistance was received on this issue during the period covered by this Review (2008-2010).

Orientation

The Review Team found that the usefulness of WIPO's products and services to support users of the IP system varied depending on the level of development and the sophistication of a countries IP system, and related strategies and plans for science, innovation and technology. In some countries, the challenge is one of building capacity of users, in others the challenge is that there are few users or that constituencies of users do not exist.

The Review Team found inadequate consideration of the full range of users of the IP system that could potentially benefit from WIPO activities to support users. That is, activities focus more on actual and potential holders of IP rights than on consumers, libraries, scientists interested in ensuring balance in how the IP system is designed and used in a country. Across WIPO's portfolio of activities, there are greater resources devoted to the area of patents, than to activities related to the use of copyright mechanisms, industrial designs and trademarks, which for many countries are more likely to boost economic opportunities for local stakeholders. Similarly, the support for users did not address the full range of constraints users may face in using the IP system. Beyond reduced fees for use of international treaties, WIPO activities to address other costs encountered by users, such as use of courts and dispute settlement proceedings, are limited. Further, WIPO does not offer activities designed to help users understand whether and how they can intervene in processes for granting or challenging IP rights (e.g., in pre- or post-grant opposition proceedings).

WIPO's work to improve the availability of IP-related information for users illustrates some of the outstanding challenges to orienting WIPO's assistance in ways that would help address imbalances in the global IP system. At present, for instance, WIPO focuses more attention to facilitating the exchange of information related to patent applications and rights, than creating support systems for documenting, registering, licensing and commercializing traditional knowledge created by indigenous communities. Whereas the former may well be of value to users in some developing countries, for other countries more immediate benefits may emerge from information systems designed to protect their traditional knowledge from misuse, misappropriation, or uncompensated use. While indigenous communities can benefit from a WIPO Voluntary Fund that finances travel to attend IGC, there were no clearly defined WIPO activities in the period under Review to provide advice to countries on practical matters such as how to negotiate a contract with a multinational corporation (that wants to obtain plant extracts for prospective curative purposes) on the sharing of benefits and potential future commercial applications that might arise from the use of national genetic resources. Nor were there specific activities to assist countries to stakeholders to challenge or protect their genetic resources or traditional knowledge from misuse or misappropriation abroad.

The Review Team reviewed a compilation of WIPO documents, publications, brochures and web-site pages relevant to public outreach to promote the IP system, particularly for the benefit of potential users of the IP system and existing right-holders.[176] Many of these materials and tools have not yet been properly updated to reflect the Development Agenda recommendations in terms of promoting greater balance in the global IP system or in terms of placing IP issues in the context of development challenges.[177]

Management and Efficiency

The Review Team found that few of the activities for user groups rely on a systematic prior needs assessment process, either in terms of the needs of a particular category of users across developing countries or in terms of the needs of specific groups within a given country. Instead, many of the activities have arisen through opportunities that arise in the context of CDIP Projects, ad hoc requests from countries (that is, without reference to national strategies, needs assessments or country plans) or opportunities identified by WIPO staff. This is not to say that the projects are not relevant to the needs of user groups, but that there is not a systematic process for discerning their relevance and assessing how the range of activities align with the organization's overall priorities or country priorities. The criteria used in the Program and Budget process for deciding which products and services WIPO will provide to support system for users is unclear. There is no systematic analysis of the role of other institutions and actors in national innovation and IP related systems in developing countries.

A positive example of a more systematic approach is the SME Program's work to understand the IP needs of SMEs by undertaking studies to: (a) identify barriers to their effective use of the IP system, (b) identify gaps in IP services to SMEs, (c) assess the quality/effectiveness of existing awareness creation and capacity building content and services on IP for SMEs, and (d) identify national and institutional good/best

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[176] WIPO (2007) *The WIPO Guide to Intellectual Property Outreach: Is Anybody Listening?* WIPO: Geneva.
[177] See, for instance, WIPO (2007) *The WIPO Guide to Intellectual Property Outreach: Is Anybody Listening?* WIPO: Geneva.

policies and practices on promoting access and use of support and services on IP asset management for SMEs. These studies have yielded evidence of a number of reasons for the ineffective use of IP by SMEs, including inadequate awareness, high costs of using the system, the complexity of the IP system, and the lack of cost-effective, user-friendly and readily accessible IP information, support and advisory/consulting services in simple language as key challenges facing SMEs. To address these challenges of meeting a diverse number of potential beneficiaries in a cost effective manner, the SME Program is working to make effective use of the ICT environment, including multimedia products and video-conferencing; use public-private partnerships to create efficiencies in reaching out to the SMEs; training trainers; and creating national versions based on international versions of business-oriented content/material on IP asset management of WIPO. However, the Review Team notes that WIPO's activities to boost the awareness of IP among SME build on the experiences and lessons learned from developed countries, whereas the conditions and circumstances of SMEs in developing countries may warrant other approaches. The constraints and challenges that SMEs face in many developing countries may be far more to do with the business environment in general than to specific IP issues. The Review Team also noted that the SME Program has not yet taken advantage of the range of opportunities to partner with other international donors and development agencies active on issues related to SMEs and development.

Internal Coordination

As noted above, a number of WIPO Programs are involved in development cooperation activities for the benefit of users of the IP system. Program 12 is dedicated to develop WIPO´s International Classifications and Standards as common tools for use by IP Offices, applicants and the general public to facilitate innovation and knowledge sharing. Program 14 provides supporting services to IP Offices and to the public to enable them to take advantage of the information resources generated by the IP system. Programs 9, 10, 11, and 30 are also involved in activities to support systems for IP users, including SMEs. Further, Program 18 (IP and Global Challenges) includes activities related to public-private partnerships on technology management and technology transfer in its workplan. The Review Team's interviews with WIPO staff affirmed a number of challenges with internal coordination among the various WIPO Programs and the Sectors in the implementation of this work. There is not, for instance, a clear link between the WIPO Academy's training activities and the provision of training to ensure that TISCS are appropriately run and used by relevant users. Staff in various substantive Sectors indicated that they were not always well-informed about the details of what colleagues in the regional Bureaus and the Global Infrastructure Sector for users were implementing in the same country, even where clear complementarities existed.

External Coordination

The Review Team found little strategic reconsideration of WIPO's priorities and niche in relation to other international organizations or potential donors in the area of user support systems. Nor is there evidence of careful mapping of the activities and potential for partnerships (or deference) to other institutions that are potential sources of support for certain user groups and types of activities, such as UNIDO, UNESCO, the International Trade Centre, and the World Bank.

instance, in the area of IP enforcement, it is notable that an number of international organizations and bilateral agencies are involved in assisting developing country governments and user groups, such as the WCO,[178] Interpol, OECD, WHO and other regional and international organizations working in the area of IP. In East Africa, for instance, a 2010 effort to seize products and arrest individuals suspected of involvement in the illegal manufacture, trafficking and sale of counterfeit products, called Operation Mamba III, was coordinated by Interpol,[179] and undertaken under the umbrella of the WHO's International Medical Products Anti-Counterfeiting Taskforce (IMPACT).[180] The Operation involved policy, customs and drug regulatory authorities from national governments across the region, with support from the World Customs Organization (WCO), and laboratories of the Singaporean Health Science Authority.

A challenge in this regard is that countries themselves are not aware of which agencies to turn to and so some requests are misplaced at WIPO. WIPO should, however, be able to advise countries in this respect or work with donors better equipped and experienced in providing such support. For many of the activities WIPO is undertaking, such as support for SMES, the absence of an effective focal point at the national

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[178] In 2007, for instance, WCO issues its 'Provisional Global Customs Standards to Counter Intellectual Property Rights Infringements', see WCO. 2007. Provisional Standards Employed by Customs for Uniform Rights Enforcement (SECURE). June. WCO.
[179] See Interpol. 2010. 'East Africa's Operation Mamba III Bolsters Fight Against Counterfeit Medicines with INTERPOL-IMPACT Support', 26 August, Available at: http://www.interpol.int/Public/ICPO/PressReleases/R2010/PR065.asp.
[180] WHO. 2010. 'Counterfeit Medical Products' , Internatinoal Medical Products Anti-counterfeiting Taskforce Report by the WHO Secretariat, 63rd World Health Assembly. A63/ino.doc/3. Geneva: WHO.

level for interacting with the large number of heterogeneous SME support institutions, creates a communications challenge and a challenge of how best to implement work. Moreover, it raises the question of whether other international organizations or stakeholders have better channels of communication or potential outreach tools for reaching such users.

Regional development banks are also supporting a number of user groups on IP-related issues. Notably the Inter-American Development Bank is active in some countries on projects that include reference to IP instruments to protect and promote commercialization of indigenous traditional products. Similarly, the Asian Development Bank is support some countries to promote IP assets in SMEs.

Selected Recommendations on User Support Systems

Review Development-orientation and Priorities for User Support Systems

The WIPO Member States and Secretariat should **undertake an organization-wide review of WIPO's current activities and future priorities in terms of support for users of the IP system.** As part of this review, WIPO should **undertake a mapping of all of its user-related services.** Through the review, the WIPO Secretariat and its Member States should develop criteria for devising 'user support' priorities for WIPO that would yield greatest benefits for development. These criteria should be used, in conjunction with country needs assessments, IP strategies, and country assistance plans, to filter the selection of activities and projects to be pursued.

Promote Greater Development-Orientation and Balance in the Range of User Activities Supported

WIPO's support for users of the IP system should consider the range of objectives and components of development-oriented approach; it should boost attention to activities that would help reduce costs of participation in the IP system; enlarge benefits for local creative and cultural industries; and reduce the knowledge and technology gap, both in terms of generation and access.

WIPO should ensure **a greater balance between its support for traditional users of the IP system** (i.e., users that are right-holders or potential right-holders) **and for user of IP-protected products and services** (such as researchers searching assistance with licensing inputs for their research, libraries, students, citizens seeking access to technologies, etc).

The mapping mentioned above should consider those user groups or types of IP that warrant greater attention, particularly in light of needs arising from efforts to devise national IP strategies to advance innovation and creativity in ways that support development. Such a mapping may reveal the need for greater attention to practical support for initiatives related to indigenous or traditional knowledge, cultural expressions or folklore, cultural industries, or to industrial designs. It may also point to national 'user' priorities that do not otherwise receive systematic attention from WIPO, such as helping IP offices reach out to user groups that may be located in universities, industries, or research institutes located outside national capitals.

The review should critically consider how better to support the needs of developing country IP-rights holders abroad (e.g. to protect and enforce their IP rights in international markets) and ensuring that the balance of users that benefit from WIPO's activities at the national level are domestic as well as foreign (who remain at present the majority of the users of the IP system in most developing countries).

Mapping of Other Donors and Actors Working to Support User Communities

As part of the aforementioned review, WIPO should **undertake a systematic review of the activities of other relevant actors, potential collaborators and competitors active in supporting stakeholders in developing countries on issues of IP and development, and closely related initiatives**. The mapping should be undertaken with an eye to shedding light on the potential for greater synergies between WIPO activities and those of other donors and interested stakeholders. This may include, for instance, activities related to support systems for creators, artists and performers on the range of potential business, IP and licensing strategies, as well as models for engaging successfully in the entertainment and creative industry markets. It should include a careful review of the SME related activities of international development banks and philanthropic, NGO and academic initiatives to support indigenous communities in the stewardship of their traditional knowledge.

Improve the Management of WIPO's Interaction with a Range of Stakeholders at the National Level

As the range of WIPO's activities to support user groups expands, the mechanisms used by national governments and the WIPO Secretariat to manage and coordinate the planning, implementation and evaluation of such activities need refinement. Where recipients of assistance are not national IP offices, WIPO and its Members will need to consult on appropriate communication mechanisms and ensure that WIPO has appropriate contact information and outreach strategies for reaching stakeholders beyond its traditional focal points. National consultation processes and committees

on IP and development can serve as a useful mechanism for facilitating coordination at the national level, as well as coordination between national stakeholders, national governments and the WIPO Secretariat. Beyond the formalities of deciding upon appropriate processes for communication, success in this area will require WIPO to **invest in improved tools for tracking and maintain its internal databases of a diversity of national contacts,** both at the Program and organizational-level, as well as its electronic and internet-based communication tools for disseminating information and receiving feedback.

Ensure Evaluation before Expansion of Activities and Projects

Even where there is high demand by Member States for WIPO's activities for users, such as for TISCs, the **success of pilot projects already underway should be evaluated** before their expansion. The evaluation could then serve as a basis for applying lessons to any future work in this area; assessing how the TISC activities could be best mainstreamed or integrated with WIPO's other development cooperation activities; and prioritizing the requests of countries in line with national IP strategies, needs assessments and country plans for WIPO assistance.

4.6. Promotion of Innovation, Creativity and Access to Knowledge and Technologies

Description

WIPO supports a number of activities to promote innovation and creativity in developing countries, and also to address the challenges of boosting access to knowledge and technologies. These range from capacity-building and training activities, such as seminars and courses, to research projects and studies.

While activities under this Pillar are less numerous than for the other Pillars described in this Report, they do constitute a growing subset of WIPO development cooperation activities. That said, a number of activities noted in this section here have multiple purposes and have already been discussed under other pillars above. For instance, some of the work on issues related to supporting innovation and research on the public domain also falls within the scope of activities conducted under Pillar 5 and Pillar 2 respectively. A description of a sample of these activities follows.

WIPO's activities to promote innovation and creativity in developing countries range from efforts to boost consideration of innovation in the development of IP strategies to support for innovation support centres (such as TISCS), as well as efforts to boost the access of innovators to specialized databases and patents information. Activities in this area also include WIPO support to universities, scientific institutes, and SMEs to license their technologies, draft patent applications, and to realize greater benefits from public and private investments in R&D. It also offers some support for associations of entrepreneurs that invest in innovation in developing countries, and for the activities of local inventors and creators, and their associations. WIPO also supports or co-sponsors events in developing countries such as technology and inventors' fairs and often has a presence at national, regional or global conferences on innovation. In addition, WIPO conducts a number of outreach and public awareness activities that emphasize the relationship between the IP system and innovation in developing countries, as well as activities to boost the use of the IP system by creative and cultural industries in developing countries.

In terms of access to technology and knowledge, WIPO's development cooperation portfolio includes activities to boost access to and use of IP-related information and databases, research related to the public domain, as well as efforts to serve as an international discussion forum on some topics related to technology transfer. Many of these activities are linked to CDIP projects, several of which are explicitly designed to access to knowledge and technology issues (see Assessment below).

Assessment

The priority that Member States assign to issues related to innovation, creativity, and technology transfer and access to knowledge is high and WIPO staff reported to the Review Team a high level of interest and number of requests for assistance in these areas.

Impact

The rankings given by survey respondents on WIPO's activities related to innovation, creativity, technology transfer and access to knowledge indicate that while demand was high, WIPO's activities in these areas were limited in number in the respondent countries (with many countries reporting that they had not received support for such areas), or that respondents 'did not know' enough about activities that might have been undertaken to make a judgement (See Table 4.6.1.).

Where respondents did offer a view, the majority ranked WIPO's assistance as satisfactory of below (i.e., between 1 and 4 on a scale of 1 to 7). Rankings were particularly low for activities related to promoting technology transfer to the respondent's country, boosting commercialization of national inventions, improving national performance in scientific R&D and innovation, and increasing access to technology.

As noted in Part 4.2 of this Report, respondents also ranked poorly WIPO's assistance to governments in making practical use of flexibilities in international agreements that could enable more affordable access to technologies and knowledge. Rankings were mostly satisfactory or in the poor range in regard to activities for facilitating access to technology in the public domain or advising on collaborative approaches to managing R&D (such as patent pools and open-licensing models), but were slightly more positive for activities related to improving access to technological information among national innovators.

Table 4.6.2 illustrates that the views of WIPO's PCT members on its activities to provide greater access to information were mixed. It shows that over 40% of countries either had not received, or could not comment on the usefulness of, WIPO's assistance in these areas. Of respondents that did reply to the question, WIPO's efforts to facilitate exchange of data information on technologies that have fallen into the public domain were rated particularly poorly, as were its efforts to increase the availability of information on technologies that are freely available without licensing. Views were roughly equally spread across the spectrum on WIPO's efforts with regard to WIPO's provision of information on the national phase of PCT applications in other countries, of the status of PCT applications and granted patents in other countries, and of national patent applications and granted patents in developed countries.

Table 4.6.1. Number of Survey Respondents per Possible Ranking of WIPO Support for Activities Related to Innovation (where n/a: not applicable; 1: very poor; 7: excellent; and d/k: don't know)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Improving national performance in scientific research, development and innovation	9	7	2	4	5
Boosting commercialization of national inventions	10	7	1	3	6
Promoting the transfer of technology to your country	5	9	2	4	7
Increasing access to technology by your citizens	6	11	1	4	6
Improving access to technological information for use by innovators in your country	8	5	1	5	1
Facilitating access to technology in the public domain	10	6	1	2	1
Advising on collaborative approaches to R&D (e.g., patent pools, open-licensing models)	9	6	0	2	8

Source: Authors' Survey of Beneficiary Countries

Table 4.6.2. Number of Survey Respondents per Possible Ranking of PCT-related Assistance related to Access to Information (where n/a: not applicable; 1: very poor; 7: excellent; and d/k: don't know)

	n/a	Poor Range (1-3)	Satisfactory (4)	Good to Excellent (5-7)	d/k
Increasing access to Information on technologies that are freely available without licensing	8	7	3	4	4
Increasing information on the national phase of PCT applications in other countries	5	7	1	7	6
Increasing access to information on status of PCT applications and granted patents in other countries	6	6	3	7	4
Increasing access to information on status of national patent applications and granted patents in developed countries	5	7	2	7	5
Facilitating exchange of data and information on technologies that have fallen into the	9	7	2	4	4

public domain						

Source: Authors' Survey of Beneficiary Countries

Orientation

WIPO's Member States increasingly call upon the Secretariat to make stronger links between the IP system and the broader challenges associated with boosting creativity, innovation and access to technologies and knowledge in developing countries to advance development goals. The orientation of WIPO's work on these issues does not yet fully reflect the Development Agenda Recommendations, although there are important areas of progress.

In terms of creativity and innovation, the focus is predominantly on promoting the ways in which the IP system can help achieve those goals. Only with the CDIP projects, such as the project on Open Collaborative Models, are there activities related to innovative models and options for promoting innovation, beyond and within the IP system. The Review Team found a few examples of WIPO support that included activities related to the commercialization and broader market support for the launch of new innovations or creative products onto the market. For stakeholders in developing countries such as SMEs and indigenous communities, the challenge is often to move from the IP component (such as protecting an indigenous design) to realizing the economic benefit of market commercialization.

In terms of access to and transfer of technologies, WIPO's activities have mostly focused on helping countries license their technologies to others, although there is also work to help countries to negotiate licensing agreements for foreign technologies. As described in Part 4.5, the Review Team found that the focus in on how best to manage IP assets (licenses and collecting), than to use and engage with the IP system to ensure public rights and interests in access to knowledge and technology are properly protected. Further, the Review Team found important gaps in the scope of WIPO's work on technology access and transfer that reflect on their degree of their overall development-orientation. In the area of technology transfer, the challenges are not only related to licensing of knowledge in the form of intellectual property, but also elements such as formal consulting or training agreements, publication strategies and staff confidentiality arrangements. There was, for instance, no work to help countries promote a broader international legal framework that would facilitate easier access to technologies useful for development in general nor at the level of particular classes of technologies (such as medical products and medications) or for sectoral purposes (such as for the agricultural sector). While WIPO has held events on innovation and technology transfer issues relevant to climate change, it has not produced briefings or guidance to its Members on these, or other issue specific challenges. In October 2010, WIPO held a conference on "Innovation and Climate Change: Stimulating Innovation, Accelerating Technology Transfer and Diffusion, and Enabling Global Solutions". By contrast, UNCTAD has prepared detailed proposals for transferring technology and for promoting access to medicines and textbooks for the Uganda government.

In terms of access to knowledge, WIPO's activities were sparse for most of the period under Review, except for the activities related to several CDIP projects. These include a project to develop Tools for Access to Patent Information (CDIP/4/6) and a Study on IP and the Public Domain (CDIP/4/3/REV) (including one study on copyright and one on patents). Additional-relevant CDIP projects are the following: a project on IP, Information and Communications Technologies (ICTs), the Digital Divide and Access to Knowledge (CDIP/4/5/REV.); and a project on Open collaboration and IP-based Models (CDIP/6/6). The Review Team found that these projects are helping to build WIPO's expertise on issues related to access to knowledge and the public domain, but that this focus and knowledge is yet to be well integrated across other activities in the organization. In response to calls by various WIPO Committees, for instance, WIPO has commissioned a number of studies since 2003 on issues related to the use of limitations, exceptions and other flexibilities in international laws relevant to copyright. However, the Review Team found little evidence that these had been integrated into the way in which Programs design their legislative assistance on these issues, support for IP strategies or for national capacity building on copyright issues at the national level.

Management and Efficiency

The Review Team found little evidence of strategic consideration at the Sectoral or Organizational level of WIPO's priorities and niche in areas such as promoting innovation and creativity, and access to knowledge/technologies. Without a strategic organizational framework for discerning what kinds of innovation activities, for instance, will be supported at the national level, the organization risks continuing an ad hoc approach. Moreover, it risks sending incomplete messages to Member States and the public at large about the degree to which strengthened IP policies and laws are vital for advancing progress on the innovation and creativity front. In some countries, for instance, progress in areas such as business registration procedures, contract law, national infrastructure, and access to commercial credit may be more important factors to building such capacity. The completion of WIPO's Project for a 'Framework for

Developing National IP Strategies for Innovation' in the coming two years should help shed light on these issues.

Internal Coordination

For a number of activities related to this Pillar, the Review Team found that neither the roles nor responsibilities of WIPO Programs and Sectors for their implementation were well-defined, and nor were the mechanisms for coordination. Further, the relationship between activities related to new CDIP projects and some that had already been underway in the organization was unclear. For instance, the Review Team found that the integration of the organization's activities related to the creation of TISCS, Technology Transfer Offices, the WIPO University Initiative, and the provision of databases was weak, frustrating the potential for synergies and more efficient use of resources (especially in terms of staff travel and use of local-knowledge). While there is communication among some of the relevant staff, it was focused more on sharing information than on collaborating to implement projects.

External Coordination

The Review Team found no evidence of mapping by the WIPO Secretariat or Member States of the broader landscape of actors involved in the promotion of innovation, creativity, access to technology and knowledge. This includes an absence of systematic, strategic efforts to build institutional partnerships or collaborations with agencies or stakeholders with skills, experience and resources that could be brought to bear on specific areas.

WIPO's Global Issues Sector and other substantive Sectors such as the Technology and Innovation Sector and the Creativity and Cultural Industries Sector are making substantive efforts to follow and engage with some elements of broader global debates on these issues. The Digital Future project of the Creativity and Cultural Industries Sector is a positive example of efforts being made to engage with cutting edge debates on the future of the copyright system and the potential of alternative licensing and other models for supporting creative industries, including by engaging with stakeholders and initiatives, such as the Creative Commons initiative.

Selected Recommendations on Innovation, Access to Knowledge and Technology Transfer

Bolster Activities to Promote Access to Knowledge and Technology Transfer

WIPO's **activities in the area of access to knowledge and technology transfer should be strengthened.** While there are activities underway, particularly through CDIP projects, many of these are at the early stages of implementation, or are yet to begin, and account for only a relatively small proportion of WIPO's overall development cooperation budget. Several of the activities conducted to date are analytical level, and have not yet translated into concrete proposals for activities that would contribute to practical improvements in access to knowledge or technology transfer.

Integration across WIPO's Development Cooperation Activities

The WIPO Secretariat and its Member States should **explore ways to better integrate the promotion of access to knowledge and technology, innovation and creativity across the full range of WIPO's development cooperation activities.** For instance, the WIPO Secretariat should make greater effort to ensure that the research it conducts, such as research requested by various WIPO committees (e.g., on the use of limitations and exceptions, the public domain, and access to knowledge and technologies) is integrated into the other development activities of the organization, such as legislative advice and regulatory assistance, as well as the development of IP strategies and policies.

Progress on this front will require the WIPO Secretariat and officials within Member States to identify and engage appropriate stakeholders on these issues at the national level. Support for inter-ministerial committees and stakeholder consultations in the process of formulating national IP policies and strategies are one way that WIPO and its Member States could facilitate a focus on these issues.

Place the IP Dimension of Innovation and Creativity Promotion in Context

WIPO's activities on innovation and creativity must be informed by broader debates and experience on innovation systems, development strategies and public policy goals, such as access to

knowledge. WIPO's role should be to build understanding of where and how IP-related mechanisms and strategies may or may not assist developing countries to advance progress in these areas and place that analysis and assistance more firmly in the context of the range of other policy measures and institutional actions needed.

Identify WIPO's Strategic Niche and Seek Diversityof Collaborations

The WIPO Secretariat should **undertake a mapping of other inter-governmental initiatives and non-government efforts to promote innovation, creativity, technology transfer and access to knowledge.** The WIPO Secretariat should forge, and help countries forge links, with other relevant international organizations and stakeholders with expertise in these areas. Such a mapping would also help the WIPO Secretariat and its Member States to **identify WIPO's strategic niche and relevant partnerships with a range of external actors** that may have a stronger comparative advantage,

Attention to issues of innovation and creativity take WIPO beyond its traditional expertise on IP and into rapidly evolving areas of business and government practice on issues related to IP, and also into cutting-edge debates on a broad array of public policy issues, from education, science and technology policy to sectoral issues on public health, biotechnology, etc. The risk is that WIPO will be engaged in areas where its experience is weak and its resources spread too thinly to make a difference at the country level.

Part 5: Management and Efficiency

The TOR for this Review called for an assessment of Program and project management related to WIPO development cooperation activities as well as cost-efficiency. As these issues are closely related, both are addressed in this Part of the Review report.

5.1. Management

Asessment of the management of WIPO development cooperation activities demands attention to a number of elements, including, among others: design, planning, decisions about resource allocation and priorities, financial management, delivery, monitoring and evaluation. For assessment of the planning of WIPO development cooperation activities, we also refer readers to Part 3 of this report on Orientation.

The analysis proceeds in five sections. Part 5.1.1 analyses WIPO's management framework for development cooperation activities at the organizational and Program level, including the relationship with the WIPO Development Agenda. Part 5.1.2 reviews the results-based management framework, including performance measures and baselines. Part 5.1.3 reviews management at the project level. Part 5.1.4 analyses the monitoring and evaluation of development cooperation activities. Part 5.1.5 reviews the management of Funds-in-Trust and Part 5.1.6 reviews the management of WIPO human resources and consultants for development cooperation activities. Together, this section address, among other issues, the four sets of questions on Program and project management set out in the TOR for this Review (see Box 5.1).

Box 5.1. Questions on Program and Project Management from Terms of Reference for this Review

- Is the delivery of technical assistance underpinned by a strong development-oriented results-based framework at both the institutional (WIPO) and at country level (e.g. in the national IP and innovation strategies)?

- Are the performance measures in the Program and Budget for 2010/11 adequate to facilitate the measurement of achievement of development results? Have good baselines been established?

- Are projects increasingly implemented using good practice project management tools (planning, design, monitoring and evaluation) as per DA Recommendation 1 and are results frameworks at the project level adequately linked to Organizational Goals and Expected Results?

- Are adequate monitoring and evaluation mechanisms being put in place, both at the organizational and country level, to ensure that: a) information on results achieved is captured; b) information on progress made in the implementation of the 19 DA principles is available; c) lessons learned are generated for the design of future activities; and d) the future assessment of impact of technical assistance is facilitated (DA Recommendation 38)?

5.1.1. Management of Development Cooperation Activities at the Institutional and Program Level

The following discussion assesses the state of play in terms of the management of development cooperation activities at the organizational and Program level. This includes a description and assessment of the relationship between Program planning and the implementation of the WIPO Development Agenda.

Program and Budget

At the institutional level, the process for formulating WIPO's biennial Program and Budget is the key management process that impacts the direction, priorities, content, and resource allocation framework for all WIPO's Programs and activities, including those related to development.

The two WIPO Program and Budgets relevant to this review were those for 2008/09 and 2010/11. In principle, decisions about the allocation of resources among and within Programs are made in light of the overall resources available, WIPO's strategic priorities of the organization (as defined for instance in the

MTSP and Member States' comments on the MTSP as well as the SRP and the WIPO Development Agenda), and the goals set out in the Programs defined for the Program and Budget.

For each the 2008/09 and 2010/11 biennia, the WIPO Secretariat prepared a draft Program and Budget document in consultation with Member States. The proposed activities for each Program were then discussed, modified and prioritized by Senior Management. Input from Member States was sought through a questionnaire through which WIPO invited its Member States, through their Permanent Missions to the United Nations and its Agencies in Geneva, to submit contributions on their priorities.[181] Member States were also consulted bilaterally and through regional groupings. Within the Secretariat, each Program submitted a proposed Program of activities and budget to the Senior Management Team of the Organization.[182] The final proposed budget was presented to the Program and Budget Committee and then to the WIPO Annual Assemblies for approval. After the approval of the Program and Budget, it was then the responsibility of Program Managers within the WIPO Secretariat to devise detailed workplans, achieve and report on their progress toward achieving their expected results and how these in turn contribute to the relevant strategic goals, including those relevant to development cooperation activities and development.

Importantly, WIPO's Program and Budget focuses on planning at the Program level (rather than by Sector). Within WIPO's Programs, the process for preparing their biennial Programs and budgets varies. Upon approval of the Program and Budget, WIPO's senior management requests and reviews both yearly workplans to guide the work of each of the organization's 29 Programs and quarterly management reports of progress. There is, however, no systematic Program-level process or criteria for prioritizing which of the Program's proposed activities are actually implemented in which countries and for what issues. Within each Program, the process for prioritizing the distribution of their allocated budget for activities in their annual work plan also varies.

The Review Team found that decisions within Programs about which specific development cooperation activities are undertaken rely on a combination of factors, including ad hoc requests or lists of needs from member states, responses to questionnaires, consideration of WIPO's strategic goals, specific Program objectives listed in the Program and Budget, and the demands of Development Agenda projects. As noted in Part 2 of this report, there is no transparent process or criteria for which issues, topics, countries or regions should be approved, prioritized or declined within Programs. In addition, activities also sometimes arise from conversations among staff and country officials, the work of WIPO Committees, a continuation of activities executed or started in preceding years, and the desire of Programs to ensure budgets are spent at the end of the year. In some areas, the allocation of resources to continue previous activities may come at the expense of resources for newer, development-oriented activities. The process by which staff decides upon the appropriate allocation of resources between existing activities and those likely to help mainstream or facilitate Development Agenda-related activities is also unclear.

As noted in Part 2 of this Report, the Review Team found that the integration of individual country needs (the bottom-up approach) was complicated by the fact that many countries lack IP and development strategies or plans and there have not been systematic country needs assessments processes that result in clear annual or multi-year plans for WIPO's activities. Some countries have signed formal cooperative agreements with substantive Sectors or divisions of WIPO for specific activities, such as for IP office modernization. For instance, the ASPAC Bureau has worked with countries to devise country plans that cover a suite of activities conducted or for a cluster of activities implemented by a number of Programs, but cases of comprehensive annual or multi-year country plans are rare. In that context, the request-driven approach can undermines strategic planning and management of development cooperation activities to achieved objectives and expected results. The integration of country-level needs into management of both the planning and implementation of WIPO's development cooperation activities is also frustrated by coordination difficulties within the Secretariat (see Part 6 of this Report on Coordination).

Improvements in the Proposed 2012/13 Program and Budget

For the preparation of the proposed 2012/13 Program and Budget, several important steps were taken to improve the transparency of development related activities and budgets, and to address shortcomings in terms of the transparency of the budget for development cooperation activities that were identified in Part 1 of this report. First, all Programs were asked to submit their proposed Program activities linked to expected results, performance indicators, baselines and targets, and their related proposed budget to the Director

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[181] For the 2012/13 biennium around 35 countries submitted input through this channel, which were then consolidated into a combined table by the Secretariat, analysed, and used to inform the prepareation of the Program and Budget.
[182] The Senior Management Team currently includes the Director General and all 4 Deputy Director Generals and the 3 Assistant Director Generals of the Organization.

General. In addition, all Programs were also asked to identify and provide detail on how their activities relate to the implementation of the WIPO Development Agenda. This represents an important improvement on previous Program and Budget documents where the relevant Development Agenda recommendations were simply listed at the end of each Program narrative.[183]

Second, the Secretariat has introduced improvements so that all of the organization's activities – and budget – are presented according to categories of expected results, as is the share of the budget for each expected result that is counted as a development activity (For the 2012/13 biennium, around 40 of the 60 expected results have a development share). The methodology and process for estimating the cost of development cooperation activities, which were highlighted in Part 1 of this report as a significant weakness for the period under Review, have been improved. Compared to earlier years, the proposed 2012/13 Program and Budget better defines what is counted as development expenditure (i.e., development expenditure is defined as where the beneficiary is a developing country *and* the equivalent expenditure is not available for developed countries. It includes expenditures for countries with transition economies, but excludes foregone revenues resulting from fee reductions accorded under international registration systems for applicants from developing countries (p.20)). Moreover, there is an improved process for ensuring some uniformity across the organization in how Programs interpret that definition when they submit their estimates. Using the definition set out above, Program managers were asked to estimate at the 'activity level' (e.g., for each activity listed in their workplans) the proportion of personnel time and non-personnel costs that relate to development activities. The estimates submitted by each Program were reviewed by staff charged with facilitating the preparation of the overall proposed Program and Budget document with an eye to identifying, discussing and reviewing inconsistencies in how different Programs interpreted the definition and to facilitate the comparability of these figures across years.

While the effort to better estimate development-related expenditure on the 'budget' side, no similar improvements have yet been made when it comes to reporting the actual expenditures by Program. The Review Team further notes that while the definition and process for estimating the 'development share' of WIPO's budget represents an important advance, it is not (and does not attempt to serve as) a definition of the development activities of the organization as a whole. Such a definition is certainly needed for the purposes of management of its activities and to improve communication about them with its Member States and stakeholders. Agreement on such a definition will be a major substantive undertaking (see discussion below). In the meantime, for the purposes of the Program and Budget, the effort to establish a minimum definition for at least estimating the share by Program of development-related expenditure is a useful step that should facilitate comparisons across Programs and over time.

Third, for the 2012/13 biennium, the WIPO Secretariat has supplemented the 'object by expenditure' approach to its budgeting with a summary of expenditure by expected results for each Program. This represents a significant improvement on the period under review and should considerably improve the ability of Member States and the Secretariat to identify and monitor development activities, results and the development-related share of WIPO's budget and expenditure.

Fourth, the 2012/13 proposed Program and Budget presents an overall set of expected results at the level of the organization, which combine and streamline those at the Program Level. It also presents the budgets allocated across the entire organization according to those expected results.

Fifth, the 2012/13 proposed budget presents a more integrated budget picture as the amounts allocated from both the Regular Budget and FITs are presented for each Program.

Looking forward, a challenge for the WIPO Secretariat and Member States is to ensure that the expected results now presented more transparently for the organization's activities, including in the development area, are indeed those they intend.

In addition, from a communication standpoint, there is a need to consider how the 40 expected results in the proposed 2012/13 Program and budget that have a development component are captured by, or inform, an improved terminology or categorization of the organization's portfolio of development activities. As noted in Part 1 of this report, the terminology of 'four pillars' used in the TOR for this Review does not fully reflect the objectives and activities underway. Further, WIPO faces a significant 'communication challenge' in that a broad array of its stakeholders, including its Member States, argue that WIPO's development cooperation activities are inadequately transparent. Beyond the Program and Budget process, the WIPO Secretariat needs a clear definition and categorization of its development cooperation

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[183] Strategic Goal III (on the use of IP for development) features in the 2012/13 proposed budget as a cross-cutting as well as a vertical goal.

activities as a way of improving transparency and communication with Member States, stakeholders and donors. One way forward, which would also promote alignment across the organization, would be to devise a core set of categories that reflect a clustering of the 40 expected results with a development share (This effort would also help to clarify whether the expected results listed in the Program and Budget fully reflect the range of WIPO's priorities and objectives in the area of development cooperation). However achieved, the categorization and communication of development cooperation activities illuminates the overall purposes and nature of WIPO development cooperation activities, and related levels of expenditure, and which facilitates comparisons across years.

Management of the Relationship between the WIPO Development Agenda and the Program and Budget

The task of integrating the goals of the Development Agenda into the Program and Budget of WIPO remains a work in progress as the organization pursues an ongoing process of restructuring its Programs, budget and organizational structure to reflect the Development Agenda recommendations.

As reported in the discussion of country planning in Part 2 of this report, the Review Team found that in the period under Review there was not a clear integration of CDIP projects with the needs and priorities of individual developing countries or with the Program and Budget process for prioritizing development cooperation activities.[184] For the preparation of the 2008/09 and 2010/11 biennia, the process for making decisions on the launch and continuation of Development Agenda projects had no direct links to the process for devising the WIPO Program and Budget. During the period under Review, Development Agenda projects and activities have been considered and approved by Member States during the regular sessions of the CDIP (usually held in April/May and November). At the organizational, Program and country-level, Development Agenda projects were integrated into workplans only after their approval by the CDIP. This practice created complications within the Secretariat in regard to decision-making about the allocation of financial resources and staff time. While the Development Agenda Coordination Division is in charge of facilitating the implementation of CDIP projects and reporting on them, it is not responsible for their implementation.[185] The allocation of resources and responsibilities for CDIP projects among multiple Programs, while appropriate from the point of view of ensuring implementation by the most relevant part of the organization, has generated management complexities.

In 2010, the Member States and Secretariat recognized the importance of ensuring that the financing and planning processes for CDIP projects are properly integrated with WIPO's broader Program and Budget processes and that Development Agenda Recommendations are implemented within WIPO's RBM framework.[186] They also wanted to address gaps in the availability of Development Agenda funds due to the time-lag between the sessions of the CDIP and the Program and Budget Committee. The 2010 WIPO General Assemblies approved a proposal in accordance with the WIPO Financial Regulations and Rules[187] for a temporary, transitional solution to funding Development Agenda projects for the year 2011 (whereby the Secretariat identified resources within the 2010/11 Program and Budget for projects approved by the CDIP in November 2010 and April 2011) and to a 'fully integrated solution' as of the 2012/12 biennium.[188] This integrated solution calls for the Secretariat to assist Member States to ensure that all projects and activities, and any subsequent modifications thereof, before their final approval by the CDIP, would be integrated into the regular Program and Budget process and related RBM framework. Specifically, it was agreed to ensure that projects would contain in their description a specific indication of: 1) the Program(s)

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[184] See, for instance, General Report of the Meeting of the Assemblies of the Member States of WIPO, Geneva, September 22 to October 1, 2009, Doc A/47/16, paragraph 275.

[185] Among other activities, the Development Agenda Coordination Division maintains an up-to-date, publicly available overview on the WIPO website on the status of implementation of CDIP projects.

[186] See WIPO (2010) Review of Budgetary Process Applied to Projects Proposed by the Committee on Development and Intellectual Property (CDIP) for the Implementation of the Development Agenda Recommendations, WO/PBC/15/6 Rev. Also see WIPO (2010) Summary of Recommendations Made by the Program and Budget Committee at its Fifteenth Session Held from September 1 to 3, 2010, doc A/48/24.

[187] In this respect, reference is made specifically to Regulation 5.5.

[188] "Resources required for the implementation of DA projects and activities approved by the CDIP in November 2011 (additional to those broadly agreed on in April 2011 session) and April 2012 (including projects broadly agreed upon) would be secured through a revised or supplementary budget for 2012/13, if and as necessary[188]. Resources required for the implementation of DA projects and activities approved by the CDIP in November 2012 (additional to those broadly agreed on in April 2012 session) and those approved by or broadly agreed on by the CDIP in April 2013 would be integrated into the Program and Budget proposal for 2014/15 and/or through revised or supplementary Program and Budget for 2012/13 if and as necessary."

under which they are proposed to be implemented; 2) the expected result(s) to which the projects and activities are envisaged to contribute to and how; 3) the specific resource requirements under each Program(s); and 4) a breakdown of resource requirements per biennium (to enable incorporation into successive Program and Budgets, if necessary). The latter system was applied to already approved projects and for several projects pending decision by the CDIP for the preparation of the proposed budget for the 2012/13 biennium. At present, it remains too early to assess the efficacy of the 'fully integrated solution' mechanism. In line with the General Assemblies' decision, an assessment of the 'fully integrated solution' mechanism will be conducted in 2013.

In short, as of the 2012/13 Program and Budget the integration of CDIP projects and the organizations Program and Budget Process should facilitate a process whereby the planning and budgeting for CDIP projects and activities can gradually be brought in line with the other development cooperation activities of the Organization, while at the same time maintaining the budget flexibility needed to highlight the importance of the Development Agenda. In the proposed 2012/13 Program and Budget, the Program narratives contain specific references to projects endorsed by the CDIP and the envisaged contributions by the CDIP projects to the Program's expected results. Further, a summary table is included in the draft document that presents an overview of all CDIP-related projects and funding per Program. In addition, there is a table that sets out which Programs contribute to the implementation of each of the CDIP projects.

Despite these improvements at the organizational level, the Review Team found that at the country level, there is no clear linkage between the process within Regional Bureaus for prioritizing activities to be undertaken in which countries and the participation of those countries in CDIP projects. For some CDIP projects, there has been tremendous demand from countries to be included as beneficiaries (such as in the case of CDIP projects on IP strategies, national IP academies and TISCs), but the Review Team could not find sufficient evidence to verify or disprove whether these requests were always closely linked to priorities or needs otherwise expressed by countries (in part due to the widespread absence of such comprehensive needs assessments).

5.1.2. Results-based Management

In 2008, an Internal Audit and Oversight Division Report concluded that: "Management information systems have not been developed within WIPO".[189] It noted that "within WIPO there is only one system (AIMS [WIPO's Administrative Information Management System]) that can be used by Program managers to monitor the utilization of non-personnel resources. However, no other monitoring systems have been developed to facilitate the monitoring and evaluation of Programs." The IAOD report further observed that "Although Program implementers have been given the responsibility to monitor and undertake self-evaluations of their Program progress and achievements; they have not been adequately equipped with the required knowledge and management information systems (MIS) to do so. Consequently, the implementation of Programs is not being closely monitored to ensure it is being implemented as planned within the agreed parameters. The lack of a well-designed MIS reduces the accountability and ownership of Program managers over their Programs and does not facilitate managers and stakeholders to carry out effective and informed decision-making on a timely basis."[190]

According to the UN's Joint Inspection Unit, a solid integrated RBM system comprises the process of planning, programming, budgeting, monitoring and evaluation, human resources management and management information systems.[191] The gaps that WIPO is currently working to address in this respect are substantial and the process is likely to take several years.

The WIPO Secretariat was working over the Review period to strengthen its Program and Budget process and its work-planning at the Program level to ensure that all WIPO activities, including its development cooperation activities, are planned and implemented according to WIPO's Results-based management (RBM) framework. As noted in Part 1 of this report, the Results-based management (RBM) framework establishes the following: (i) the Organization's longer term Strategic Goals and Strategic Outcomes; (ii) expected results, performance indicators, baselines and targets and the strategies to achieve these; (iii) the allocation of resources; (iv) activities which contribute to the achievement of results (Workplans); (v) the

[189] WIPO. 2008. Executive Summary. Internal Review on Program Performance Reporting Process, Internal Audit and Oversight Division, Evaluation Section, October 10, 2008, EV/01/2008, Geneva: WIPO.
[190] WIPO. 2008. Executive Summary. Internal Review on Program Performance Reporting Process, Internal Audit and Oversight Division, Evaluation Section, October 10, 2008, EV/01/2008, Geneva: WIPO.
[191] JIU/REP/2004/6: Implementation of results-based management in United Nations Organizations.

mechanism for managing organizational performance (monitoring and evaluation system); and (vi) the tools for reporting on organizational performance (Program Performance Report) (see Figure 5.1.). [192]

The Review Team found that the Secretariat's efforts to implement the RBM framework are a comprehensive undertaking, in which all Programs are engaged. The pursuit by the WIPO Secretariat of a stronger RBM framework represents a significant shift in culture and management practices. The Review Team found that overall the learning process about the importance of results-based management is very much underway, but that the quality of its implementation remains patchy.

At the Program level, an effective RBM framework demands a clear description of objectives, expected results, baselines, benchmarks and indicators. Efforts are for instance, underway, to improve the quality of expected results and performance indicators used so that they focus less on the number of activities undertaken but rather their effectiveness at meeting stated goals and their ultimate impact. The Review Team found that the Secretariat's Program Management and Performance Section has been making significant efforts to facilitate the process for all Programs to define more meaningful results, baselines, benchmarks, and indicators. The Review Team found, however, that there are some Programs where staff prefer to remain with an activity or input/output based approach to reporting (rather than focusing on results). There were also individual cases of resistance to the RBM framework and to the processes of institutional change implied by the SRP more broadly.

During the period under Review, the Review Team found that many WIPO development cooperation activities still lacked sufficiently clear or development-oriented objectives and expected results. The Review Team found that the *quality* of the expected results, performance indicators/measures and baselines used in the 2010/11 Program and Budget represented an improvement on those used in the 2008/09 Program and Budget. Further, the proposed 2012/13 provides considerable further improvements in the definition of expected results, performance indicators and targets. While the definition of targets received less emphasis in the period under Review (i.e., only some Programs had targets for some activities and their quality varied), targets for all activities were introduced for the proposed 2012/13 Program and Budget.

The Review Team observes, however, that generating meaningful qualitative development-oriented expected results, performance measures, indicators and baselines remains a significant challenge for some Programs. The Review Team found that the Secretariat staff responsible for the RBM framework have a strong commitment to ongoing improvement of the measures, which should evolve over time as they are used. However, for some WIPO Programs and staff, the conceptual shift that this demands remains challenging, particularly for those unaccustomed to planning and designing their work within a framework that measures performance against objectives. In some instances, as noted in Part 3 of this report, the methodological challenges and conceptual challenges to establishing and ensuring the appropriate links between objectives and expected results, and working out how best these can be measured is indeed difficult, particularly for long-term processes of change. Similarly, there are important questions about how best to anticipate and attribute causality to WIPO activities, when there may be multiple reasons for improvements that do occur.

Once results-based management tools are defined, there is a further challenge of how to implement them in practice at the activity level and in designing workplans. The effectiveness of such tools also depends on the systematic collection of data used to track and report progress. In practice, there are no processes for gathering, sharing and automating the analysis of such data on a systematic basis by WIPO at the sectoral or Program level. Further, the Review Team's survey of beneficiary countries showed that few countries collect such data at the national level. Table 5.1 shows that most respondents reported that their country did not have (or that they did not whether it had) benchmarks for measuring the outcomes of WIPO development cooperation activities, baselines for measuring the impact of its IP system or of development activities on national development goals. As such, both beneficiaries and WIPO lack sources of data for establishing benchmarks or baselines for measuring the impact of development cooperation activities.

Table 5.1. Number of Survey Respondents per Possible Ranking of Country Practices in Data-gathering Relevant to Evaluation of Development Cooperation Activities

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[192] WIPO (2010) "Budgetary Process applied to Projects Proposed by the Committee on Development and Intellectual Property (CDIP) for the Implementation of the Development Agenda Recommendations", prepared by the Secretariat, Program and Budget Committee, Fifteenth Sesssion, Geneva, September 1 to 3, 2010, WO/PBC/15/6 REV.

	Strongly disagree	Disagree	Agree	Strongly Agree	Don't Know	Total responses
Our government has benchmarks for measuring the outcomes of WIPO development cooperation activities	0	12	8	0	7	27
Our government has baselines for measuring the impact of WIPO development cooperation activities on national development goals	0	11	7	0	9	27
Our government systematically gathers data on the use of our intellectual property system by national and overseas users	0	9	13	0	5	27
Our government systematically gathers data on the impact of our national intellectual property system on national development goals (e.g., in the areas of public health, education)	1	12	5	0	9	27
Our government systematically gathers data on the impact of our intellectual property system on indicators such as innovation levels, R&D activity, commercialization of national patents, licensing of national patents; and the creative industries	1	8	8	0	10	27
Our government systematically gathers data on flows of licensing fees and royalties in and out of our country	0	11	4	1	10	26

Source: Authors' Survey of Beneficiary Countries

Figure 5.1. WIPO Results-based Management Framework

WIPO's Results Based Management (RBM) Framework
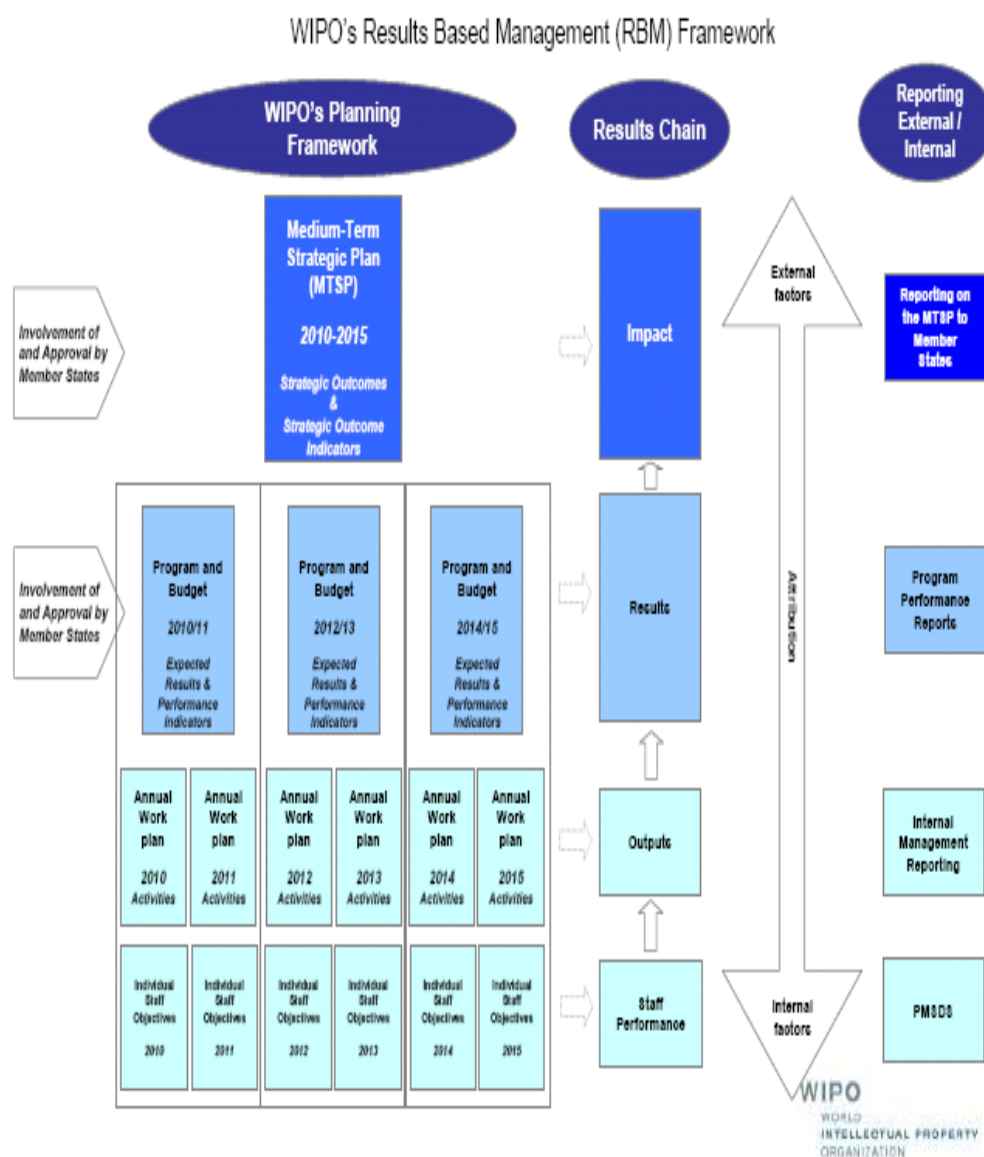
Further, as noted in Part 3 of this report, the Review Team found that the collection by WIPO Member States of data on key indicators that may be useful to assess the relationship between the intellectual property system and development or other indicators is highly variable. There thus remains a significant shortfall of information that can be used to assess whether WIPO development cooperation activities are helping to advance progress in the right direction.

5.1.3. Project Management

The Review Team found that beyond the Development Agenda projects, WIPO does not systematically use a 'project management' methodology for its development cooperation activities nor is there sufficient systematic use of management tools for the planning, design and implementation of development activities. These represent important shortcomings both at the level of process (e.g., the use of project-management 'thinking' in the conceptualization, design and implementation of projects) and at the level of tools (the limited use of electronic information management systems to facilitate the implementation and monitoring of projects). Further, these shortcoming limited the Review Team's ability to provide a detailed response to the question set out in the TOR for the Review (see Box 5.1.) on whether WIPO development cooperation activities projects are increasingly implemented using good practice project management tools (planning,

design, monitoring and evaluation) as per DA Recommendation 1 and whether the results frameworks at the project level are adequately linked to Organizational Goals and Expected Results.

For each CDIP project, the Review Team found that there is a dedicated paper-based template for projects. This template has also been used to report to the CDIP on the progress of projects. There is, however, no integrated, electronic information management system for generating data on the implementation of CDIP projects (or of WIPO's development cooperation activities more generally).

While the project-based approach used in the context of CDIP projects represents an important step in the right direction for WIPO, the templates and their use warrant further improvement. A key improvement that must be made is the standardization of budgetary information included in CDIP project documents. To date, there has been variation among the CDIP project documents on the degree to which the stated personnel costs include only those project-related personnel costs additional to personnel costs of WIPO staff time devoted to the projects. The Review Team also noted confusion among WIPO staff about the status and prospects for ongoing support for CDIP projects. WIPO's IAOD 2011 Internal Audit Report on Cooperation for Development Activities observes that several CDIP projects are listed as completed although activities continue or are incomplete.[193] Further, the Review Team found that whereas some staff assumed projects would end after a pilot phase, others were proposing subsequent phases or looking ahead toward a mainstreaming phase. The issue warrants clarification. The Review Team's view is that all projects should have a clear beginning and end, and should be properly independently evaluated upon completion, before further expansion of activities or beneficiary countries particularly in the case of pilot projects. A decision should then be made on a case-by-case basis as to whether these should continue (after integrating any lessons learned), be discontinued, or mainstreamed and how this should be done. This should include consideration of the most appropriate location for the projects or activities within the organization, including whether some should be clustered as Programs in their own right. Some could be pilots that failed.

Notably, the Review Team found that many Development Agenda projects are not being implemented in line with their original approved schedules. The delays stem in part from unrealistic expectations at the outset. The Review Team's discussions with WIPO staff revealed challenges of inadequate staff numbers or expertise, delays in identifying and hiring relevant experts (including due to the availability of experts), and delays on the beneficiary side in terms of preparedness. Time-lags in the availability of resources for some Development Agenda projects also impacted the timing of implementation as did challenges arising from the fact that CDIP projects were not integrated into the Organization's planning processes, its Program and Budget, or its RBM framework as noted above.[194] Some staff reported insufficient resource allocations for the envisaged projects, but the Review Team was not able to verify that this perception was indeed accurate.

WIPO does use project management software for large institutional projects (e.g., it uses the software system PRINCE for WIPO construction projects), but there is not yet any organization-wide information or project management system. For financial administration of development cooperation activities, the organization uses the Administrative Information Management System (AIMS) system. This system is used by staff to make requisitions for expenditures related to the implementation of their work (including for instance for travel, equipment and hiring of consultants). For travel requests, there is also an e-travel authorization system, where requests for travel are authorized by relevant managers. The approval system then also requires approval of expenditure for the same travel.

While the implementation of the Enterprise Resource Planning (ERP) system (in the context of WIPO's Strategic Realignment Program) should improve this situation, it will not be fully operational for several years. Meanwhile, improvements could be achieved by at minimum devising project documents to aid the management of many of WIPO's development cooperation activities. Already, the project document templates currently being used for CDIP projects could be adapted to this purpose. This would still be a 'paper based system' rather than an electronic one, but it would again be a step in the right direction. All such project documents should properly indicate how specific activities and projects are linked to specific expected results approved in the context of the Program and Budget.

Notably, any progress on the project management of development cooperation activities will also rely on cooperation from Member States in providing relevant and timely information on the status of projects.

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[193] WIPO (2011), Executive Summary, Draft IAOD Internal Audit Report: Review of Cooperation for Development Activities, WIPO: Geneva.
[194] See, for instance, General Report of the Meeting of the Assemblies of the Member States of WIPO, Geneva, September 22 to October 1, 2009, Doc A/47/16, paragraph 275.

5.1.4. Monitoring and Evaluation

From a management perspective, WIPO's development cooperation activities have suffered important weaknesses in the area of monitoring and evaluation. These weaknesses impact in turn on transparency of its activities and confidence in its work.

The Review Team's country visits and consultations with Member States conducted for this Review confirm frustration on the part of WIPO Members about the lack of clarity and transparency regarding the level of resources available to their countries and how the total budget is allocated within regions.[195] While some countries have requested breakdowns of the resources allocated among and within the different geographical regions, WIPO's budget reporting system, unlike those of other international organizations and UN agencies, does not make such disaggregated information easily available. Some government officials complained of learning that budgets have been exhausted without any detailed reporting of how money was spent, even in their own countries, or the actual results achieved. As noted in Part 3 of this report, for much of the period under Review, the Review Team found that where indicators or results of WIPO development cooperation activities were provided by the Secretariat to Member States (or by Programs to Senior Management), they have too often been in the form of quantitative lists (i.e., referring to the number of trainings, visits, missions, meetings, participants, etc), without corresponding budget information nor information on their ultimate contribution of such activities to particular development objectives or outcomes.

The Review Team found that the evaluation framework for development cooperation activities is inadequate. At the organizational level, substantive monitoring and evaluation of the orientation and impact of WIPO's development cooperation activities has rarely taken place either by WIPO Member States or the Secretariat.[196] As noted in a report by the UN's Joint Inspection Unit: "few Program evaluations have been undertaken; only one of these involved technical cooperation".[197]

In principle, each of WIPO's 29 Programs monitors the results of their activities and projects, which are then incorporated on an annual basis into the Program Performance Report (PPR), a process facilitated by the WIPO's Program Management and Performance Section (in WIPO's Administration and Management Sector). As WIPO's budget operates on a biennial basis, the interim PPRs after one year are less comprehensive than the larger biennial report. The PPRs also draw on financial information from the Office of Controller (Budget office).

The Review Team found that the Program Performance Report for the 2008/09 biennium presented far more meaningful analysis than those produced for earlier biennia, such as the 2006/07 Program Performance Report. (The mid-biennium 2010 Program Performance Report was not available at the time of this Review).[198] In 2006/07 for instance, the reporting for each goal consisted merely of two sections: a) summary of total inputs and total expected results, with an emphasis on quantifying how personnel and non-personnel costs were used…; and b) a summary of challenges and results, where a list of key achievements were highlighted, and a list of results that were only partially achieved or where implementation experienced major slippage. The 2008/09 report offered considerably more detail in terms of results-based reporting, but the quality of baselines, expected results and performance indicators was far below those being devised for the forthcoming 2012/13 biennium.

While the Secretariat's Program Management and Performance Section seeks to ensure clarity of information reported and conducts some verification of the kinds of indicators and results reported in the PPR, it does not re-evaluate the claims submitted by the Programs. There is, however, an internal validation report of the Program Performance Report conducted by WIPO's Internal Audit and Oversight Division (IAOD). The focus of the IAOD validation report is to ensure that the organization has the data to substantiate claims made in the PPR but not to evaluate the organization's work as such. In sum, the PPR remains an annual reporting exercise. While it could and should be used as a tool for managing for results and contributing to the implementation of the RBM framework, it had not been used for this purpose in the period under Review. To strengthen future PPRs in this respect, the guidelines/instructions to WIPO staff

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[195] ICTSD (2005a).
[196] Notably, in its 2002 report, the Commission on Intellectual Property Rights (CIPR) established by the UK Department for International Development, noted the absence of systematic evaluations of IP-related development cooperation activities in general, and stated that "[d]onors should strengthen systems for the monitoring and evaluation of their IP-related development Programs…[and that]...a working group of donors and developing countries should …commission and oversee a sector wide impact review of IP-related TA…" See CIPR (2002: 162).
[197] UN Joint Inspection Unit (2005).
[198] The 2006/07 Program Performance Reports were divided into two parts: individual program performance reports for 2006/07 in document WO/PBC/13/3(b) and a Summary program performance report for 2006/07 in document WO/PBC/13/13(a), which were presented to the Thirteenth Session of the Program and Budget Committee in Geneva on December 10-11 2008.

for the preparation of the PPR could be improved to ensure that beyond the existing performance indicators, staff should also address isseus of sustainability, relevance, and orientation. Staff should also be encouraged on an annual basis to critically appraise the indicators and targets used for measurement. If the quality of these tools is weak, then the quality and relevance of the self-evaluation will also be weak.

In addition to the PPR, other monitoring and reporting instruments used within the Secretariat include an annual Financial Management Report (which is available to the public) and 'Quarterly Management Reports.' (The Quarterly Management Reports are internal documents that are submitted to the WIPO Director General by the heads of each Sector and that aggregate information on the contribution of each Sector to WIPO's various Programs).

WIPO's Internal Audit and Oversight Division is also charged with conducting internal audit, investigation and evaluation of WIPO's work.[199] While independent internal evaluation is a function of the IAOD, it has not conducted any evaluations in the past three years. The IAOD has, however, conducted an audit on travel in 2009 (which raises issues relevant to development cooperation activities), and of development cooperation activities (which was issued in early 2011). In 2010, country evaluations were foreseen but have not emerged. A draft framework for country assessment was developed by IAOD in early 2011, and a call for external consultants to conduct a pilot country evaluation (of Kenya) was issued in May 2011.

Meanwhile, beyond the CDIP projects (which will each be evaluated upon completion), there is no ongoing systemised process for internal or external evaluation of any of WIPO's Programs or activities. Beyond the PPR, the processes and tools used for internal monitoring and evaluation – and their frequency - vary widely by Program and Sector, making it difficult to aggregate any information up to the organizational level. The Review Team also found that reporting tools used for monitoring within the Secretariat are memo-based rather than automated tools. Moreover, the management processes to ensure that tools, such as mission reports, are used systematically for follow up by staff or managers are unclear.

In the evaluation profession, it is common to measure results at one or more of four levels: satisfaction; skills acquired; learning and use of skills; and eventual impact (these are referred to as the Kirkpatrick evaluation levels).[200] Where internal evaluations occur at WIPO, the quality of the information they gather and analyse is generally focused only on the first of these levels (satisfaction) and is thus weak.

To gather evaluation information, the main tools used by Secretariat staff are surveys or participant feedback questionnaires that focus on satisfaction. This is particularly the case for trainings and events. As noted in Part 4.4 of this report, the WIPO Academy also regularly collects participant satisfaction surveys of its individual training activities. In early 2011, PCT Service questionnaire was distributed to PCT members regarding its activities, the responses to which are currently undergoing analysis by the relevant staff. The PCT Service Questionnaire covered PCT International Cooperation, PCT Legal Activities, PCT Meeting Organization, the PCT Operational Service and PCT IT tools for the processing of PCT international applications. This exercise was primarily a survey of satisfaction with services delivered. Countries were asked to rate that satisfaction in each area, to specify causes of dissatisfaction and areas of highest priority for improvement. No specific questions were asked about impact or challenges nor were there more details questions on technical assistance regarding the experience/expertise of staff, timeliness of implementation, and the quality of follow up, although such questions were asked in sections of the questionnaire that relate to the processing of PCT international applications. The SMEs Division also conducted surveys to review its work in the period under Review. The Infrastructure Modernization Division reported to the Review Team that its evaluation efforts include keeping records of all information to be used for reporting and for generating statistics, as well as tracking information relevant to the key indicators devised for measuring their accomplishments against their expected results. The Division reports that if and when they find projects are not advancing as expected, they identify the problems or risks that are affecting the success of their projects through on-site evaluations and consultation with the focal points identified in the beneficiary IP offices. The threats are discussed in internal Division meetings at WIPO's HQ, and we then inform the offices of the shared roles and responsibilities that should be assumed to move forward in the right direction.

To date, the Review Team found that only the Creativity and Cultural Sector is self-evaluating its development cooperation activities in ways that go to the second level on the Kirkpatrick evaluation scale.

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[199] In 2007, WIPO established an Evaluation Policy for the IAOD, which was subsequently revised in 2010 and includes plans for the IAOD to conduct independent evaluation at the country level. See the WIPO Evaluation Policy (2007) and (2010).
[200] See Kirkpatrick (1994). The four levels of Kirkpatrick's training evaluation model measure: (i) the reaction of student - what they thought and felt about the training; (ii) learning - the resulting increase in knowledge or capability; (iii) behavior - extent of behavior and capability improvement and implementation/application; and (iv) results - the effects on the business or environment resulting from the trainee's performance .

In early 2011, there was also an 'internal independent' review of the Japan FIT projects, at the request of the Japanese government, which also gathered information on the second level of the Kirkpatrick scale. The review was conducted by WIPO staff, but not those directly associated with the implementation of the project. As elaborated in Part 5.1.5 below, the planning, monitoring, financial reporting and review of FIT activities are, in each case, established by the respective FIT Agreements with donors.

From time to time, there are also ad hoc external reviews of WIPO's activities conducted independently by outside parties of WIPO's activities (i.e., not in response to any specific request by WIPO Member States). The scope and depth of such studies vary, as does the degree of input and attention they receive from the Secretariat and Member States.[201] While these could serve as important alternative accountability mechanisms, the fact that they are not specifically requested by the Secretariat or WIPO Member States means that they may escape the attention of relevant decision-makers or be easily ignored.

Unfortunately, the Review Team found that one of the key mechanisms devised by the CDIP to boost the transparency and monitoring of WIPO's development cooperation – that is, the creation of a WIPO Technical Assistance Database - has fallen short of the original aspirations. Ideally, the database would make transparent the range of WIPO's development cooperation activities, as well as their objectives, expected results, timeframe, actual results, evaluations, costs, and linkages to other WIPO activities. This transparency would facilitate internal and external review and learning, and also potentially reduce duplication by other IP-related donors. It would also provide as an institutional memory of activities conducted. However, the realization of these objectives has been constrained by the wording and interpretation by the Secretariat of CDIP Recommendation 5, which calls for the display of 'general information on all technical assistance activities' on WIPO's website, and on request from Member States, the provision of 'details of specific activities, with the consent of Member State(s) and other recipients concerned, for which the activity was implemented'. This Recommendation should be revised in way that instructs the Secretariat to broaden the purpose of the Database and the scope of information provided.

However, the Technical Assistance Database currently contains only basic information about the title, location, responsible Sector and timing of the activities. In addition, while the database enables a search of activities by country, it generally only includes activities from 2009,[202] lists many activities more than once, and many activities that have been undertaken by the WIPO Secretariat are not listed. Further, the categories used to classify activities are not consistent with categories used elsewhere in WIPO. Many of the categories are unclear or overlapping which complicates searching. For instance, under the category of meetings, there are ten possible search categories, which are not clearly defined.[203] A further example is that under the category 'course', one can search course, training or workshops, but the category 'Mission' also includes the possibility of searching training. While the Database enables the possibility to upload all relevant documents (e.g., conference programs, presentations, slides, CVs of speakers, evaluations, etc) in any format (Word, PDF, powerpoint, etc), few WIPO Programs have provided such information. One explanation for poor updating is that internal procedures for the population of the database are weak and not properly implemented. For the Development Sector, the Technical Assistance Databases Projects (TADP) Team manually captures data related to activities undertaken by the Development Sector – but in the absence of an adequate electronic information management system has to do so manually. Other WIPO Sectors have their own focal points responsible for uploading information about their activities – but action on this front has been patchy and slow.

In short, the establishment of WIPO's Technical Assistance Database has not addressed the need to facilitate easier access to detailed information about development cooperation activities by country, region, expected result, and type of activity, with associated information about resource allocation, time-frames, results and evaluation. Moreover, as currently constructed, there is a risk of creating of a parallel process for reporting on a sub-set of WIPO's activities risks over-burdening the organization with reporting requirements that do not feed into broader mechanisms for Member State oversight.

Finally, as noted in Part 5.1.2 above, it is important to note that beyond the WIPO Secretariat, few governments systematically gather the range of information relevant to measuring the outcomes of WIPO's development cooperation activities or their impact on national development goals (Also see Part 3 of this Report). The Review Team included a number of questions about monitoring and evaluation of WIPO development cooperation activities in its survey of beneficiary countries. Regarding the monitoring and evaluation of WIPO´s TA there were mixed views and perceptions from survey respondents. Of 27 countries, only 52 % agreed that their government evaluates the WIPO development cooperation activities

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[201] See deBeer and Oguamanam (2010) and Deere Birkbeck and Marchant (2011).
[202] According to Secreteariat staff, there was a decision to provide information from January 2009. This decision is unsatisfactory, however, as it constrains the prospect for multi-year assessments of progress over time. Notably, for activities before 2009, one of the few consolidated information sources is a CDIP document (in non-searchable PDF format).
[203] The possible search terms are Colloquium, Conferences, Convention, Forum, Meeting, Presentation, Roundtable, Seminar, Session and Symposium.

received, while 50% disagreed or said that they did not know. While 56% of respondents perceived that WIPO regularly evaluates the effectiveness of its technical assistance to their countries, almost half of respondents (46%) either disagreed or indicated that they did not know. Of 28 respondents, 54% disagreed that WIPO shares the results of its evaluations with their office or did not know whether these were shared, while 45% agreed. Less than half (44%) of respondents agreed that their government evaluates the contribution of WIPO development cooperation activities to their country's national development goals, while 56% either disagreed or indicated they did not know.

In sum, WIPO's framework for monitoring and evaluation remains a work in need of much more progress. A first prerequisite for improvement will be the implementation of the ERP system, which is underway, but will not be completed for several years. While the ERP system will automate the generation of data, it will rely on the effectiveness of processes for identifying, gathering and reporting data in the system on a routine and accurate basis. Much can be done by the Secretariat to boster such processes while waiting for the ERP system to come on-line. Second, ongoing efforts to strengthen WIPO's RBM Framework will also be necessary, particularly in terms of refining expected results and indicators, and ensuring processes for tracking development expenditure, as described above. Third, efforts to integrate CDIP projects with the broader organization-wide budget, planning and RBM processes should facilitate future monitoring and evaluation. In particular, there are efforts underway to devise an evaluation framework for the implementation of the Development Agenda and its projects, as well as for the mainstreaming of Development Agenda recommendations across the organization's work, including but beyond development cooperation activities.[204] Fourth, the IAOD's efforts to launch its first country-level evaluations of WIPO's development cooperation activities should be advanced.

The question of where WIPO's Member States could best engage in improved monitoring and evaluation of development cooperation activities through WIPO's Committee structures warrants in-depth discussion among Member States and the Secretariat. The Program and Budget Committee (which also reviews of Program Performance Reports) is an obvious venue. The Audit Committee will be provided the opportunity to review the IAOD's planned country evaluations, which will also be submitted to the Program and Budget Committee for comment. A further question for consideration is whether and how the CDIP and specific committees, such as the PCT Working Group (which requested its own assessment of WIPO assistance in the patents area), should play a role. A core organizational consideration here is whether WIPO's development cooperation activities should be monitored and evaluated separately to the organization's other activities through parallel reporting mechanisms or whether existing mechanisms should be strengthened. For instance, if the Program Performance Reports do not provide sufficient information to enable monitoring and evaluation of development cooperation activities, should the organization devote resources to boosting how those reports are presented and their content or are separate reports required? Arguably if Development Agenda recommendations are properly integrated into the Program and Budget process and mainstreamed throughout the organization, this should be reflected in subsequent Program and Performance Reports. That said, it may be that particular Committees require more detailed information on the orientation and impacts of development cooperation activities by Program or by expected result.

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[204] The CDIP also proposed that an independent review of the implementation of the Development Agenda Recommendations be undertaken at the end of the 2012/13 biennium. It also recommended strengthening of existing mechanisms within WIPO to more effectively support the review and evaluation of the implementation of the Development Agenda, such as the Internal Oversight Function as well as the modalities for implementation of WIPO's Evaluation Policy and its Program Performance Reports. The CDIP also agreed in 2010 on a set of proposals for Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities regarding the progress of the Development Agenda. The CDIP recommended that the first substantive item on the CDIP agenda should be to monitor, assess, discuss and report on the implementation of all recommendations adopted, and the relevant coordination with WIPO bodies. Further proposals on this topic were: a) to allow for an extension of duration of CDIP sessions where needed; b) to require all WIPO bodies to include a a description of their contribution to the implementation of the respective Development Agenda Recommendations in their reports to the WIPO General Assembly (which would then be discussed by the CDIP, which in turn could request further information or clarification; c) to require the CDIP to include a review of the implementation of the Development Agenda Recommendations in its report to the General Assembly; and d) to instruct the relevant WIPO bodies to identify the ways in which the Development Agenda Recommendations are being mainstreamed in their work, and urge them to implement the Recommendations accordingly. In addition, the CDIP recommended that the General Assembly urges the Director General to facilitate the coordination, assessment, and reporting of all the activities and programs undertaken by the Secretariat with respect to the Development Agenda, and to provide regular updates, through written submissions or oral briefings, on the progress of the implementation of the Development Agenda Recommendations to the CDIP, the General Assembly and relevant WIPO bodies. The CDIP emphasized that updates should focus on the work undertaken by other relevant WIPO bodies concerning implementation of the Development Agenda Recommendations

5.1.5. Management of Funds-in-Trust (FITs)

The management of extra-budgetary resources for WIPO's development cooperation activities is an important issue for consideration by WIPO's management and its Member States, as is the question of accountability for the use of such resources and their links to the organization's strategic goals, the Development Agenda, and WIPO's RBM framework. At present, most of WIPO's extra-budgetary resources come in the form of Funds-in-Trust (FITs).

As noted in Part 1 of this Report, FITs are voluntary extra-budgetary contributions by some Member States to WIPO to support certain development cooperation activities as specified in Memorandums of Understanding between the donor country and WIPO. Both WIPO's income from FITs and the number of FITS have grown over time. For the 2010/11 biennium, the total resources provided by FITS that were potentially available for programming were estimated at approximately 15 million (This is an estimate from the WIPO Secretariat based on preious funding patterns). As noted in Part 1, for some WIPO Sectors and Programs, the provision of resources through FITs significantly increases their budget. For instance, whereas the Development Sector's LDC Division regular budget is 900,000 CHF for the 2010/11 biennium, a cost-sharing cooperation agreement with the Swedish International Development Agenda (SIDA) provided the Division a further 1 million CHF for the same period.

In the period under Review, the transparency of development cooperation activities conducted with FITS resources was weak. Many of the FITs were established through individual dialogues between WIPO staff and and donors, some of which emerged from contacts initiated by the donors. The terms of cooperation for FITS are devised on a bilateral basis between the donor and WIPO. That is, there is no opportunity for input from the broader membership and neither the Memoranda of Understanding that lay the formal foundations for FITs, nor the associated workplans which set out in detail the activities for which funds are to be provided, are publicly available documents. The FITs are then managed and administered as independent funds held for the purpose of activities agreed upon by the respective donor. During the period under Review, the only information available to Member States was Annex V of the 2010/11 Program and Budget provides a list of WIPO FIT donors, the balance of account as at end 2009, anticipated income 2010/11 and amount available for Programming in the biennium. In addition, the financial details of all funds are published in the WIPO Financial Management Reports (FMR) for each biennium. An information document was also provided to CDIP 2, which provided general information on the purpose of each FIT.

The management of the existing WIPO FITs is de-centralized through the organization and varies on a case-by-case basis. The financial management, reporting and accounting for all funds are subject to WIPO Financial Regulations and Rules which include provision for both internal and external audit. In addition, individual donors may request specific financial accounting and reporting arrangements in the respective MOUs establishing the FIT agreements. The consultation mechanisms for each FIT, which establish the arrangements for planning, monitoring, financial reporting and review of FIT activities, are, in each case, established by the respective FIT Agreements with donors. The Korean and Japan FITs, for instance, have annual meetings with WIPO staff to monitor activities, which include some estimation or assessment of the project's impact. Further, in early 2011, there was a more formal evaluation of the impact of the Japan FIT's activities in Thailand and Vietnam, conducted in collaboration with WIPO's PMPS unit. Due to the differing requirements for monitoring and evaluation from each of the donors, these activities can vary greatly by FIT and can impose a considerable administrative burden on WIPO. A FIT Manager or focal point within the relevant WIPO geographical bureau or substantive sector supported by the FIT liaises with the respective donor to plan and coordinate the activities to be undertaken. The role of the FIT manager also includes all reporting, monitoring and evaluation of activities to the donor according to those Agreements. Some FITs provide a Junior Professional from their country for these activities or allow for a portion of expenditures to go towards staffing the administration of the FIT activities within the WIPO Secretariat headquarters (as is the case with FIT Republic of Korea (ROK)) or in one of its external offices and FIT Japan (e.g., Japan supports a JPO in the WIPO external office in Tokyo).

At present, there are five types of WIPO FITs. First, there are FITs dedicated to capacity building in the donor country, where funds are managed by their own bureaucracies (FIT Brazil, for instance, began in this framework). Second, there are FITs for development cooperation activities in a particular region, managed by the relevant regional Bureau (For instance, the Brazilian FIT is now also used for cooperative activities within the Latin American region, the Spain FIT is managed by the Latin America and Caribbean Bureau and the ASPAC Bureau manages one of the Japanese FITs). Third, there are FITs managed by a particular WIPO Sector or Program. In such cases, the focal point and management of the FIT could be located in the Culture and Creative Industries, Brands and Designs, or Innovation and Technology Sectors. Fourth, there is also a category of FIT that covers multiple regions (Such as the FIT Republic of Korea (ROK). Fifth, there are also country-specific FITs. For instance, the European Union has co-financed three

WIPO-implemented trade related technical assistance (TRTA) projects for Bangladesh, Pakistan and Sri Lanka through FITs.

Unlike the extra-budgetary fund management structures of many other international organisations and UN agencies (e.g. WTO's Doha Development Agenda Global Trust Fund, the Enhanced Integrated Framework for LDCs or ITC's Global Trust Fund); generally the WIPO FITs are single donor funds. The WIPO Voluntary Fund for Accredited Indigenous and Local Communities is WIPO's the first multi-donor fund. The fund, however, is relatively small-scale and has a very specific purpose and activity, unlike other FITs, to provide financial support for the participation of nominated representatives of accredited indigenous and local communities, to IGC sessions and meetings of the inter-sessional Working Groups (IWGs).[205]

Typical activities differ by each FIT, but in general, activities include seminars and workshops, training courses, fellowship Programs, and research. Some FITs require activities to be carried out in specific geographical areas (e.g. FIT Japan/Africa requires activities to be carried out only in Africa) whilst others demand activities to be carried out regardless of their location but based on need. Currently, there are no major FITs specifically catering for the Arab region or for transition economies in Eastern Europe.

In principle, FITS represent an important vehicle through which bilateral resources for development cooperation activities in the area of IP could be channelled toward multilaterally-defined priorities such as those defined through the WIPO Program and Budget. The advantage of this approach is that it reduces the potential for bilateral resources to be used in ways that reflect narrow national interests, which although they might be of some interest to beneficiaries might not reflect their highest priorities.

However, in the period under review, the Review Team were a number of challenges in terms of the transparency and accountability of FIT activities and their relationship to the organization's strategic goals and the Development Agenda recommendations. In principle, the activities undertaken with donor funds through FITs have to be in line with the policies, aims and activities of WIPO (and therefore contribute directly to the achievement of the expected results set out in the WIPO Program and Budget), the Review Team found that responsibility for this synergy was left to FIT managers when negotiating the activities or work plan to be implemented. During the period under Review, there was no systematic effort to incorporate the expected results and indicators of FIT-related activities into WIPO's overall Program and Budget, or to link FIT activities to country-based IP strategies, needs assessments or plans (which generally did not exist), or to the organization's RBM and evaluation framework.

Although in general, WIPO documentation (e.g., proposals for events, letters of invitiation, etc) states where a given activity is FIT-financed, the Review Team observed during country visits that there was sometimes confusion among national officials about whether the source of financing for particular sub-activities was the WIPO Regular Budget or WIPO-FIT collaboration. In some countries, countries also reeived additional funds from a FIT donor country through bilateral means or through a separate national agency (such as the country's national development agency). For the proposed 2012/13 Program and Budget, the resources available to each Program through FITS are presented alongside the regular Budget proposals for the first time, which considerably improves transparency.

In the Review Team's survey of beneficiary countries, respondents were asked a number of questions about FITs. Notably, for the seven questions asked, between 33% and 70% of respondents responded 'don't know', highlighting limited knowledge on the part of Member States about the nature and extent of WIPO's FITs. Further, survey responses on many of the questions were often ambiguous overall (in that the range of responses spread across the spectrum) and sometimes contradicted evidence gathered elsewhere by the Review Team. Less than half of the total survey respondents indicated that their country received WIPO technical assistance that is financed through a WIPO FIT (14 respondents skipped the question, and 12 said they did not receive FIT-financed activities). Six respondents agreed that FIT-financed development cooperation activities reflected the priorities of FIT donors, while four disagreed (the eight other respondents to the question said they did not know. Only six respondents responded to a question about whether FIT donors have too much influence over the activities they fund. Notably, five respondents agreed that donors had too much influence and one disagreed. The majority of respondents that provided a view agreed that FIT-financed development cooperation activities were tailored to their country's development needs. Respondents were equally split in their views on whether WIPO development cooperation activities financed through its regular budget were more oriented to their development needs than FIT-financed projects. Of eleven countries that responded a question on whether projects financed through FITs were vital to the work of their IP office, eight agreed and three disagreed.

In November 2010, the first ever informal meeting of all FIT donors was held at WIPO to discuss the management and implementation of WIPO's FIT Agreements as well as the Secretariat's effort to broaden WIPO's donor base and to increase donor funding and access to donor funds by WIPO's developing

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[205] In fact, during the consultations for this report it was learnt that the Voluntary Fund for Accredited Indigenous and Local Communities and a fund-raising campaign was underway.

country Member States. The decision for this annual meeting was an outcome of the 2009 WIPO International Conference on Building Partnerships for Mobilizing Resources for Development. The meeting signaled several areas of agreement. First, donors were supportive of holding the FIT Donors Meeting annually. Second, there was a general agreement and support for joint multi-donor funding for specific projects of mutual interest. Third, donors agreed that the visibility, transparency and information sharing on WIPO's support from external donors could be enhanced. Fourth, donors expressed interest in strengthening the evaluation of the activities they finance with a view to assessing the results achieved with the funds provided.

5.1.6. Management of the Sustainability and Predictability of Resources for Development Cooperation Activities

As currently financed, any increase in the scale of WIPO's development activities will rely primarily on support from WIPO's revenue-generating, treaty-related services. As noted in the MTSP 2010-2015, "WIPO's dependency on its traditional revenue streams (i.e., the registration systems) limits the Organization's ability to respond to ever increasing additional demands for its services."[206] If the organization's overall budget grows, so too will the resources available for development. For the coming biennium, WIPO's overall budget growth is expected to be limited, and as such, the MTSP 2010-15 states that "resources available for development related activities are likely to increase at similarly moderate levels."[207] With these facts in mind, options to ensuring the sustainability, predictability and increasing scale of resources for development cooperation activities include: freeing up resources through improved efficiency; expanding WIPO's revenue producing products and services; diversifying WIPO's income portfolio by offering new products and services; boosting partnerships with other providers of development cooperation; and mobilizing extra budgetary resources.

The Review Team's notes that the maintenance, expansion or boosted results of WIPO's development cooperation activities is not only a question of financial resources. The requests some member states make to WIPO and other donors are less related to the provision of development cooperation projects, but rather services (e.g., patent searches), sharing of work (e.g., on the processing of patent applications) or access to certain assets (e.g., national patent information databases). While some of these have cost implications, their costs may be more in terms of staff time than the acquisition of equipment or travel costs.

WIPO's 2010/11 Program and Budget already noted the mobilization of extra budgetary resources as a key objective for WIPO. Further, the WIPO Development Agenda's Recommendation 2 calls for the mobilization of extra-budgetary resources for development cooperation[208] and Member States subsequently approved a CDIP project (CDIP/3/INF/2) for this purpose. Importantly, according to the MTSP 2010-15, "extra budgetary funding is not intended to replace regular budget funding for development related activities; rather it is to accelerate and provide additional and complimentary support to developing country Member States, as well as to help improve the efficiency and effectiveness of the Organization's development cooperation activities and capacity building work."[209] In short, the mobilization of extra-budgetary resources is not intended to detract or reduce the allocation of resources from WIPO's regular budget on development cooperation activities.

At present, the Review Team found that there is no overall WIPO wide resource mobilization strategy in place to expand WIPO's development cooperation activities. While Member States agreed to an ambitious target of a 20 percent increase in contributions to WIPO Funds in Trust for the organization's activities by the end of the 2010/11 biennium, the Review Team's interviews with WIPO staff confirm that this target is unlikely to be reached. Nevertheless, several initiatives are underway. According to the 2010/11 Program and Budget, Program 20 coordinates WIPO's efforts to mobilize extra budgetary resources and establish partnerships with both the public and private sector, in particular to support development cooperation activities and capacity-building activities in order to implement Development Agenda Recommendation 2. As part of the CDIP project, for instance, WIPO hosted a Conference on Building Partnerships for Mobilizing Resources for Development in 2009.[210] In addition, in 2010, WIPO commissioned a consultant to report on strategies for resource mobilization and efforts are now underway to establish a more systematic

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[206] WIPO (2010), "Medium Term Strategic Plan For WIPO, 2010 – 2015", document prepared by the Secretariat, Assemblies of the Member States of WIPO, Forty-Eighth Series of Meetings, Geneva, September 20 to 29, 2010, A/48/3.
[207] Ibid.
[208] The Recommendation States that "Provide additional assistance to WIPO through donor funding, and establish Trust-in-Funds or other voluntary funds within WIPO specifically for LDCs, while continuing to accord high priority to finance activities in Africa through budgetary and extra-budgetary resources, to promote, *inter alia*, the legal, commercial, cultural, and economic exploitation of intellectual property in these countries."
[209] WIPO (2010), "Medium Term Strategic Plan For WIPO, 2010 – 2015", document prepared by the Secretariat, Assemblies of the Member States of WIPO, Forty-Eighth Series of Meetings, Geneva, September 20 to 29, 2010, A/48/3.
[210] See progress report CDIP/6/2.

resource mobilization strategy.[211] Further, Recommendation 9 of the WIPO Development Agenda calls for the establishment of a matchmaking database between donors and projects, and the CDIP subsequently approved a CDIP project for an IP and Development Matchmaking Database (CDIP/3/INF/2). The public web portal for the IP-Development Matchmaking Database was launched in August 2011.[212] As this launch occurred after the substantive stage of this review was completed, this report makes no assessment of the Database). In 2010, at the first ever FIT donor meeting (see Part 5.1.4), the donors present agreed to offer advice and support to WIPO on approaching funding institutions in their respective countries and on the type of projects to present. The FIT donors also offered their assistance in populating WIPO's IP-Development Matchmaking Database and promoting its use.

The Review Team's analysis of the agenda for the 2009 Conference on Building Partnerships for Mobilizing Resources for Development highlighted the need for a broader approach to WIPO's work in this area. According to the Secretariat's description of the event, its purpose was to build WIPO's relationship with the broader international development and donor communities and help WIPO Members mobilize resources for IP-related development projects and technical assistance, including extra-budgetary resources for WIPO to advance implementation of the WIPO Development Agenda. In that respect, the conference was properly advancing the WIPO Development Agenda's call for the mobilization of additional resources and the establishment of funds in trust and other voluntary funds for LDCs and countries in Africa to promote the use of IP for social, economic, and cultural development. However, neither the conference description nor the Program reflected many of the broader Development Agenda debates and principles. Missing from the Program, for instance, was any critical attention to engaging donors and the broader UN community in dialogue on the appropriate IP rules and policy framework to promote country specific development objectives, despite the interest of many development agencies in ensuring that IP rules do not damage their efforts to promote goals, such as public health and access to education. Instead, the agenda's emphasis was on explaining to donors the positive benefits of IP, its role in development and showcasing how countries can use IP for development. The conference has not yet yielded additional resources for WIPO or its Member States to aid in the implementation of the Development Agenda.

5.1.7. Management of WIPO Human Resources and Consultants for Development Cooperation Activities

Staffing and Accountability

The Review Team's interviews with WIPO staff highlighted widespread perceptions of inadequate staffing, both in terms of the quantity of professional and support staff relative to the expected quality and scale of activity, and a mis-match between the skill-sets, expertise and competencies of WIPO staff for development cooperation activities conducted. (See Part 4 of this report for discussion of staff accountability for the results of development cooperation activities.) The Review Team also found concern among WIPO staff and some beneficiary countries that WIPO staff do not have the diversity of expertise or experience for some areas of activities. While there is no breakdown of the substantive expertise of WIPO staff overall, the Review Team found evidence that staff sometimes lacked expertise or experience on issues relevant to the activities for which they were responsible, such as on best practices in development cooperation, the relationship between IP and development, the economic aspects of IP and IP policy (ranging from the valuation of IP to experience with business strategy), or on evaluation of the results of activities. The Review Team also noted that only a handful of staff across the organization has substantive expertise in the practical side of the administration of IP systems, such as in patent examination or in the administration of collective management societies.

The strongest evidence that the Review Team found of gaps in the skills, expertise, experience and competencies of staff is the extensive use by WIPO of external consultants for its development cooperation activities. For some activities, the use of consultants to fill gaps in expertise could certainly be appropriate. It is certainly not possible for WIPO to have expertise on all IP matters or to have adequate country or regional level expertise on all related issues. In such cases, a diverse network of external experts and partnerships with appropriate organizations is vital to ensuring the development-orientation of WIPO's development cooperation activities (see below for discussion of management arrangements for consultants). The Review Team could not verify the accuracy of concerns about the overall level of staff posts or ascertain where (e.g., in the Development Sector or in substantive Sectors) and for what issues staffing is particularly inadequate. A credible assessment of the adequacy of the quantity of staff in particular can only derive from a thorough review of the roles and responsibilities of different Sectors, Divisions and Sections for the delivery of development cooperation activities and achievement of expected

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[211] WIPO (2011) Draft WIPO Resource Mobilization and Partnership Strategy (for Internal Review), WIPO.
[212] See www.int/dmd/en.

results, and the staff-intensiveness and skill sets required for such tasks. Such clarifications may reveal that some Sectors require staff with different expertise or more (or less) staff (and other resources).

The Review Team notes that a 2011 IAOD Audit Report on WIPO Technical Assistance Activities found contradictions between the concerns expressed by the staff in the Development Sector about inadequate skills for the implementation of activities and the performance appraisals of staff (through the organization's new PMSDS system), which were generally positive in terms of the contribution of staff to expected results. The Audit Review recommended improvements in the PMSDS system to address such gaps, to ensure that all staff are appraised against their anticipated contributions to the relevant expected results of the organization, and that a detailed assessment of the organization's needs in terms of staff and currently available skills and competences is conducted. WIPO's Human Resources Department is currently working on a mapping of functions, which will be followed by a gap analysis of missing skills and competences. This analysis should in turn guide future recruitment and training of staff. (Also see 2005 JIU recommendation to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of the organization.)[213]

A review of the implementation of the PMSDS system is beyond the scope of this Review, and it is likely too early to assess the system. The Review Team recommends, however, that the PMSDS should be harnessed as an opportunity for the organization to align the goals and performance of individual staff with WIPO's organizational-level goals, including those related to mainstreaming development. In addition, the annual appraisal process could be used as an instrument for estimating and monitoring the portion of the organization's personnel costs which are devoted to development cooperation activities. For instance, the PMSDS forms for each staff person could include an estimate of the portion of the individual staff person's time to be allocated for development cooperation activities (by expected result), which could then be tracked the subsequent year to provide an estimate of the actual amount of staff time that was spent (and thus the related expenditure could be calculated).

Consultants

The Review Team's interviews with WIPO staff, survey results and country visits confirmed that WIPO relies extensively on the use of consultants for the implementation of its development cooperation activities. The Review Team could not, however, determine the number of field-based or Geneva-based consultants hired for the period under Review for development cooperation activities.

In some cases, the Review Team encountered staff where most of the activities in their work plan were conducted by consultants, such as the staff person is effectively a coordinator of consultants. At present, the process of selecting, hiring, and managing consultants is ad hoc and varies by sector and Program. There is no overarching oversight of how consultants and experts contribute to the organization's work, nor to ensure that they are properly briefed on the sensitivities and complexities of the tasks for which they are hired or the development priorities of the organization. While there are clauses within contracts to cancel arrangements if the consultant fails to fulfil the contract, there are no broader mechanisms for accountability of consultants. Levels of remuneration vary widely and the Review Team found no evidence of any formal evaluations of consultant's work, despite the fact that many consultants are hired on a recurring basis for some activities. Repeat contracts are often concluded in the case of developing country experts where the available local expertise may be limited.

A further finding of the Review Team is that where consultants are hired to fill gaps in the expertise of WIPO staff, the relevant staff do not in all instances have the substantive expertise to properly assess and ensure quality of the consultant's work. The Review Team found several instances of work prepared by consultants (such as several Intellectual Property plans and strategies that were financed by WIPO, and needs assessment tools) that fell far below the standard normally expected of international experts, and that failed to adequately integrate development considerations.

While an instruction has been issued to staff and consultants advising them of the importance of adhering to the Development Agenda principles, it is neither sufficiently clear nor comprehensive. With respect to overseas consultants, the instruction merely provides a link in the contract cover letter to the fact that these principles can be found on WIPO's website. Whether and under what conditions a consultant's contract could be terminated for violations of these principles is unclear. A new WIPO Code of Ethics is under development to supplement the existing Staff Rules and the Code of Conduct for International Civil

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[213] United Nations Joint Inspection Unit (2005) 'Review of Management and Administration in WIPO: Budget, Oversight and Related Issues' (document JIU/REP/2005/1), Joint Inspection Unit, New York.

Servants. A review of the draft, however, reveals no specific mention of development principles.[214] The UN Code of Ethics (and the draft WIPO Code of Ethics) does have a provision on conflicts of interest (which states that conflicts of interest between their private interest and their official duties, shall be disclosed and resolved in favour of the interests of the organization), which should also apply to consultants.

Notably, there is a significant group of technical consultants and providers of training and seminars at the national and regional level who are not contracted consultants and as such are not paid by WIPO (although WIPO usually pays expenses and provides a small honorarium). In cases where experts are involved without any formal contractual arrangements, WIPO cannot oblige such experts to sign the code of conduct or disclose conflicts of interest, though it could veto their participation if they were unwilling to do so.

The Review Team also found that WIPO's on-line Roster of Consultants (established in response to DA Recommendation 6 and approved as a CDIP project CDIP/3/2) has not been adequately designed and implemented. The roster is available on the WIPO website and contains information such as the name, area of expertise, language, institution of the consultant and a summary of their list of assignments. Although the project is listed on the WIPO Development Agenda website as 'completed', it requires ongoing attention by staff to ensure that it is populated with accurate information. Even if appropriately maintained, the usefulness of the database is undermined by a narrow approach to its implementation. The database contains no information before 2009 and only includes information on field-based consultants (e.g., those who reside outside Geneva). The database does not necessarily include consultants who have ongoing contracts for development cooperation activities with WIPO. It does not include information related to the TOR or outputs of consultants, their prior experience and other current employment (which would be useful for identifying potential conflicts of interest) or their consultancy rates. While the database was intended to have both a public portal and an internal portal where WIPO staff can provide information on their perceptions of the quality of consultants, this later facility has not been activated. Further, while the consultant roster is linked to WIPO's technical assistance activities database for WIPO's internal purposes these remain separate for external users. It is also not possible to search the database for factors such as the overall number of consultants in the database, their nationality, their areas of expertise, or their types of affiliations (e.g., independent consultants, NGOs, industry, former government officials, etc). Finally, WIPO consultancy contracts (such as WIPO Special Service Arrangements) are being revised to include a clause where consultants will be asked to permit their details being added to the consultant roster, whereas this should be a requirement of receiving a WIPO contract.

In sum, given the reliance of WIPO on external experts and consultants, the organization should devise monitoring mechanisms to ensure that the consultants it hires to participate in seminars, conferences and trainings convey a balanced view on IP matters and that the composition of experts gathered will ensure a balanced overall picture. In future contracts, WIPO should explicitly require all consultants to disclose conflicts of interest as is the procedure in several other international organizations and to permit information on their contract to be submitted to WIPO's online Roster of Consultants. WIPO should veto the participation of unremunerated experts who are unwilling to similarly disclose such conflicts. Further, WIPO should not outsource to consultants work or projects where it lacks the substantive expertise or processes to ensure quality control. Finally, WIPO's on-line Roster of Consultants should be broadened in scope to include information on all consultants, whatever their contracts or location, including the TOR of contracts, outputs of consultants, their prior experience and other current employment, and consultancy rates. The Roster sould be searchable according to the total number of consultants in the database, their nationality, their areas of expertise, and their types of affiliations (e.g., independent consultants, NGOs, industry, former government officials, etc).

Table 5.2. Number of Survey Respondents per Possible Ranking of the Role and Quality of WIPO Staff and Consultants in the Provision of WIPO Development Cooperation Activities

	Strongly Disagree	Disagree	Agree	Strongly Agree	Don't Know

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[214] The draft Code of Ethics is being drafted by the WIPO Ethics Office and is derived closely from the UN Code of Ethics, and emphasises values of independence, loyalty, impartiality, integrity, accountability. The UN provisions on impartiality read that: 'Personnel of the Organization, in the performance of their official duties, shall always act with impartiality,, objectivity and professionalism. They shall ensure that the expression fo their personal views and convictions dos not comproise or appear to compromise the performance of their official duties or the interests of the Organization. They shall not act in a away that unjustifiably could lead to actual or perceived preferential treatment for or against particular individuals, groups or interests.' See WIPO (2011) Comparison between UN Code of Ethics issued by the Secretary-General of the United Nations (A/64/316) and a Drft Code of Ethics for WIPO, Available on WIPO Intranet Site.

WIPO technical assistance is mostly provided by WIPO staff	0	7	16	3	1
WIPO staff have sufficient knowledge and skills to provide advice to their country	0	2	19	6	0
WIPO technical assistance is provided by a combination of WIPO staff and international consultants	0	2	18	6	1
WIPO technical assistance to our country is provided mostly by international consultants	1	13	12	2	0
WIPO technical assistance to our country is provided mostly by local consultants/contractors/experts	2	18	6	1	0
WIPO consults us on the selection of speakers for conferences and training held in our region, sub-region or country.	1	8	14	4	1
We advise WIPO on the selection of local experts for technical assistance	0	8	15	3	1
We request WIPO to enquire about conflicts of interest in their choice of consultants/speakers/technical assistance	0	14	7	2	4
We enquire about conflicts of interest in our own choice of consultants/experts for technical assistance	*0*	*11*	*9*	*2*	*5*

Source: Authors' Survey of Beneficiary Countries

5.2. Efficiency

In the absence of adequate tracking or reporting of development cooperation-related expenditure across the organization or at the level of country, objective or expected results, the Review Team was not able to conduct a meaningful review of WIPO's performance in terms of the cost-efficiency of its development cooperation activities. This section nonetheless attempts to report on the questions posed in the TOR for this Review (see Box 5.2). (Note that findings in regard to cost-efficiency are also included in Part 4 in the assessment of activities related to the six pillars of WIPO development cooperation activities).

Box 5.2. Questions on Efficiency of Delivery and Costs from Review Terms of Reference

> - Are resources for technical assistance for development being used in the most cost-efficient manner? What cost efficiency measures could be introduced without impeding the achievement of results?
> - What are the mechanisms in place for tracking the resource allocations for development-related activities and do they provide a sound basis for estimating the related expenditure?

An evaluation of the cost-efficiency of development cooperation activities relies on accurate and transparent information about resource allocation and expenditures. However, as noted in Part 1 of this report, there is no systematic tracking of WIPO's development expenditure by sector, Program, country, activity, objectives, expected results, or impact. As a result, there is no sound basis for estimating development-related expenditure or to assess its cost-efficiency. This gap also makes it difficult to assess the expenditure or 'resource-intensiveness' of WIPO's activities in any particular area, and thus to make any comparative assessments of cost-efficiency or return on investments for different kinds of activities, modes of delivery and expected results. Further, the absence of country needs assessments and targets mean it is not possible to measure or assess the efficiency of WIPO's assistance in helping countries address the key challenges they face. The lack of transparent and clearly accessible information about development-related expenditure is a key outstanding problem that needs to be addressed.

Given the diversity of development cooperation activities undertaken by WIPO, the modalities for delivery vary widely (see Box 5.3).

Box 5.3. Modes of Delivery of Development Cooperation Activities

> The modalities of delivery for WIPO's development cooperation activities include, among others:
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> - Training courses and seminars
> - Fellowships for training
> - Travel of developing country officials and experts to international events, conferences and WIPO meetings
> - Events (conferences, etc)
> - Consultants
> - Expert Missions of WIPO staff and consultants
> - Provision of expertise remotely from WIPO Headquarters
> - Research and other analytical studies
> - Provision of IT equipment
> - Design, provision and installation of software
> - Research and other studies
> - Hosting delegations in Geneva
> - Communications related to public awareness and outreach activities

WIPO's financial reporting methodology for the period 2008-2011 did not facilitate an analysis of the extent to which certain modes of delivery of development cooperation activities are used and the relative resources devoted to them. During that period, the WIPO Program and Budget documents and Financial Management Reports present a review of WIPO's budget 'by object of expenditure' (see Table 1.5 in Part 1). The categories that define objects of expenditure are not, however, well aligned with the kinds of modes of delivery used by the organization for its development cooperation activities, so the information one can glean about the proportion of activities offered via particular modes of delivery is minimal.

An important step forward in the proposed 2012/13 budget is that the Secretariat has supplemented the 'object by expenditure' approach to its budgeting with a summary of 'expenditure by expected result'. This should mean that the subsequent financial management reports and Program Performance Reports will need to report development-related expenditure by expected results, not just in terms of object of expenditure, which should considerably improve the ability of Member States and the Secretariat to identify and monitor development-related expenditure. Importantly, however, while WIPO has for the proposed 2012/13 budget introduced a definition of what constitutes a 'development-related' activity (see discussion on Program and Budget above), this remains a very broad definition, and internal information management systems to facilitate the identification, reporting and tracking of such expenditure even under this definition remain poor.

Paradoxically, many recipients interviewed during the Review Team's country visits reflected a high degree of satisfaction on the receiving end with the professionalism and cost-efficiency of WIPO assistance. In their responses to the Review Team's survey of beneficiary countries, the vast majority of respondents reported that WIPO development cooperation activities are efficiently managed by WIPO staff and consultants within specified times frames. For instance, over 70% of respondents agreed that WIPO development cooperation activities are delivered in a cost-efficient manner (although 22% indicated they did not know). Similarly, survey respondents reported positively on the efficiency of PCT-related technical assistance to their country with 7 of 12 respondents ranking it between 5 and 7 on a scale of 1 to 7. Notably, however, the respondents made these assessments without any detailed information about the costs incurred by WIPO for the development cooperation activities in their countries (direct or indirect) to the Organization. Moreover, the survey responses contradict evidence gathered WIPO staff across a number of programs, which highlighted significant slippages between time-frames planned in objectives and timing of ultimate activities, and planning challenges related to whether the conditions were in place within Member States to implement projects (e.g., whether or not potential beneficiaries had adequate staff capacity to absorb training, technical facilities to absorb modernization projects, and political support within and outside offices to facilitate the implementation of projects).

For several of the modes of delivery listed in Box 5.2., too little evaluation or financial information is available to ascertain whether these modes of delivery are the most effective in terms of impact or cost-efficiency. There has for instance, never been a study of the effectiveness of study visits and how to maximise their effectiveness, despite its frequent use as a modality for development cooperation activities.

In several areas where expenses for development cooperation activities are high, WIPO complies with normal UN procedures in terms of cost-efficiency. Regarding the costs of travel, WIPO complies with UN standards procedures in terms of eligibility for business class travel (only the Director General is authorized to travel first class) and requirements to use the least expensive tickets. Where WIPO purchases a range of services and goods (such as IT equipment) for its development cooperation activities, WIPO has guidelines on issues related to local procurement that follow standard UN procedures.

However, the IAOD's 2011 Audit of WIPO's Cooperation for Development Activities identified important problems related to the planning and timely implementation of WIPO projects, which can significantly raise costs and thus undermine cost-efficiency.[215] The Audit Report noted, for instance, the prevalence of last-minute planning of events and activities, which can significantly raise travel costs, associated with development cooperation activities. The importance of this issue from a cost-efficiency perspective is particularly important in light of the fact that travel expenses represent a significant portion of overall costs of development cooperation activities conducted by WIPO (See Part 1 of this Report).

The Review Team found evidence that not all activities are cost-efficient for WIPO to implement either due to factors such as lack of internal expertise, difficulties with project delivery from the Geneva Headquarters, or due to the costs that WIPO faces due to its status as international organization including, for instance, the costs associated with permanent staff based in Geneva as compared to the lower staff costs that other potential providers might have. In some cases, the Review Team found that the question of whether activities should be conducted in-house or out-sourced had not been sufficiently considered. Some activities may properly be more efficiently implemented by organizations or more efficiently pursued through deeper or a greater range of partnerships with other international organizations, stakeholders or service-providers. For instance, the Review Team also found that WIPO makes considerable investments in the development of various software packages for developing countries. While WIPO has several specific assets to bring to such tasks, including expertise on the global IP system, knowledge of national needs, and language capabilities, the Review Team notes that much of the world's software development and programming is now outsourced to private software companies, particularly in developing countries. Given the many developing countries where software development for leading international companies is

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[215] WIPO (2011), Executive Summary, Draft IAOD Internal Audit Report: Review of Cooperation for Development Activities, WIPO: Geneva.

undertaken at significantly lower cost, it seems important to carefully evaluate whether efficiencies could be generated by outsourcing at least some components of the software development and programming to other actors.

While the Review Team did not find evidence to suggest that WIPO's development cooperation activities would be significantly enhanced in general by greater use of external offices, greater use of local consultants within regions to address particular kinds of challenges warrants consideration. The Global Infrastructure Sector's Office Modernization Division has, for instance, already decided to hire local experts to provide IT support within the regions. Further, the case for establishing a 'WIPO desk' within a UN headquarters in each region, or where a critical mass of international organizations are located with work on issues related to development, warrants critical reflection within the organization. Specifically, such as desk officer could report to the relevant regional Bureaus regarding potential collaborations with donors and activities in the region and serve as a source of on-the-ground intelligence (See Part 6.1 on Internal Coordination).

Finally, the Review Team also identified several areas of overlap and duplication with other actors external to WIPO in the provision of IP-related development cooperation activities to developing countries, as well as areas where inadequate attention to potential synergies has led to foregone opportunities for cost-efficiencies. For instance, in the area of training, a number of national IP offices are involved in similar activities to train patent examiners in developing countries or to build capacity and awareness on issues related to IP enforcement. In addition, a number of different IP offices provide services to developing countries in the area of modernization of IP offices, some of which overlap or could be better coordinated to minimize the potential for wasted resources among both donors and beneficiaries, or to boost the synergies. Several developed country patent offices (such as the Japan Patent Office and the EPO) have developed software packages similar to those developed by WIPO for patent information and for processing patent applications. Even if it is found that WIPO's software fills a niche or need that others cannot, stronger collaboration with other parties, if they are willing, could yield important cost-savings in some areas or produce synergies that could yield a higher overall impact (see Part 6.2 on External Coordination). The Review Team also found numerous examples where WIPO Secretariat staff are not sufficiently aware of and/or fail to properly take advantage of analytical work under way by other international organizations and donors, including for instance on IP-related needs assessments and priorities. The duplication of such efforts, or the provision of assistance without consulting such assessments where available, reduces the cost-efficiency of activities.

The Review Team's findings in Part 3 of this report with regard to weaknesses in the planning and follow up to activities also have implications for cost-efficiency because they impact the sustainability and continuity of results. More systematic use of country needs assessments and of country plans would ensure that the activities conducted are those most relevant to the country at hand and most likely to yield development-oriented results. Similarly, a planning horizon of 3-5 years, rather than a two-year biennial cycle, for many activities would facilitate attention to medium and long-term results and thus to the longer-term effectiveness and efficiency of funds expended. Respondents to the Review Team's survey recommended that cost-efficiencies could be realized through greater use of teleconferencing and web-casting of events, and greater emphasis on training of trainers. A final area for greater cost-efficiency could be greater use of cost-sharing and in-kind arrangements for the delivery or some development cooperation activities. According to a recent internal WIPO study, these arrangements have sometimes proven a less time-consuming and costly arrangement for WIPO in carrying out joint activities than FITs, as the administrative burden is shared with the donor (as in the case of IP Australia) or with the beneficiary implementing agency (as in the case of IP PANORAMA).[216]

5.3. Selected Recommendations on Management and Cost Efficiency

Management

Review Organizational Structures for Oversight and Management

The process for Member State review and guidance on WIPO development cooperation activities needs to be boosted. WIPO Member States have an important role to play in the substantive planning, review and evaluation of the content of the organization's development assistance over time. A decision should be made about the most appropriate organizational focal point for that review – whether the Program and Budget Committee, the CDIP or some other specifically-tasked body. The decision should be taken with due consideration of the overall reporting burden on the Secretariat. As the IAOD publishes its Country Portfolio Evaluations (CPE) of WIPO assistance, these will also need to be discussed in detail by an appropriate Member State body within WIPO's Committee structure.

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[216] WIPO (2011) Draft WIPO Resource Mobilization and Partnership Strategy (for Internal Review), WIPO: Geneva.

Ensuring WIPO's technical assistance serves development necessitates a monitoring and evaluation mechanism that is independent of the WIPO Secretariat and reports directly to Member States, although it would be funded through the WIPO budget. Currently, no such mechanism exists at WIPO (although such a mechanism is common in all other international organizations). Such a mechanism would also receive feedback from relevant stakeholders and take action that is appropriate following investigation of the complaint.

From a governance perspective, WIPO's organizational structure for the delivery of WIPO development assistance deserves in-depth consideration by the Secretariat and Member States. Development cooperation activities should be insulated from debates about the fees for WIPO's treaty-related service and the use of resources generated, as well as from normative pressures that may emerge in the process of discussion and negotiation of new treaties (including the possible use of assistance to advance specific agendas or interests in the norm-setting process). Options should be explored for making capacity-building activities organizationally distinct from WIPO's other activities, particularly those that related to the administration and negotiation of WIPO treaties (and to ongoing policy debates in WIPO Committees) and to the services provided under these treaties (e.g., collection of payments from right-holders under the PCT and Madrid Treaties).

Strengthen RBM Framework.

The Secretariat must continue to improve its RBM Framework to facilitate better planning, monitoring and evaluation of the impact of WIPO's activities on development. This should include refining the definition of appropriate targets, results and performance indicators, as well as continuing to improve baselines for each of these. The refinement of these RBM tools will be an ongoing process requiring consistent leadership from WIPO's senior management, in particular to motivate staff engagement at both the planning and implementation phases. Failure to engage seriously in this endeavour will results in meaningless performance management tools and measures.

The Secretariat should **form an Expert Review Team for the review and elaboration of WIPO's RBM framework.** An expert Review Team comprised of senior internal staff and external experts in IP, development and RBM should be established to assist the organization in the iterative process of developing and refining meaningful baselines, targets, expected results and indicators. This should include ongoing consultation and interaction with other multilateral and development agencies on their practices and experience in this respect.

The organization should **invest greater attention to its own gathering and systematization of data used to measure its performance**. This must be complemented by support for Member States to also gather data relevant to measuring the relationship between IP policy, legal and regulatory frameworks and various development outcomes, and the impact of WIPO's development cooperation activities. At the outset of major activities, WIPO staff and local authorities should agree on how progress and success of the activity will be measured, and the process for gathering the data needed to make such assessments.

Improve Measurement and Monitoring of Development Cooperation Activities, Expenditures and Results

WIPO should continue its efforts to **improve measures for estimating the personnel and non-personnel budgets for development cooperation activities and improve its information systems for estimating and tracking actual expenditures**. For the 2012/13 biennium, the Secretariat has introduced improvements so that it will be possible to report all of the organizations activities – and costs – according to categories of expected results and to see what share of the budget for each expected result is counted as development-related. In future Program and Budgets and Program Performance Reports, the reporting on development activities by each Program, should be supplemented by a section summarizing the expected and actual results of development activities across the organization's Programs as a whole.

WIPO urgently needs an electronic information management system for managing, monitoring and evaluation and sharing information and coordination on the plans and status of development cooperation activities. All inputs, outputs, baselines, expected results and performance indicators should be included in the system to facilitate ex-post tracking.

Future WIPO Program and Budgets should further improve the budget categories used. The traditional presentation of the budget by 'object of expenditure' has been usefully supplemented in the proposed 2012/13 Program and Budget with a presentation of the 'budget by expected results.' This could be further improved in future biennia by reporting on budget allocations by 'mode of delivery'.

Devise and Implement an Effective Evaluation Framework for WIPO's Development Cooperation Activities

To deliver real benefits to developing countries and value for money for all, the WIPO Secretariat and Member States must **devise a more comprehensive, systematic framework for monitoring and evaluating WIPO's development cooperation activities.** These evaluations must employ a relevant and

publicly-available set of qualitative and quantitative indicators and development benchmarks, based on principles and guidelines reviewed through consultations with international experts. The indicators and benchmarks should be built into the newly-evolving country-level needs assessment and country planning processes in order that these are designed with expected results and evaluation in mind. A useful tool for evaluating WIPO's development cooperation activities would be a table that lists WIPO's performance indicators and enables their comparison with different possible types or levels of development outcomes.

A core focus of evaluation should be to facilitate learning about where and how activities are successful, what factors most impact the degree of success, where progress is being made or not, and how improvements could be made. Moreover, evaluation processes should facilitate effective decision-making about future Program activities and priorities. Where activities are not achieving expected results, the evaluation process should be a trigger an end or adaptation of such activities.

Evaluations should be undertaken at various levels of the organization – at the Program and country-level, at the project level, and according to expected results. The focus of evaluations should be on development-orientation, development-impact, management, cost-efficiency and coordination. The most appropriate types of evaluation will vary depending on the type of activity and the purpose of the evaluation. There are four relevant approaches to evaluation: (1) internal evaluations conducted within Programs to promote learning and improve activities, as well as organization-wide self-reporting on overall Program Performance; (2) independent internal evaluations at the country, Program, sectoral or project level undertaken by WIPO staff not directly involved in the activities under evaluation or by IAOD; (3) joint internal and external evaluations; and (4) independent external evaluations.

All evaluations should seek to use and build on WIPO's evolving RBM framework and process. The results of such evaluations should be reflected in WIPO's Program Performance Reports. These Reports should in turn be improved to ensure that progress in defining expected results, targets and performance indicators is translated into improved monitoring, evaluation and reporting.

The piloting and review of **the country evaluation framework (i.e., Country Portfolio Evaluations) being developed by WIPO's IAOD should be considered a top organizational priority.** The country evaluation framework should build on the significant resources WIPO is already investing in its RBM framework, strategies on IP and Development, and country planning, as well as research conducted under the auspices of the WIPO Chief Economist. The final framework and pilot country studies should be reviewed by an expert group composed of internal and external experts on evaluation, IP and development. In addition, the evaluation framework already being devised for the Development Agenda should be made available for public comment.

More Strategic Decision-making and Planning of CDIP Projects

WIPO Member States have already approved new processes for ensuring that all CDIP projects, like other development cooperation activities, should have clear links to the organization's RBM framework (e.g., they should all have clear links to specific WIPO objectives and expected results) and the integration of CDIP projects into the organization's Program and Budget process. The next stage is **to ensure that the process for reviewing, possibly extending, and/or mainstreaming existing CDIP projects is also properly integrated into future Program and Budget processes and is aligned with strategic planning at the organizational, Program and country level**. The respective roles of Member States and WIPO Member States in the elaboration of future CDIP projects should be clarified, as should the process for identifying beneficiary countries and priorities.

The CDIP has already foreseen a review of the current Coordination Mechanism and the implementation of the Development Agenda in the 2012/13 biennium. In the interim, there should be no automatic extension or expansion of CDIP projects in the absence of evaluations at the end of project periods, particularly in the case of pilot projects and projects designed to test methodologies. After such evaluations, WIPO Member States and WIPO's Senior Management must take the lead in ensuring that successful CDIP projects, where consistent with strategic goals, organizational capacities, and Member State interests, are properly mainstreamed into the development cooperation programming of the organization.

Improve Transparency, Reporting and Communication of Development Cooperation Activities

WIPO's development cooperation activities must be more effectively reported and communicated to Member States, major stakeholders and staff as well as to other donors and providers active in the field.

An **integrated information management system is urgently needed** to: generate timely management reports to inform; assist managers in effective decision-making and coordination; facilitate access to systematic and consolidated information on the content of WIPO's development cooperation interventions at the activity and country level; enable internal and external monitoring and evaluation; and facilitate partnerships with others. As the implementation of WIPO's Enterprise Resource Planning (ERP) System

advances, this should provide organization-wide opportunities for more systematic monitoring of the development cooperation activities contained in Program workplans.

WIPO Member States should clarify and broaden their Development Agenda Recommendation with respect to the purpose and nature of WIPO's Technical Assistance Database.[217] The purpose must be broadened so that the Database can serve as a vehicle for critical review of WIPO's development cooperation activities for relevance and effectiveness; to enable structured evaluation of the implementation of Development Agenda Recommendation 1 regarding development-orientation; and to facilitate comparison of the activities on offer, particularly by potential recipients and other donors.

Specifically, the Technical Assistance Database should be redesigned to facilitate internal and public searching of activities according to the WIPO Program, region, country, expected results, type of activity, time-frame, categories of beneficiary and modes of delivery with associated information about resource-allocation and expenditures. The results of internal and external independent evaluations of activities should be made publicly available in an accessible and searchable format through the database. The design of the database should also be better aligned with the organization's overarching RBM framework and Program Performance Report process.

The WIPO Secretariat should **ensure more systematic and regular updating of its content by all Programs.** Ultimately, the Technical Assistance Database should be integrated with WIPO's Enterprise Resource Planning System as it comes on-line, but should also maintain a discrete identity as a tool for public transparency.

WIPO's website should be upgraded to serve as a more effective vehicle for communicating with stakeholders, beneficiaries and other donors about WIPO development cooperation activities. To boost the website's potential element to help enhance the engagement of developing countries in the international IP system and serve as a training resource, WIPO must undertake immediate measures to improve the accessibility and searchability of information, research, and statistics. The narrative sections of WIPO's website need updating to accurately reflect and describe WIPO's development cooperation activities as approved in the Program and Budget.

Better Integrate Development-Orientation into Human Resources Management of Staff and Consultants.

WIPO should swiftly **conclude a 'gap analysis' of staff skills and competences** to understand where it lacks skills, competencies and expertise relevant to improving the orientation, impact and management of its development cooperation activities.

WIPO's recruitment and PMSDS processes should be harnessed as opportunities to align the organization's human resources management with development goals. To properly mainstream development principles, attention to the Development Agenda needs to be integrated throughout WIPO's hiring process, including its recruitment advertisements. To improve the breadth of experience and expertise of WIPO staff and consultants, and to promote a more development-oriented culture and mindset within the organization, WIPO's recruitment processes should be expanded to target candidates beyond the traditional pool of IP experts to other fields (development economics, business development, politics, non-IP fields of law, health, agriculture, etc.).

The PMSDS process should be harnessed to boost staff incentives for maximising the development-orientation, impact, and efficiency of the development assistance activities in which they are involved. Instructions for staff and consultants with regard to Development Agenda principles should be more binding (i.e., by linking employment incentives and professional rewards to development-related performance indicators), with clear metrics for monitoring and evaluation. The WIPO Secretariat needs to improve **systems for tracking staff time devoted to development activities.** WIPO managers and staff are already expected to set out goals on an annual basis as part of the PMSDS. This process could also be used to monitor and gather data on the proportion of time staff budget and spent on contributing to the achievement of particular expected results. One option could be to incorporate into all job descriptions and annual workplans an estimate of the anticipated proportion of time that will be allocated to expected results with a development component (Note that the Review Team does not propose a burdensome process of filling in timesheets but rather to take advantage of existing processes, such as the PMSDS).

WIPO should **adopt a Code of Ethics** for WIPO staff and consultants that reflects the principles of the Development Agenda and includes provisions on conflict of interests. The most expeditious approach would be to include provisions on development cooperation in WIPO's new draft Code of Ethics (which is being devised to complement the regular UN staff rules and WIPO's staff code of conduct). All WIPO staff, experts and consultants should be obliged to read and sign the Code of Ethics, complete conflict of interest

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[217] WIPO Development Agenda Recommendation 5 calls for the Secretariat to display 'general information on all technical assistance activities on its website, and shall provide, on request from Member States, details of specific activities, with the consent of Member State(s) and other recipients concerned, for which the activity was implemented.

disclosure statements, and review the Development Agenda principles (which should be included as an amendment to all contracts).

WIPO should **adopt Guidelines to ensure transparent processes for selecting external experts and consultants.** Contracts should be awarded through an open bidding process. Consultants should be evaluated after each assignment and reports must be available to other WIPO staff for review before a consultant is re-contracted. WIPO should take a multi-disciplinary approach, using professionals and experts from different backgrounds and disciplines as well as those with different views on the IP system. It should work to harness and build local expertise through consulting assignments. To increase transparency and accountability, WIPO's new Roster of Consultants should be enhanced to include the full CVs of consultants and explicit disclosure of potential conflicts of interest. For those wishing to take WIPO contracts, there should be an obligation to join the Roster and provide such information. The Roster should also include links to the outputs of consultants' work and to any WIPO evaluations or reports on the results of the activity.

An additional measure that could broaden the pool of development expertise and experience within WIPO and help build links with the broader international development community would be to broaden WIPO's program for secondments to and from the organization (to prioritize secondments to and from other UN agencies, development donors, and a range of national government agencies, in addition to IP offices) .

Review Modes of Delivery Activities and Functional Expertise

The WIPO Secretariat should **undertake assessments of the various modes of delivery for WIPO's development cooperation activities** to establish lessons learned and best practices for future planning, design and implementation. This could include an assessment of the various tools used for needs assessment, strategic planning and evaluation, as well as cross-cutting categories of activities, such as conferences, on-line courses, seminars, study visits, provision of equipment, etc. It would, for instance, be useful to establish how effective the design and implementation of WIPO conferences and meetings are in terms of yielding results, whether in terms of follow-up actions, new expertise or new collaborations. A review in this area would need to involve consideration of the WIPO Conference Services Section and the relevant Programs responsible for planning the substance, agenda, and participation in meetings.

The organization should **explore ways to build functional expertise,** including by clearly designating internal staff as focal points or experts on various modes of delivery, such as training, public outreach, the design of workshops/conferences/seminars, etc. To date, for instance, WIPO's Program Management and Performance Section has been designated as a focal point for questionnaires that are used to measure performance. Given that questionnaires are widely used as a tool by many Programs (e.g., for needs assessments, to gather input on Programming, and to solicit data on IP-related trends, etc), it would be useful to have a designated focal point for in-house expertise on the effective design and use of questionnaires. Similarly, the Communications Division's role as a reference point for activities related to public outreach and the publication of research and studies could be enhanced.

Adopt a Structured, Project Management Approach to Development Activities

A more structured, project-management approach to development cooperation activities is needed. A project-based approach aid more careful negotiations with recipients on the content of activities, and facilitate improved monitoring and evaluation. The 'paper-based' project document templates currently being used for CDIP projects could be adapted to this purposed, while a more effective electronic information management system is developed (e.g., as part of the WIPO Enterprise Resource Planning System).

The WIPO Secretariat needs to **ensure that processes are in place to learn from pilot development cooperation activities and projects.** This is particularly the case for Development Agenda activities, where current demand for many projects exceeds the original intended scale of projects and where many projects were launched as 'pilots' for testing and refining before expansion. Efforts to review successes and failures before the replication of projects in multiple countries will help ensure realistic expectations and preparedness on the part of countries that request participation in the projects.

Cost Efficiency

Review Internal Cost Efficiency

To improve efficiency and sustainability, WIPO should **reduce duplication and overlap of activities within the organization and with other providers** (see recommendations on External Coordination below). Improvements in cost-efficiency demand i**mproved transparency of the cost and resource allocation associated with WIPO's development activities.**

A **review of cost-efficiency is needed to help WIPO identify opportunities for cost-savings**. This review should include consideration of costs according to 'mode of delivery'; appropriateness of staff in terms of their qualifications; institutional bottlenecks/procedures that may unduly raise the costs of activities; and whether **resources are adequate for achieving and sustaining expected results.** Inadequate estimation of resources is likely to impede effectiveness and thus waste of resources.

Greater use of South-South cooperation as a basis for learning and exchange of experiences could be a strong source of cost-efficiency. Further options the Secretariat should explore include: greater use of a diversity of regional and local experts and consultants as providers of technical assistance; outsourcing some IT functions; boosting use of open-source software; greater use of video-conferencing for WIPO training activities; web-casting of WIPO events at global, regional and national level; greater use of Skype or other VOIP tools for telephonic communications; and stronger attention to the training of trainers in regions and at the country level.

Improved attention to the sustainability and long-term impact of activities at the country and Program level will also help boost cost-efficiency. In this regard, a planning horizon of 3-5 years for many activities, rather than a two-year biennial cycle, would focus attention on medium and long-term results. (Many of the recommendations offered above on Program management, evaluation, follow up and sustainability will contribute to cost-efficiency. Also see recommendations below on cost-efficiency for each of the six Pillars of development cooperation activities).

Improve the Predictability of Development Cooperation Budgets and Activities

The WIPO Secretariat and Member States should **ensure that resources for development cooperation activities are, at minimum, maintained at current levels and increased for those activities where the needs and impacts are greatest.** Effective multi-year planning for development cooperation, particularly where assistance includes institution-building activities, demands predictability in the level of resources available over time. As noted above, WIPO Member States should be encouraged to make decisions on Program goals and strategies that extend beyond a two-year biennial budget cycle. The definition of multi-year Programs and country activities would facilitate contributions by donors beyond WIPO.

To improve predictability and boost resources for priority activities, WIPO should sustain its efforts to: (i) broaden the base of donors supporting WIPO development cooperation beyond its traditional IP office partners, and (ii) facilitate the access of WIPO Member States to funding and technical support from other inter-governmental, bilateral or independent sources. In particular, the WIPO Secretariat should boost efforts to help countries access and leverage resources for the implementation of their IP and development strategies and policies at the national level.

The WIPO Secretariat should work with its Member States **to devise a policy to guide its negotiations for additional external resources, including FITs**. Notably, WIPO should insist on flexible arrangements for the management and administration of such donor resources to ensure that Program support costs are adequately recovered and financed.

Cost-sharing and Grants

WIPO should pursue more cost-sharing partnerships, collaborations, and in-kind arrangements. Such efforts could enable WIPO to reduce its exposure to the transaction and administrative costs which cannot be fully recovered for many externally-financed projects. However, ensuring a diversity of collaborations will be important as will measures to guard against undue influence of powerful stakeholders. (See Recommendations on Stakeholder Engagement in the sections on Relevance and Orientation above and under Coordination below).

W**IPO should also consider the potential for greater cost-sharing with higher-income developing countries.** Many WIPO development cooperation activities already require a commitment of resources in terms of staff time and government resources, such as for ongoing support for the maintenance of IT infrastructure. For some projects and activities in higher-income developing countries, requirements for counterpart funding or 'matching commitments' for development assistance activities could help secure a higher degree of ownership and engagement on the part of beneficiaries, and thus impact.

To reduce institutional and staff costs to WIPO and help build national capacity, the provision of grants to Member States to implement certain kinds of activities themselves should be considered, as should the appropriate criteria and reporting requirements.

Part 6: Coordination

This Part of the report responds to the two questions posed in the Review TOR on Coordination of WIPO's development cooperation activities (see Box 6.1). It proceeds in two sections. Part 6.1 addresses internal coordination within WIPO. Part 6.2 address external coordination, including WIPO's coordination with other actors and donors in the area of cooperation for development.

Box 6.1 Questions from Review TOR on the Coordination of Technical Assistance for development

- Are the roles and responsibilities internally within the Secretariat for the delivery of technical assistance for development clearly defined? The restructuring of the Development Sector and the redefining of its roles and responsibilities vis-à-vis the substantive sectors is expected to facilitate a more effective and efficient delivery of WIPO's technical assistance for development: What are the critical success factors?

- How is technical assistance for development coordinated within the Secretariat and with other intergovernmental bodies and do the existing coordination mechanisms facilitate an efficient and effective delivery of technical assistance for development? If not, what measures or mechanisms should be put in place to improve the delivery of technical assistance?

6.1. Internal Coordination

The work of WIPO is currently organized around nine strategic goals and implemented by seven organizational sectors and 29 Programs.[218] The central actor in WIPO's development cooperation activities is the Development Sector, which is responsible for several Programs, including Program 9 (the regional bureaus), Program 11 (the WIPO Academy) and Program 8 (Development Agenda Coordination). In addition, the Development Sector manages a number of specific Development Agenda projects, some of which are financed through supplementary appropriations and some of which are financed through the regular budget. In total, the Development Sector now includes the Regional Bureaus (Africa, Asia and the Pacific, Arab, Latin American and the Caribbean, Certain Countries in Europe and Asia), the WIPO Academy, the Development Coordination Agenda Division, and the LDC Division. In addition, two of the External Offices report to the Deputy Director General of this Sector.

As noted in Part 1 of this report, beyond the Development Sector, all WIPO Sectors (e.g., Brands and Designs, Innovation and Technology (i.e., Patents), Culture and Creative Industries, Global Infrastructure), and all but a handful of Divisions of the organization are engaged directly or in a support role in the provisions of WIPO's Development Cooperation Activities.

Programs that are particularly involved in WIPO's development cooperation activities include Programs 1 (Patents), 2 (Trademarks, Industrial Designs and Geographical Indications), 3 (Copyright and Related Rights), 4 (Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources), Program 5 (The PCT System), 15 (IP office modernization), 17 (Building Respect for IP), 18 (IP and Global Challenges) and Program 30 (Small and Medium-sized Enterprises). Many more of the organization's 29 Programs are also involved in the delivery of development cooperation activities. Each of these Programs may have a number of development cooperation activities within its workplans. Depending on the Program and activity at hand, these activities may be managed by one or more Sectors of WIPO. The vast majority of WIPO's development cooperation activities are implemented by its Headquarters in Geneva, although four external offices (three of them created since 2005) are also engaged to varying degrees.

Between 2008 and 2011, several changes were made to the internal organization of WIPO's development cooperation activities.[219] The creation of WIPO's Global Infrastructure Sector drew together most (but not

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[218] Rather confusingly, the organization's Program and Budget lists 30 Programs, but in reality there is no Program 13, so there are only 29 Programs in total.
[219] The location of responsibility for the provision of WIPO's legislative advice has changed several times over the past two decades. Indeed, when WIPO began its technical cooperation activites, each unit of the organization undertook assistance separately, and their was some competition between the parts of the organization. At a later phase, the activities of the substantive sectors were incorporated into the Bureaus, which were charged with providing both specialized and general assistance. For instance, whereas the legislative advice function along with other specialized activities were once located within the substantive Sectors, these were later shifted into the Development Sector, which housed experts on functional IP issues as well as professionals with country and regional level knowledge. The only exceptions were activities related to the

all) of the organization's work related modernization of industrial property offices, among other activities. (The Sector's work includes Programs 12, 14 and 15.) The Infrastructure Sector does not, however, include work related to the modernization of copyright offices or collective management societies. Activities related to legislative advice to developing countries are now distributed across the relevant substantive sectors, whereas they had previously been combined within the Development Sector. Further, as noted above, a Development Agenda Coordination Division was created within the Development Sector to coordinate the implementation of the Development Agenda and the approved CDIP Projects. Further, while the regional Bureaus still co-implement projects with several of the substantive Sectors, or implement them on their behalf (such as seminars and meetings on issues of enforcement, patents, and trademarks), the Culture and Creative Industries Sector now undertakes all development cooperation activities relevant to copyright itself.

In principle, the Development Sector, and in particular its Regional Bureaus, is the interface between WIPO Member States and the substantive sectors of WIPO in respect of development cooperation activities. The vision, according to the Director-General of the organization, is for the Bureaus to have specialist country and region-specific knowledge of local circumstances, development needs and priorities, IP-related challenges, and political dynamics. It is envisaged that the regional Bureaus hold a country-by-country 'master plan' or 'road map' and serve as the primary liaison between the organization and Member States on matters related to development cooperation activities and that the Regional Bureaus be consulted on any WIPO activities underway in any given beneficiary country. For Member States, the Bureaus are supposed to be the first point of call for the discussion of development cooperation activities, needs and requests. The substantive sectors (e.g., Innovation and Technology Sector and the Culture and Creative Industries Sector) are expected to liaise with the Bureaus regarding the planning and design of assistance. The Bureaus in turn are expected to play a facilitating role and to help Sectors and other Programs design and implement assistance in ways that meet the specific needs of countries. At present, as noted in Part 1 of this report, the Development Sector (and in particular the Regional Bureaus) hold the greatest proportion of resources allocated for development cooperation activities, although many other Sectors of WIPO also design and deliver activities.

The WIPO Secretariat's aspirations in terms of internal organization and coordination are set out in the Review TOR (see Box 6.2).

Box 6.2. WIPO's Stated Goals in Terms of Coordination and Organization of Technical Assistance

> The Development Sector coordinates the implementation of WIPO's technical assistance and capacity building activities, including the work of the substantive sectors and Programs, which aim at contributing towards the reduction of the knowledge gap and the greater participation of the developing and least developed countries (LDCs) in deriving benefits from the knowledge economy.
>
> The Development Sector provides substantial guidance for the development of national IP Strategies/Plans of developing and least developed countries. Each plan is informed by the overarching development goals articulated by the country itself and these goals cascade through WIPO's nine Strategic Goals into the following four pillars guiding the work of the Sector as well as the development activities of other Sectors within WIPO:
>
> - development of national IP and innovation policies and strategies;
> - development of legislative and regulatory frameworks that promote a balanced IP system;
> - building of modern state-of-the-art national IP administrative infrastructure and user support systems; and
> - human resource capacity building.
>
> WIPO's technical assistance and capacity building activities are entirely guided by the national IP Strategies and Plans ensuring a needs-driven and results-based approach to the delivery of technical assistance for development.

The Review Team found, however, that coordination within WIPO Secretariat fell well short of the stated goals in Box 6.2 during the period under Review. Roles, responsibilities, and accountability for development cooperation within the Secretariat were inadequately defined. Further, the Review Team found that there were inadequate internal communication and information-sharing mechanisms and processes at the planning, implementation and evaluation phases. These shortcomings have implications

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implementation and promotion of the PCT, which were located in what was the Patent Sector. The current Director General has moved responsibility for the legislative advice function back to the substantive Sectors (see Part 4.2 for discussion of this point).

for the efficiency, management, impact and development-orientation of assistance, as there is in adequate internal communication and sharing of lessons learned and experiences with regard to activities in particular countries or the utility of different modes of delivery and types of projects. Inadequate coordination has important implications for accountability and transparency. Uncertainty about who is responsible and accountable for what makes it difficult to evaluate activities.

Through interviews with WIPO staff, the Review Team found that the degree of coordination among WIPO Programs and Sectors in the planning, design and provision of development cooperation activities still varies widely. The degree of coordination varies at a number of different levels: a) the existence of formal institutional mechanisms for coordination (e.g., regular meetings between division heads, the Program and Budget planning phase, etc); b) informal practices (e.g., sharing of work plans); and c) individual motivation of staff. In some cases, the Review Team found strong efforts at coordination, smoother cooperation and increased communication across divisions and Sectors. In other areas, there were reports of either disorganization, albeit with good intentions, passive resistance to coordination, or turf issues that resulted in intentional obstruction of efforts on the part of one Program or WIPO Sector to collaborate with others. Many WIPO staff interviewed by the Review Team highlighted the importance of WIPO's core value of working 'as one' (reflecting one of the 'core values' being promoted in the implementation of the SRP), although none argued that this had been achieved thus far.

A factor complicating internal coordination is that WIPO's Program and Budget is organized by Programs, whereas the organization's staffing structure for delegating responsibility and accountability for management is organized around seven Sectors. The implementation of over half of WIPO's Programs, as noted in Part 1 of this report, involves more than one Sector. In addition, most Sectors have responsibilities related to several of the organization's Programs. From a management perspective, this highlights the need for cooperation and coordination across the organization in the delivery of development cooperation activities. However, where Programs were managed by several sectors, the Review Team found that that the allocation of responsibility for the outcomes and impact of activities within those Programs was not well-defined. The Review Team also found a mismatch between the Program-based approach to WIPO's Program and Budget and the Sector-based approach to ongoing monitoring of progress of the implementation of Programs. The Secretariat uses Quarterly Management Reports as a tool for monitoring progress, for instance, which are submitted to the Director General by Sectors (and their sub-components such as the regional bureaus and external offices). While the Sectors are expected to report on progress toward Program goals, this is a different approach to Quarterly Management Reports submitted by Program. Further, while the Quarterly Management Reports have a standard format, the quality of reporting varies – ranging from a simple factual description of the state of play to more analytical assessments of progress and challenges.

The Review Team found that within the Development Sector, there is not a systematic set of criteria guiding decisions on the prioritization of activities or demands (see Part 2 on Orientation for a discussion of country-planning). Further, the rationale for the allocation of resources among the regional Bureaus is not clearly based on an assessment of resource needs of countries among regions. For the 2010/11 biennium, Member States approved that each regional Bureau should receive the same allocation from the regular budget (CHF 3.7 million per biennium) even though the number of countries per region varies. Further, as some Bureaus receive extra resources for activities at the discretion of FITs donors, this can considerably distort the prioritization and strategic planning process for each Bureau conducted through the Program and Budget process. (As noted in Part 1 and 5 of this report, during the period under Review, the WIPO Program and Budget process did not take into account the additional resources that some Sectors and Programs receive through FITs. Indeed, during the period under review, the proposed Program and Budgets did not clearly present how and where the FITs and other extra-budgetary resources fit into the overall budgetary picture). In addition, while FITs-funded activities are supposed to be aligned with WIPO's strategic and Program's goals, the Review Team found that WIPO staff and FIT donors have significant leeway in deciding what activities to undertake among the range of WIPO Program objectives and activities.

The Review Team found that coordination and shared learning among Regional Bureaus is limited. Within the Development Sector, each of the Regional Bureaus makes decisions about the allocation of activities among countries within its region and types of activities. Each Regional Bureau has a different style and process for internal planning and for devising workplans. Further, the workplans devised by the Regional Bureaus may or may not include or make reference to all of the activities that are provided to countries by other Programs. The Review Team also found no systematic programmatic links between the work-plans and activities of the WIPO Academy and the country/regional level planning by the Bureaus, even though they are located in the same WIPO Sector. That said, if an Academy activity is conducted in a country, the Review Team did find they would consult with the Bureau on this matter (e.g., on National IP Academies or the hosting of a WIPO summer school in a particular country). The Review Team found that the specific role and responsibility of the Development Sector's LDC Division was also not sufficiently defined. On the

one hand, it is clear that the LDC Division organizes a number of LDC-specific activities; however, their linkages to the objectives and expected results of other country-level activities conducted by the Regional Bureaus and by other Programs of the organization were not well-defined. At present, few of the CDIP projects are implemented by the Regional Bureaus, although there are CDIP projects, such as the IP strategies project, which are housed within the Development Sector. As noted in Part 2, the relationship between the CDIP National IP Strategies and Innovation project with WIPO's project to development a 'Framework for Developing National IP Strategies for Innovation' (both housed within the Development Sector) warrants greater attention.

Coordination between the Development Sector and other Sectors of the organization on the implementation of WIPO's Programs is vital to ensuring an efficient and effective approach to WIPO Development cooperation activities. As noted above, there is considerable emphasis throughout the organization and from leadership on the idea that the Development Sector, through the Regional Bureaus, is and should be the main interface between Member States and the organization for the delivery of development cooperation activities. The Review Team found, however, that coordination between the Development Sector and other Sectors of WIPO is inadequate. While there is some communication between the regional Bureaus and substantive Sectors in the design and prioritization of proposed activities, this relies on informal arrangements between the relevant individual staff to meet periodically and on coordination efforts undertaken in the context of formulating the organization's Program and Budget.

The Review Team found considerable debate among Secretariat staff on the appropriate roles for the Regional Bureaus and that this has generated some resistance on both sides to greater coordination. Interviews with WIPO staff outside the Development Sector revealed that a number of staff are sceptical about the role of the regional Bureaus, arguing that the Bureaus have too many resources and staff, with insufficient technical expertise as compared to other parts of the organization involved in development cooperation activities. Some staff in the Development Sector also reported to the Review Team that they are not able to perform the expected functions because they lack the sufficient staffing, resources and skills sets to perform the range of functions requires. The Review Team did not have access to sufficient internal information to assess the accuracy of these particular claims, but did find that the Regional Bureaus have not adequately performed a facilitating or coordinating role and have not systematically gathered the information or country-based expertise to do so.

As noted in earlier Parts of this report on IP strategies (in Part 4.1) and on country-planning (Part 2), there is as yet little evidence of collaborative planning that links country planning by the range of WIPO's Programs with the formulation of country-based IP strategies and plans for WIPO assistance. The Review Team found that the Regional Bureaus have not succeeded in devising country plans, which means that the role of Bureaus is too often one of satisfying ad hoc requests which may or may not correspond to the areas of highest need or to specific expected results. Moreover, the lack of country plans means that Bureaus do not have the basis for executing the coordinating role assigned to them. The Review Team found that Bureaus are not always in the lead on the coordination front, nor do other Programs/sectors always seek to coordination with them. Indeed, in many cases, beneficiary countries make contacts directly with other WIPO Programs and Sectors (see Part 2 of this report). (The Review Team accepts, however, that once projects are underway, it may make sense for the relevant Sector or Division to serve as the focal point for its implementation). In some cases, the Review Team found that new country requests received by the Sectors/Programs are reported directly to the Bureaus for their input or direction, but not on a systematic basis. The Review Team's preparations for country visits revealed that the Bureaus overall sense of the spectrum of WIPO activities completed and now underway on the ground and their rationale varied by desk officer. Moreover, the Review Team found limited evidence of systematic 'on the ground' information-gathering by the Regional Bureaus about the activities of other donors and actors within the countries visited or of systematic reporting and use of such information where it was gathered to inform the design of activities. In this regard, the role of WIPO's four External Offices in the delivery of development cooperation activities, and their relationship to WIPO's Programs and their objectives and expected results, and to the Bureaus is ill-defined (the role of External Offices is discussed further below). In short, the Review Team found that the absence of clear needs-based strategies and plans from the Regional Bureaus justifiably generates frustration in other Sectors with relatively fewer resources at their disposition for the implementation of activities and achievement of results.

The question of the appropriate division of responsibilities between the Regional Bureaus and WIPO's substantive Sectors in the provision of development cooperation activities is not a new one for WIPO nor is the challenge of internal organization unique to WIPO.[220]

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[220] Many UN agencies and development banks, for instance, have adopted a similar matrix approach where there are functional or thematic sectors on the one hand, and sectors organized by region or country on the other hand (in some cases accompanied by regional or country offices where the scale or nature of activity demands).

The Review Team also found a general problem of lack of coordination and strategic planning of WIPO's training activities, which are independently designed and implemented by a number of different Sectors and Programs, and often without collaboration or consultation with the WIPO Academy. Similarly, the Academy undertakes a range of training activities where, although it may consult with substantive sectors for specialized input, there is not always a clear linkage between the Academy's activities and WIPO's defined objectives for a particular issue area.

To date, WIPO's Program and Budget process has been focused on a vertical alignment of goals and activities, rather than a cross-divisional information-sharing, coordination or strategic planning by expected results or country. Given the varied nature of WIPO development activities and the level of technical expertise required, the need for engagement of specialized experts from the substantive Sectors varies (e.g., detailed legislative advice requires a different set of skills than the design of activities to engage developing countries in global dialogue and decision-making on IP issues). While there are processes for bi-monthly Senior management meetings, and quarterly Director-level meetings, in place within the WIPO Secretariat, these have not proven adequate to the task of coordination of development activities. Further, coordination efforts are only likely to achieve their full potential when additional problems of lack of easily accessible information about development cooperation activities are addressed (as noted above, the Technical Assistance Database as currently conceived provides little assistance in this regard) and when proper internal processes for monitoring, evaluating and learning about the impact of developing cooperation activities are in place.

To date, inadequate coordination mechanisms and clarity about the allocation of roles and responsibilities among WIPO's Sectors for achieving results has undermined the progress toward greater effectiveness. The Review Team found a number of areas where collaboration among the various substantive Sectors for the implementation of WIPO Programs is inadequate. It also found several instances where work on a common topic was not located within one Program but rather appeared across several Programs in ways that compromise effectiveness. Both Program 1 and 18, for instance, have activities and expected results related to technology transfer in their work programs, and several WIPO divisions have technology transfer in their titles (e.g., Divisions in the Innovation and Technology Sector, the Global Issues Sector and the Global Infrastructure Sector). Part 4 of this report highlighted, for instance, that inadequate coordination among the parts of WIPO involved in work related to boosting technology transfer represented a missed opportunity for impact, cost-efficiency and synergy of activities (e.g., among such as activities on Technology Transfers Offices, TISCs, and the WIPO University Initiative) and presented risks in terms of overlap and duplication. The Review Team also notes that Global Infrastructure Sector, contrary to what the name suggests, is not responsible for all of the Program activities to modernize IP offices; instead these Programs are implemented by a number of the organization's Sectors. Further, in the area of legislative assistance, Programs 1, 2, 3, 4, and 17, among others, have expected results in the area of legislation. While having two different Sectors implementing work on a particular issue might be appropriate in light of specific skills needed, one would expect to find the objectives and expected results to be found within one Program. In practice, however, Part 4.2 of this report highlighted that there are significant problems with coordination and coherence in the provision of legislative assistance, such as in the case of enforcement-related issues. While formal responsibility for this area lies with the Global Issues Sector, other substantive Sectors regularly provided advice on enforcement-related provisions in substantive drafts laws without consulting or informing staff in that Sector. WIPO staff advised the Review Team that this had concrete implications for the quality of advice provided by WIPO, such as comments on draft laws that were formulaic and not necessarily up-to-date.

As the emphasis of WIPO's development cooperation shifts, through the CDIP process, to the implementation of projects by WIPO's substantive Sectors, and the mainstreaming of the Development Agenda principles takes hold, the WIPO Secretariat and Member States need to reconsider the appropriate allocation of resources between the Development Sector and other Sectors responsible for development activities. The proposed 2012/13 Program and Budget provides some improvement in this respect as it improves the transparency about which Programs are responsible for contributing to particular expected results and CDIP projects. The Secretariat will also need to devise more institutionalized mechanisms for coordination, consultation, information-sharing and collaboration across the various levels, Sectors and Programs of the organization. Further, the Review Team recommends that the Bureaus have a clearer strategic and planning role, but devote less energy and resources to implementation of activities. A shift of resources away from the Development Sector need not represent a down-grading of its role but rather a clearer division of labour, roles and responsibilities. The Bureaus' 'implementating' function would focus primarily on intra- and inter-regional activities that might otherwise not emerge from country planning or the work of substantive sectors.

6.1.2. WIPO External Offices and Development Cooperation

The Review Team also found that the role and responsibilities of the External Offices in development cooperation activities are inadequately defined.[221] WIPO currently has four external offices, located in New York (established in 1972), Singapore (established in 2005); Tokyo (established in 2006); and Rio de Janeiro, Brazil (established in 2009). The New York Office has served principally as a liaison office for the United Nations and has been in existence since WIPO became a specialized agency of the United Nations.[222] According to WIPO's website, the offices serve an important role in bringing "WIPO's services and cooperation closer to its Member States, stakeholders and partners' and achieving the Organization's strategic goals. These cover cost-effective support services in respect of the Patent Cooperation Treaty (PCT), Madrid and Hague systems, arbitration and mediation, collective management, research, development, capacity building, and UN system-wide cooperation, in coordination with the relevant sectors in the Headquarters."

The goals of WIPO's external offices are described in Program 20 of the WIPO Program and Budget. Importantly, the origins, size, role and activities of each office vary and their management is undertaken by different Sectors of WIPO. The Brazil Office and the Singapore Office report to the Development Sector, while the Japan Office reports to the Global Infrastructure Sector. (Until 2011, the Japan Office reported to the Development Sector at WIPO, where its work was coordinated with WIPO's Regional Bureau for Asia and the Pacific). The New York Office is managed by the Department of External Relations of the Global Issues Sector. According to the 2010 WIPO Office Instructions, Brazil office has three staff, the Singapore Office has five staff and the WIPO Japan Office has two staff.

At present, there is no clear overarching policy or framework to guide whether WIPO should have external offices, whether WIPO's development cooperation activities are or could be strengthened by external offices, and what roles external offices should have in contributing to the design and delivery of development cooperation activities, and their responsibilities in terms of planning, reporting or evaluation in respect of such activities. The division of roles and responsibilities between the External Offices, the regional Bureaus and the various Sectors and Programs of WIPO is thus unclear. The Review Team was not able to acquire information from the Secretariat on the specific budgets of each external office.

The Review Team found that while the WIPO External Offices provide a diversity of services and conduct a range of development cooperation activities, the rationale and strategic purpose of many of these development activities was unclear, as was their link to the organization's overall goals, expected results and priorities as set out in the Program and Budget, the MTSP and the Development Agenda. A review of Quarterly Management Reports revealed that many activities are 'added on' rather than clearly integrated into the organization's overarching strategies and RBM framework and it was not clear how and to what degree they clearly help the various Programs or Bureaus implement their work. Consultations with WIPO staff and Member States provided the Review Team examples of overlapping activities, as well as of WIPO staff in Geneva and Geneva-based missions being inadequately consulted or informed of activities being conducted by the External Offices. In short, while particular development activities of the external offices may well be useful to some countries or regions, the Review Team could not establish whether their existence or absence can be said to make a significant positive difference to the efficiency or impact of WIPO's development cooperation activities overall.

The Review Team notes that a number of Member States have expressed an interest in hosting, or have made a concrete proposal to host, an external office for the Organization. In 2010/11, the Director General initiated a consultation process with Member States with a view to recommending a policy for consideration by Member States at the meetings of the 2011 WIPO Assemblies.[223] The Review Team recommends that this consultation process should consider the role, function and desirable locations and resourcing of any external office existing or proposed. Moreover, the work of all offices should be reviewed and refocused in line with the strategic goals of the organization and with an eye to enhancing not only delivery of services but also development cooperation activities. The issue of whether and how to use external (whether regional, country or issue-specific) offices in the provision of development cooperation activities and capacity building is not unique to WIPO; it is frequently discussed across the UN system and within its various agencies, as well as in the various regional and multilateral development banks.[224]

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[221] Analysis in this section draws from interviews with WIPO staff, and descriptions of the work of the regional offices found in internal WIPO Quarterly Management Reports, the 2008/09 and 2010/11 Program and Budgets and the WIPO website.
[222] WIPO's previous Washington Office has been closed for several years.
[223] See WIPO (2010). Policy on WIPO External Offices, Document prepared by the WIPO Secretariat, Assemblies of the Member States of WIPO, Forty-Eighth Series of Meetings, Geneva, September 20 to 29, 2010, A/48/12 REV.
[224] The WHO, for instance, has six regional offices in Africa (Brazzaville), the Americas (Washington, D.C.), the Eastern Mediterranean (Cairo), Europe (Copenhagen), Southeast Asia (New Delhi) and the Western Pacific (Manila), 5 liaison offices (to the African Union and the Economic Commission for Africa in Addis Ababa, Washington, the European Union in Brussels, The United Nations in New York, as well as at the World Bank and the International Monetary Fund in Washington, 4 specialist offices (in Lyon, Kobe and Tunisia), and 191 country and liaison offices across its regions, as well, in some instances as satellite offices in the provinces or sub-regions of the country.

In addition to establishing a policy on external offices, the Review Team proposes that the WIPO Secretariat and WIPO Member States should concurrently consider the question of whether there are particular functions and services that form part of WIPO's cooperation for development that could be better provided through some form of regional decentralization. That is, could some regional decentralization address challenges in the area of impact and cost effectiveness identified elsewhere in this Report due to inadequate local knowledge, travel costs, and weak links between WIPO and the local donor and development assistance communities? Here, the Review Team emphasizes that regional decentralization need not necessarily mean the creation of new external offices, whether at that the regional or national level (or based on some other criteria). For instance, it is not necessarily clear that the creation of one regional office for Africa or Latin American and the Caribbean would significantly reduce the travel costs, given limitations to internal travel routes within those regions and the distances involved, and the appropriate location for a single regional office is also unclear. Moreover, WIPO's leadership has already called for staff to reduce the amount of travel to events and activities, except where absolutely necessary. Further, the Review Team cautions that the establishment of regional offices presents several challenges or drawbacks, notably, challenges of oversight and accountability, and the potential for the offices to operate in isolation from or parallel to the broader work of the organization. There are also costs in terms of relocation of existing staff. Even where potential host countries have offered to cover significant portions of the costs of establishing offices, there are ongoing and recurring overheads associated with maintaining such offices. More importantly, as noted above, the Review Team did not find any compelling evidence that the delivery, orientation or impact of WIPO's assistance was significantly bolstered through the work of the existing offices.

Box 6.2. Overview of Activities of the External Offices

The **WIPO Japan Office** was established in Tokyo on September 1, 2006. During its first three years of operation, the Office focused almost exclusively on coordinating research projects with the United Nations University (UNU). More recently, the Office has expanded the scope of its activities to support research, development, outreach and capacity building. The Office also aims to provide Japanese-language information about WIPO, and promote the Organization's services in Japan. Specific activities supported by the Japan Office, include WIPO's IP Advantage Database, launched in 2010, which features over 100 case studies that aim to explain "how inventors, creators, entrepreneurs, and researchers throughout the world have used intellectual property (IP) to differentiate their products, gain a competitive advantage and contribute to the development of their businesses and regions." The project was implemented by the WIPO Japan Office in Cooperation with the Communications Division, and supported by a financial contribution from the Japan Funds-in-Trust for Industrial Property. The office has also coordinated research, such as a 2007 study entitled "Impact of Intellectual Property System on Economic Growth: Fact-Finding Surveys and Analyses in the Asian Region", and a 2009 study "Institutional Infrastructure for IPR-Based Development in Asia with a Focus on National Patent Systems". Since 1997, the WIPO Funds-in-Trust for Industrial Property has awarded fellowships to teachers or trainers of industrial property in industrial property offices, and faculty members engaged in the training or teaching of industrial property at universities. In the area of outreach, the WIPO Japan Office conducted a national competition to find an artist who will assist in the production of a manga dealing with counterfeit issues. Finally, drawing on the Japan Funds-in-Trust for Industrial Property, the Japan Office supports the production of short documentaries featuring innovators from the Asia-Pacific region. French and Spanish versions are also available at the WIPO channel on YouTube™. The WIPO Japan Office also hosts a great number of events.

The WIPO Singapore Office describes its responsibilities as providing information about intellectual property (IP) services to encourage innovation and creativity in the region, with special emphasis on support services in respect of the Patent Cooperation Treaty (PCT), Madrid and Hague systems, collective management, arbitration and mediation, and development activities, in coordination with WIPO headquarters. The Office focuses in particular on the sub-region of the Association of South East Asian Nations (ASEAN).Established in 2005, the Office's activities were expanded through an MOU in 2006 and then through two agreements in 2009. The 2006 MOU enabled the Office to conduct joint activities to promote IP awareness and build IP capabilities in developing countries and least developed countries (LDCs) in the region. The first 2009 agreement established the Singapore Office of the WIPO Arbitration and Mediation Center (WIPO Center) which promotes alternative dispute resolution (ADR) services in the Asia-Pacific region. The second 2009 agreement established an international WIPO Mediation and Arbitration Scheme for Film-Related Disputes, which is being developed by the WIPO Center in collaboration with Singapore's Media Development Authority, a statutory board under the Ministry of Information, Communications and the Arts that promotes and regulates the country's media sector. The Singapore Office also organizes and hosts WIPO events in Singapore and in the region and has an internship program

WIPO Brazil Office was established in Rio de Janeiro in 2009, following an invitation received from the Government of Brazil in October 2008 (accompanied by an offer to provide premises and infrastructure support at no cost to WIPO). *The Brazil office does not yet have a section of the WIPO website describing its work.*

Source: WIPO Program and Budget 2010/11 and relevant sections of the WIPO website.

The Review Team does consider that there are grounds for a more 'lite' decentralization of some functions in the area of development cooperation. Several alternative options exist including the creation of a WIPO 'desk' in, for instance, the offices of a relevant regional UN headquarters or in the regional or national offices of another international organization. Under such an arrangement, the regional desk officer's responsibilities could include: fostering closer political cooperation with other international donors and actors at the regional level, providing greater regional intelligence and on-the-ground awareness; and building stronger ties with other donors and agencies active in the region/country, including local UN offices, which may in turn help contribute to the mobilization of extra-budgetary resources. The creation of desk officers could also provide opportunities for WIPO staff to broaden contact and awareness of national level challenges and thus to deepen the organization's development culture.

A further option for decentralization is to hire regionally-based consultants for particular functions and to meet particular needs. Some decentralization of activities at the regional level is already being undertaken by the Infrastructure Modernization Division in the context of the CDIP Project on Smart Institutions to help meet the IT-related needs of IP offices in Africa. The Division has one consultant based in Nairobi, Kenya (the consultant's home country) and another regional expert based at ARIPO in Harare, Zimbabwe, who work closely together and whose activities are coordinated by the Division's project managers at the WIPO headquarters. These regional-based staff are consultants and hold Special Service Agreements (i.e., they are independent contractors). The Division also hires some regional consultants on an ad-hoc basis (i.e., they on-call for certain missions from time to time and receive they receive an honorarium for each mission) or for a 1-year period, which means they are remunerated on a monthly basis.

6.2. External Coordination

The review also considered WIPO's coordination with other actors and donors in the area of development cooperation. To set the context, Part 6.2.1 begins with a brief background on other providers of IP-related development cooperation activities. Part 6.2.2 continues with an assessment of WIPO's coordination with external donors and stakeholders also active in the provision of development cooperation activities on IP and related issues.

6.2.1. Background on Other IP Development Cooperation Providers and Donors

WIPO provides the largest share of IP-related development cooperation to developing countries. However, a wide range of other inter-governmental, government and non-state actors are active on similar and closely related issues, including multilateral and regional international organizations, national and regional intellectual property offices, developed country governments, NGOs, industry associations, associations of IP lawyers, individual companies, academics and university centers.[225]

At the multilateral level, donors that provide IP-related TA, advice, or training include the International Telecommunications Unions (ITU), the Joint United Nations Program on HIV/AIDS (UNAIDS), the UN Conference on Trade and Development (UNCTAD), United Nations Industrial Development Organization (UNIDO), the UN Development Program (UNDP), the UN Education, Scientific and Cultural Organisation (UNESCO), the International Union for the Protection of New Varieties of Plants (UPOV), the UN Food and Agriculture Organization (FAO), the World Customs Organization (WCO), the World Trade Organization (WTO), the South Centre, the World Health Organization (WHO), the Office of the High Commissioner for Human Rights (OHCHR), and the World Bank. Regional development banks (such as the as well as the Inter-American, African, and Asian Development Banks) and the UN Regional Economic Commission for Latin America and the Caribbean (ECLAC), the Economic and Social Commission for the Asia Pacific (ASPAC), and the Economic Commission for Africa (ECA) are also involved in some activities. To date, however, there have not been processes for coordination among the UN family or international organizations on IP–related assistance to developing countries.[226]

At the regional level, the Secretariats of regional IP organizations such as the Organisation Africaine de la Propriété Intellectuelle (OAPI), the African Regional Intellectual Property Organisation (ARIPO) and the Andean Community operate regional IP systems (albeit each different in nature) and cooperate in the provision of TA and advice to their members. Regional IP bodies, such as the European Patent Office and the European Commission, also provide IP assistance, as do various agencies departments within national governments, including patent and copyright offices, development assistance agencies, foreign embassies and ministries of foreign affairs, trade and industry. Countries particularly active in such bilateral IP assistance include France, Japan, Sweden, Switzerland, the United Kingdom, the United States and the EU.[227] In the case of the United States, for instance, IP assistance to developing countries is a multi-agency effort, involving the US Department of State, the Patent and Trademark Office (USPTO), the Commerce Department, the Trade and Development Agency (USTDA) and the US Agency for International Development (USAID), among others.[228]

The focus of donor activities and target countries varies according to their national commercial interests, past colonial ties, and geographic proximity.[229] The Philippine Intellectual Property Office, for example, receives support from the Japanese International Cooperation Agency (JICA), the USAID, and the European-ASEAN Intellectual Property Rights Cooperation Program (ECAP) as well as from WIPO, the US Patent and Trademark Office, the Japan Patent Office, the EPO and the Korean Intellectual Property Office (KIPO). In addition to WIPO, francophone African countries receive external support from the French IP office (INPI) and the EPO, while former anglophone colonies receive assistance also from the UK Intellectual Property Office (formerly the UK Patent Office).

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[225] Roffe et al (2007); Matthew and Tellez-Munoz (2006); Kostecki (2005); and Deere (2009a).

[226] CIPR (2002); Saana Consulting (2004); and Bellmann and Vivas-Eugui (2004).

[227] National agencies listed by Survey respondents as having been active in their countries included: the Oficina Española de Patentes y Marcas (OEPM), Instituto Mexicano de la Propiedad Industrial (IMPI), Instituto Brazileño de la Propiedad Industrial (INPI), La Agencia de Coorperacion Española, INWENT Germany, Japan IP Office, US Patent and Trademarks Office (USPTO), Norway Patent Office, AFD (French), Institut National de Propriété Industrielle (INPI- France), Organisation Africaine de la Propriété Intellectuelle (OAPI) ; Chinese Patent Office, the Swedish International Development Agency (SIDA), IP Australia, the Korean IP Office, the EPO, the Japan Internatinoal Cooperation Agency, and KOICA. For a review of bilateral assistance in the area of IP, see Matthews and Munoz-Tellez (2006).

[228] For an overview of the range of U.S. government agencies involved, see www.usipr.gov. In 2011, the U.S. government launched a Global Intellectual Property Education Database, maintained by U.S. government agencies that provide training and technical assistance relating to protection of intellectual property rights. The database is designed to permit the US Government Agencies to deposit international and domestic intellectual property enforcement training materials or catalogs in a shared database so that all federal agencies have access to them to promote greater consistency and to avoid duplication and waste of resources.

[229] Deere (2009a).

A range of non-government philanthropic organizations, stakeholder organizations and initiatives are also active in support for IP-related activities in developing countries as well as activities related to innovation, access to knowledge, and technological research. Multinational companies and industry associations (such as the International Chamber of Commerce and its national affiliates and the Business Software Alliance) provide capacity building, training, staff and funding to governments, think tanks and companies in developing countries to improve IP expertise, administration and enforcement. Similarly, organizations of authors, inventors and creators provide assistance to some developing countries (e.g., CISAC, CERLALC, INDAUTOR, La Federacion Internacional de Sociedades Cientificas (FISS)). There are also some think tanks (such as the U.S.-based International IP Institute), consulting firms (such as Development Alternatives Inc and Saana Consulting) and research centres (such as the George Washington University IP Institute), as well as university law clinics and individual professors that provide assistance either independently or through contracts from bilateral development agencies. Philanthropic organizations such as the Rockefeller Foundation and the Gates Foundation are involved in funding activities with strong IP components and implications for R&D and access to technologies and knowledge.

Further, there are associations of stakeholders such as libraries (such as IFLA and eIFL), consumers (Consumers International), public health advocates (such as Health Action International and MSF) that provide issue-specific advice, workshops, analysis and outreach activities on IP-related issues intended for the benefit of stakeholders and governments in developing countries. In addition, a number of international NGOs (such as the International Centre for Trade and Sustainable Development (ICTSD), Knowledge Ecology International (KEI) (formerly the Consumer Project on Technology), and Third World Network (TWN)) offer not only a critique of traditional IP-related TA, but also provide a suite of activities focused on raising awareness of developing countries on the use of flexibilities in international IP agreements and facilitating debate on the future of the IP system and development, as well as direct legal and technical assistance on specific technical and legal IP issues.[230] The activities of such NGOs have been supported financially by philanthropic foundations such as the Macarthur Foundation, the Open Society Institute, the Ford Foundation and the Rockefeller Foundation, among others.

6.2.2. WIPO's Coordination with other Providers and Stakeholders

Part 4 of this report (on development cooperation activities by Pillar) provided evidence that the degree and effectiveness of WIPO's coordination and collaboration with external actors and donors in its development cooperation activities varies by Sector and Program.

The Review Team found that WIPO's coordination with other providers of assistance active at the country level is weak. As noted in Part 6.1 of this Report, there is a great diversity of donors involved in IP-related capacity building for developing countries. At the beneficiary level, the number of international actors active in a particular country may vary from just one or two, to over twenty different actors. The range of donors or providers involved increases with the size of the country and IP office, and its scale and diversity of activities. Whereas for some issues, such as IP office modernization, WIPO may be the key actor, in areas such as IP enforcement, WIPO's activities may be a smallish drop in the broader sea of donor assistance. In general, coordination among donors active at the national level is extremely low. Further, as noted in Part 2, efforts by countries to coordinate their donors are minimal or ineffective. The diversity of the specific interests of the different providers makes this coordination task difficult. Many recipients do not have a broad knowledge of the diversity of assistance potentially available to them, the potential for them to negotiate rather than simply take or participate in what is offered. Moreover, country visits illustrate that the needs are often so high that countries are grateful for whatever they receive. The Review Team's country visits yielded numerous examples where countries were faced with a sporadic ad hoc array of workshops at national level hosted by a diversity of actors ranging from embassies and chambers of commerce to foreign IP offices, rights holder groups, companies, universities and NGOs.

The Review team's findings on external coordination were reinforced by the responses to the survey of beneficiary countries, which included several questions regarding views on the degree of coordination between WIPO and a range of other international organizations and providers in the area of technical assistance.[231] However, except for specific questions on the relationship between WIPO's assistance and that provided by other IP offices and the WTO, between 50% and 83% of respondents replied either doesn't know or not-applicable (presumably because they did not receive support from the particular actor named or did not know). On a scale of 1 to 7, the actors with whom coordination was perceived to be

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[230] ICTSD (2003); MSF (2003); TACD (2007); and Third World Network (2005).
[231] The Review Team also requested feedback in the survey on the relevance of IP-related assistance from various donors. Here again, the overall response rates were low as a number of countries respondent don't know or not applicable. However, several notable results were particularly notable. Nine respondents indicated that the work of local academics was between 1 and 3 (on a relevance scale of 1-7), while nine respondents indicated that the work of the WTO was between 5 and 7 on the same scale. Opinions on the relevance of the activities of other IP offices that offer bilateral assistance to countries varied widely.

highest were other intellectual property offices (9 responses were in the good to excellent range of 5 to 7), the World Trade Organization (8 positive responses), regional IP organizations (6 respondents), the World Customs Organization (6 positive respondents) and other UN organizations such as UNIDO, WHO and UNCTAD (6 positive responses). Coordination between WIPO and national and international universities and research institutes was given poor rankings (between 1 and 3 on a scale of 1 to 7) as was collaboration with NGOs. The knowledge of respondents responses was reported to be weakest (i.e., the greatest number of don't know replies) in terms of coordination between WIPO and international NGOs, and WIPO and UPOV.

While the WIPO Secretariat cannot be held responsible for any lack of interest that may exist on the part of potential collaborators, the Review Team found an absence of systematic mapping by WIPO of other relevant actors and potential collaborators or competitors in the field, and the implications of this for WIPO's engagement on particular issues and activities. A core implication of this weakness is that WPO does not build on or learn from work already conducted by others. The results of inadequate national level coordination include failures to optimise potential synergies, which in turn result in wasted resources and weaker results than might have been achieved. A related risk is that Member States with limited absorptive capacity receive a series of disjointed activities from multiple actors and that limited local resources and time are also misused. The Review Team found several examples of duplication and overlap with the work of those IP offices that have their own development assistance budgets and programs for work in developing countries. This is particularly prominent in the area of training and in office modernization.

Notably, there have been some efforts to foster greater communication and collaboration among the various IP donors, but these have been initiated by WIPO. In 2004, for instance, the UK government spearheaded this by gathering donors together to reflect on the challenges related to IP-related TA to developing countries.[232] Since 2007, the UK Department for International Development (DFID) has supported the Intellectual Property Rights TA Forum (IPRTA), which brings together key IP donors and stakeholders. The Review Team was not able to establish the degree to which WIPO has been engaged in this activity. The Review Team did find, however, that a primarily focus of WIPO's efforts to forge partnerships during the period under Review was resource-mobilization, both to boost support for WIPO's activities but also to help Member States access to resources for their national needs. While important, these activities should not overshadow the need for WIPO to seek partnerships, coordination and collaboration where the focus is not on promoting its own work, but rather on learning from the work of other donors and stakeholders active in providing development assistance on IP-related needs, and also on seeking ways to place its IP-related expertise at the service of other actors working on related areas of public policy, such as innovation, science and technology, and public health.

Importantly, the Review Team notes that involvement of a vast array of donors in IP-related capacity building has both positive and negative aspects. The diversity of donors and providers with different types of technical and local expertise creates the potential for deference to those with greater expertise or capabilities on a particular issue and for partnerships with resources and skills are combined to generate a greater benefit for users. While lack of coordination can result in countries receive conflicting or confusing legislative advice or repeat training opportunities, it is also the case that competing views on national legislative and regulatory frameworks from different technical assistance providers may be helpful to countries that are seeking to understand a range of perspectives and experiences.

Coordination with International Organizations

The most substantial area of coordination between WIPO and another international organization is with the WTO for the provision of TRIPS-related legal assistance and technical cooperation activities and Programs. In 1996, the WTO and WIPO Secretariats agreed to cooperate to assist developing countries with implementation of TRIPS.[233] The heads of both organizations subsequently established two joint technical cooperation agreements. The first, launched in 1998, aimed at helping developing countries meet their January 2000 deadline for conforming to TRIPS. The second agreement, made in 2001, was to assist least-developed countries (LDCs) meet their original January 2006 deadline (which was later extended until mid-2013)[234] for TRIPS implementation and to make use of IP protection for their development. Each year, WIPO reports to the WTO TRIPS Council on the technical and legal assistance it has provided.[235] Since

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[232] Bellmann and Vivas-Eugui (2004) and MSF (2003).

[233] For examples of this cooperation, see WIPO (1999).

[234] An extension until 2015 was granted in the area of patent protection for pharmaceutical products.

[235] See WIPO, 2010, Note on Technical and Legal Asssistance of the World Intellectual Property Organization Relevant to the Implementation of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), prepared by the International Bureau of WIPO, October 19, 2010.

that time, WIPO has provided extensive assistance, on demand of countries, regarding TRIPS implementation.[236]

The Review Team found that the quality of coordination between the WTO and WIPO has improved over the past three years due to strengthened consultations and periodic meetings to enhance cooperation. According to the 2010 WIPO report to the TRIPS Council, the meetings between the two Secretariats have resulted in increased levels of joint activities at the regional and national levels, with particular attention given to LDCs. There are also a number of examples of issue-specific collaboration with the WHO and WTO on a series of international seminars on technical topics related public health and IP, which engage WIPO in a constructive international policy debate on a key development priority.[237] The Review Team's interviews with WTO staff highlighted that since the Doha Declaration on TRIPS and Public Health, the mandate of WTO Secretariat staff clearly shifted such that they are now required to inform countries fully of the options, flexibilities and opportunities available to them when they provide assistance and advice. Despite the similar recommendations of the WIPO Development Agenda and acknowledgement of their importance by WIPO staff interviewed, the confidentiality of WIPO's legislative advice meant that the Review Team was not able to establish whether and how these have translated into concrete differences in the kind of legal advice that WIPO provides as part of its collaboration with the WTO (see discussion in Part 4.2. of this report). However, the Review Team found that WIPO staff have inadequate knowledge of the work underway at the WTO to assess needs of countries with respect to TRIPS implementation and IP reforms, and that there is minimal coordination on concurrent needs assessment and strategic planning exercises underway for the same countries.

Beyond the WTO, the Review Team found that WIPO's communication and coordination with other actors in the UN and international system is patchy. In WIPO's 2010/11 Program and Budget, Program 20 stated that it would work with Program 18 (IP and Global Challenges) to "continue to strengthen cooperation with the UN system, intergovernmental organizations, the Bretton Woods Institutions and nongovernmental organizations in order to promote a better understanding of WIPO's vision and objectives" and that "joint projects and activities with various stakeholders in support of the Organization's objectives will be developed." On a positive note, the Director-General now participates regularly in the UN Executive Heads Meeting, which is a key body for promoting collaboration among UN agencies. The Review Team found a number of examples of WIPO cooperation with international organizations at a formal, institutional level. For instance, WIPO has forged MOUs with UNIDO (approved but not yet signed), the FAO, and CERN (on access to technologies) and has an exchange of letters with the WHO. It is also engaged as a partner in a joint UNIDO-ITC-WIPO project, and also is sub-contracted to implement part of an EU-UNIDO project that focuses on IP (which involves WPO's Asia-Pacfic Bureau). At the administrative level, there is also collaboration between WIPO and UNDP for travel arrangements for participants in events and trainings.[238] At the activity level, a number of WIPO collaborations exist. For instance, WIPO collaborates with Interpol, the World Customs Organization and private sector associations to co-host an Annual Global Piracy Conference, where WIPO's emphasis has been on bringing a development-oriented and multilateral perspective to the global enforcement debate. WIPO has also provided specific expertise to UNAIDS to map patents on HIV/AIDs drugs.

On the other hand, there is no systematic WIPO outreach to the World Bank either for partnerships, coordination or learning purposes. The Review Team also found no systematic efforts to collaborate with UNCTAD on IP-related activites, despite the fact that UNCTAD is also active on the formulation of methodologies and implementation of assistance related to the development of IP strategies. Similarly, in the area of IP needs assessment there has been too little effort to benefit from or learn from exercises underway by the WTO, UNCTAD and ICTSD in this respect.[239] Although UNCTAD and ICTSD commissioned a Needs Assessment Toolkit for IP-related financial assistance and development cooperation in the context of TRIPS implementation, which has now been used by several LDCs (including Sierra Leone, Uganda, Cambodia), the Review Team found no evidence that WIPO staff had reviewed the Toolkit or resulting Needs Assessments to inform their work.[240] Part 2 of this Report also gave examples of where UNDP, UNAIDS and WHO provide legislative advice to developing country governments on IP-related issues without WIPO's engagement.

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[236] The range of TRIPS-related activities listed by WIPO for the period 2009-2010 included not only legislative advice, but also 'awareness building and human resource development, institution and capacity-building, modernization of intellectual property (IP) systems as well as enforcement-related activities'. WIPO also lists as relevant its activities to develop and implement 'strategies and policies aimed at creating, protecting, managing and exploiting IP for economic, social and cultural development'.

[237] Other examples of their collaboration include the annual WIPO-WTO Colloquium for Teachers of IP and the WIPO-WTO Common Portal, which provides information for national IP offices and trade offices of WIPO, WTO and UN Members.

[238] In the case of travel to WIPO events and trainings, information and arrangements regarding travel and other administrative arrangements is sometimes communicated through a local UNDP office.

[239] ICTSD (2011).

[240] See Saana Consulting (2004) and ICTSD/Saana Consulting (2007). Also see http://www.iprtaforum.org.

The Review Team acknowledges that improved coordination relies also on interest and knowledge on the part of the other agencies. Even where developing countries have devised strategic IP goals and IP needs assessments, both they and WIPO have had difficulty leveraging complementary resources from the bilateral development agencies or from the core UN Programs and specialized budgets for development-related work, as many of these do not have well-articulated goals or interests in IP-related issues.

Coordination with Bilateral and Regional IP Offices

The Review Team found no evidence of systematic coordination between WIPO and the main bilateral and regional IP offices active in providing assistance to developing countries or in devising their plans for assistance.

On a positive note, there are some clear instances of cooperation. In the case of WIPO's FITs donors, for instance, there is collaboration in the design of workplans with IP offices that are FITs donors. However, this does not mean that the other activities of the FITs countries and WIPO are well coordinated or that cooperation is sought. A positive example of WIPO cooperation with bilateral IP offices is the use by the SME Program of work conducted by the Korean IP Office and in-kind contributions by that office as a resource for its activities and beneficiaries in country. Further, WIPO supports the two regional IP offices in Africa - ARIPO and OAPI - through its development cooperation activities, and also works with them in the provision of activities for the benefit of their member states. The WIPO Secretariat also has a quadripartite cooperative agreement with the ARIPO, OAPI and the African Regional Center for Technology (ARCT) Secretariats to coordinate their activities in the region, which provides a framework for them to meet, prioritize and coordinate activities on a regular basis.

In addition, WIPO has worked with the EPO to implement joint projects such as LATIPAT, which provides access to the bibliographic and image data of patent documents published in the Latin American countries; [241] as well as annual seminars for judges and on patent and search examination. The EPO and WIPO also collaborate to host an annual summit of the 19 heads of Latin American patent offices, followed by a conference on patent information and the promotion of innovation. EPO also frequently provides expertise for WIPO events. The EPO reported to the Review Team, however, that the collaboration has been most effective in the Latin American region, and has been patchy or non-existent in other regions. The Review Team noted a notable lack of coordination between the activities of WIPO and the EPO on their training activities and patent search services, Patentscope and Esp@cenet®, which provide a similar range of services.

The Review Team found examples where various donor agencies and WIPO were informed of each other's activities at the national level (e.g., the U.S. provides public information on its activities through an on-line database), but this is often after the fact, not in the planning phase and few bilateral donors appear to have country plans. As noted in Part 5.1.6 of this report, public information on the specifics of WIPO's development cooperation activities is weak. This contrasts sharply with other international organizations, such as the WTO, which has a dedicated website on its technical assistance activities, listing all planned and ongoing activities, and a Member State body that reviews WIPO technical assistance and approves the annual technical assistance work plan). The launch in August 2011 of the public web portal for WIPO's IP-Development Matchmaking Database (responding to Development Agenda Recommendation 9) is a tool that should be used to help facilitate coordination among donors and connect donors with projects devised by countries. As noted above, the timing of the launch meant that the Review Team was not able to assess the portal or database. The effectiveness of the database will depend on its regular use by donors and potential beneficiaries, as well as WIPO's efforts to promote the database and to refining it based on feedback that may emerge from users.

Coordination with the Development Community

While there are some examples of cooperation between WIPO and bilateral and regional development agencies, these are relatively uncommon. On the one hand, Part 2 of this report provided several examples of collaborations between developing countries and regional development banks for IP-related issues. The PROSUR initiative in Latin America, for instance, is being supported financially by the IADB. Further, several countries in the Latin American region receive individual support from the IADB for a diversity of IP-related issues. From 2004-2009, for example, Panama received support from the Inter-American Development Bank for a project on competitiveness, which had several IP components, which is expected to be renewed for the period 2011-2016.[242] In light of such a broad package of support, the need for

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[241] LATIPAT, which uses the EPO's esp@cenet® platform began in 2003 as a joint initiative of the WIPO, EPO and the Spanish IP office and numerous national offices of Latin-American countries.
[242] This project had various IP components: a) strengthening national IP authorities as well as IP national capacities; b) educating and disseminating information about IP rights through campaigns, workshops, promotion of an "inventor week" and gathering of materials to create an IP museum and library; c) promoting two IP Information Centres, one at the Chamber of Commerce and the other at the National Technological University; d) strengthening respect for IP rights through improving inter institutional coordination among Customs, IP Criminal Investigations Office, Specialized Attorneys, the Judicial Police, the High

collaboration between WIPO and regional banks is particularly high. A bilateral example of collaboration is WIPO's Agreement with the Swedish International Development Agency (SIDA) for a cooperative training program (which is not about the provision of financial resources by Sweden to WIPO per se, but rather enables participants from developing countries to attend SIDA's courses). The Review Team found no examples of coordination or collaboration with the World Bank, and no formal cooperation agreement exists, despite the range of activities that the World Bank conducts on issues very closely related to WIPO's IP-related activities, including support for SMEs, the modernization of national institutions, and supporting the commercialization and export of national goods and services.

Limited Diversity of Partnerships and Collaborations

The review team found that the range of international organizations, donors and stakeholders with which collaboration was sought is not sufficiently broad. The Review Team found that WIPO's engagement with stakeholders varied according to the issue (e.g., indigenous knowledge, public health, industrial designs, and cultural industries) and type of activity (e.g., events, trainings, national seminars). There was greater evidence of WIPO's engagement with IP right holders and legal experts from the private sector than with other civil society actors, such as consumer rights, public health, library, development actors or public interest lawyers, and research institutes and universities, particularly those from developing countries. WIPO engaged regularly not only as a participant, but also a co-sponsor of events with organizations such as the International Chamber of Commerce and various right-holders organizations, such as IFFRO and CISAC. By contrast, WIPO had little collaboration with other active organizations such as UNDP, the South Centre, UNCTAD or civil society groups active at the international and national level in development-oriented approaches to IP policy and practices, such as ICTSD, TWN and KEI, beyond participation in events sponsored by such organizations.

An example of this shortcoming is provided by the WIPO Singapore Office's description of its outreach efforts in the Asia-Pacific region. The Singapore Office states that it works closely with intergovernmental organizations based in Singapore and in the region, such as the Asia-Pacific Economic Cooperation (APEC) Secretariat and the European Commission, as well as organizations such as the Singapore International Arbitration Centre (SIAC), International Confederation of Societies of Authors and Composers (CISAC), Composers and Authors Society of Singapore (COMPASS) and the international organization of mechanical rights societies (BIEM). There is no mention of interlocutors and partners at the regional level from the development field (such as the Asian Development Bank) or stakeholders beyond industry and IP-rights holders, such as consumers organizations, development NGOs, public health NGOs, libraries, associations, etc.

The failure to engage a diversity of international and national stakeholders and potential partners adequately is that countries benefit from the diversity of expertise, experience and views. In the absence of collaborations and partnerships with a range of national development cooperation agencies, international organizations, and stakeholders, WIPO also has not been able to learn and benefit from their experience, share-information, data and expertise; and to build synergies between programming at the national and regional and on an issue-level. In short, in its efforts to become more development-oriented, WIPO has been missing the opportunity to benefit from the experience and activities of the broader international development community. WIPO needs to supplement collaborations with its traditional interlocutors, mostly IP offices and IP-related constituencies, to a broader range of stakeholders at the national level and at the international level, including those active on related development issues. At present, weaknesses in how WIPO's monitors, reports and communicates about its development cooperation activities to Member States, other donors and stakeholders undermines the potential for collaboration and coordination. There is, for instance, no structured way for international or national stakeholders to submit input into the Program development or country planning process or to advise WIPO of their own activities in this respect.

In sum, the Review Team found a lack of strategic thinking on the part of Member States or the Secretariat on the range of external partnerships and collaborations needed to fulfill the mandate of the WIPO Development Agenda. The WIPO Secretariat has significant scope to forge and sustain a greater diversity of partnerships and to pursue these more systematically across its Programs.

6.3. Selected Recommendations on Coordination

Clarify Roles and Responsibilities of Sectors and their sub-Divisions.

The roles and responsibilities of WIPO's Sectors and their sub-divisions in the implementation of WIPO's Programs need clearer definition. A strategic review of WIPO's internal organizational structure should be undertaken to ensure it is aligned with organizational goals and development-related priorities as set out in the MTSP (and associated Member State comments), the Program and Budget, and the

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Tribunal Civil Court and the IP offices; and e) providing support for IP rights for SMEs and producers associations to increase their productivity and competitiveness.

Development Agenda. To deliver on the expected results of development cooperation activities, Programs and sub-divisions within Sectors need to have the prominence they warrant within the organizational structure in terms of access to resource planning processes, budget, and seniority of staff.

Special attention is needed to an improved definition of the roles and responsibilities of the Regional Bureaus, including the role and functions of desk officers. Areas where the substantive responsibility of Regional Bureaus should be enhanced are the formulation of national IP strategies, country-level planning, coordination, monitoring and evaluation, mapping of donors, donor coordination at the request of Member States, local intelligence, and collaboration with other donors and local stakeholders. Staff should be required to have not just political knowledge of the country but substantive knowledge of IP systems and related debates and policy initiatives underway relevant to national development policies. The elaboration and updating of country plans may facilitate this shift, but extra mechanisms will be needed, such as through staff appraisal processes and through job descriptions. The FITs managed by the Regional Bureaus and the LDC Bureau could still be coordinated by them, but the resources for activities would be allocated to the relevant WIPO Program and Sector responsible for achieving particular expected results.

The role of Regional Bureaus in the direct provision and implementation of activities should be limited to regional and sub-regional activities that are on issues that cut across the expertise of the substantive sectors. The implications of this shift in emphasis in the function of regional bureaus in budgetary terms may vary. In some cases, this refinement of functions may require more resources, but may also mean that the non-personnel budgets of the Regional Bureaus will be shifted toward Sectors and Programs involved in the delivery of specific development cooperation activities.

The Review Team found no compelling cost-benefit case for establishing a greater WIPO presence in any country or by region in the form of External Offices for the provision of development cooperation activities. Many sectors across the organization do not perceive the existing Offices as a substantive resource for their work but rather as a logistical contact. The Director-Generals' ongoing **consultation process on WIPO External Offices should incorporate a review and clarification of their role in the design and delivery of development cooperation activities.** This will in turn warrant detailed discussion of appropriate budget and staff resources, and relevant locations of offices. There is also need for more strategic guidance on the role of the External Offices in advancing the goals and work of the Development Agenda.

The decentralisation of some development cooperation activities and services should be considered by the WIPO Secretariat and its Member States. Examples of activities that could be decentralized include IT support services (some such decentralization already exists). It would also be useful to explore possibilities for a 'WIPO desk' in key regional centres where development-related strategic planning and discussion occurs (such as in regional locations where there is a critical mass of UN development agencies or regional offices of international organizations). Such a 'WIPO desk' would provide an opportunity to gather regional intelligence and build external collaborations with stakeholders and other donors.

Improve Internal Communication about Development Cooperation.

There is a need for **increased transparency, coordination and communication within WIPO on what activities the organization as a whole is undertaking in each country.**

The Program and Budget Process should be harnessed as a mechanism for improving coordination and strategic prioritization across WIPO. The effort undertaken for the proposed 2012/13 Program and Budget to devise organization-wide expected results, drawing from the expected results of each of the individual Programs, represents an important basis for further coordination. There will need, however, to be clear mechanisms for Programs to exchange information and collaborate for the achievement of those joint expected results.

Improve Collaboration with the UN Family and Development Agencies.

WIPO should improve the quality of its collaboration with the UN family and with development cooperation agencies and seek to modalities for that cooperation. The Secretariat should seek to participate in and provide input to processes that seek to establish a coherent framework for development assistance from a range of donors at the country level. In particular, WIPO's development cooperation activities should be conducted within the framework of UN country-based Development Assistance Frameworks and WIPO should report on a regular basis to the UN system on how its development cooperation activities contribute to the achievement of UN priorities on development. **A key goal of external coordination should be for WIPO to learn and integrate into its activities a broader view on IP and development.**

Collaboration with the UN family should be approached from a development-oriented not an IP-centric perspective. **The challenge is not simply one of greater coordination or collaboration with the UN**

family, but to improve the quality, nature and content of that collaboration. The objective of collaboration should not be to coordinate a uniform view on IP-related development cooperation within the UN family or to establish WIPO as *the* UN voice on IP. While WIPO should make its expertise available to other organizations, other UN agencies should not be encouraged to defer to WIPO merely on IP issues on the grounds that they are 'technical,' especially where other agencies may have superior specialized sector-specific knowledge on IP issues.

Diversify and Strengthen Collaborations with Other Donors

WIPO should improve collaboration with a diversity of development-oriented partners across its Pillars of development activities. WIPO should boost its outreach and collaborations with development-oriented partners. Its focus should extend beyond resource-mobilization to identifying new expertise, perspectives and experiences to feed into WIPO's development activities, as well as partners for building synergies on broader development activities underway within developing countries.

WIPO should establish an Annual Roundtable of IP-related donors to boost information-sharing, synergies and coordination. The Roundtable should involve all major IP offices involved in the provision of development-related activities as well as any other bilateral, multilateral or non-state actors actively involved in the delivery of IP-related development assistance activities.

To improve WIPO's interaction with development assistance donors and partners, the Secretariat should create a guide on how potential partners can engage with the organization. If WIPO succeeds in attracting more donors, it will become increasingly necessary to structure WIPO's arrangements for managing FITs to be multi-donor rather than single-donor. To ensure the usefulness of its new IP-Development Matchmaking Database to both providers of IP-related technical assistance and potential beneficiaries, the Secretariat should also keep abreast of lessons-learned from other technical assistance databases, such as the WTO's Global Trade-related Technical Assistance Database (GTAD) and the U.S. government's IP assistance database. Further, the IP-Development Matchmaking Database, should be linked to WIPO's own Technical Assistance Database on its own development cooperation activities.

The Review Team notes that from the beneficiary country perspective, the potential to choose from a range of development cooperation providers representing a variety of perspectives may be desirable (e.g., they may prefer a mix of consultants from WIPO, academia, industry or NGOs). For the same reason, some parallel activities by multiple providers may be desirable for some beneficiaries as it could yield opportunities to consider different options and advice (e.g., on legislative reforms). That said, in cases where two organizations both offer similar activities or advice to a given country on the same issue from a similar perspective there is clearly a case for stronger coordination to avoid duplication and resource wastage. One proposal that warrants deeper consideration is the pooling of capacity building resources from a number of donors, including WIPO, into a joint fund (either a general purpose fund or one focused on a specific topic or issue), managed by an executive director appointed by a board of internationally recognized experts (or by a board comprised equally of developed and developing country governments), with which developing countries could negotiate packages of support.

Strengthen WIPO-WTO Coordination

The coordination between WIPO and the WTO in their existing cooperation arrangement for the provision of technical assistance related to the TRIPS Agreement should be improved. In particular, they should boost attention to information-sharing, joint planning and collaboration on needs assessments in order to avoid duplication and maximise the potential for synergies, learning and cost-efficiency.

A clear area for improved cooperation concerns each organization's respective needs assessment processes for LDCs. Ideally, WIPO, the WTO and Member States would collaborate on such assessments so that neither countries, the WTO nor WIPO waste resources repeating similar exercises.

All WIPO technical assistance on TRIPS-related issues, including budget information, should be systematically reported to the WTO Global Trade-Related Technical Assistance Database.

Adopt a Policy to Guide WIPO's Engagement with Stakeholders

The WIPO Secretariat and its Member States should adopt a Policy to guide WIPO's engagement with external stakeholders. Also see recommendations in Part 3 of this Report on Impact regarding WIPO's engagement with stakeholders.

Annexes

1. Terms of Reference

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

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TERMS OF REFERENCE FOR THE REVIEW OF WIPO'S TECHNICAL ASSISTANCE IN THE AREA OF COOPERATION FOR DEVELOPMENT

prepared by the Secretariat

BACKGROUND

With the adoption of the WIPO Development Agenda (DA) in October 2007, the WIPO General Assembly called upon "all Member States, the Secretariat and other relevant WIPO bodies to ensure the immediate and effective implementation" of the 19 DA Recommendations that were considered to be for immediate implementation. The 2008 General Assembly extended this to all adopted Recommendations.

Subsequently, the Committee on Development and Intellectual Property (CDIP), at its 4th Session in Geneva, in November 2009, approved the "Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development"[243] which concerns the implementation of DA Recommendations 33[244], 38[245] and 41[246].

The Project is composed of two inter-dependent components:

Component 1: The design, development and establishment of a coherent results-based framework to support the monitoring and evaluation of the impact of WIPO's activities on development, as well as the implementation of the Development Agenda Recommendations and the strengthening of capacity for objective development impact assessments of the Organization's activities.

Component 2: Review of WIPO's technical assistance in the area of cooperation for development.
The present document represents the Terms of Reference (ToR) for the Component 2 of the project and outlines the background, the scope and methodologies for conducting the independent review of WIPO's technical assistance in the area of cooperation for development.

INTRODUCTION: WIPO'S TECHNICAL ASSISTANCE FOR DEVELOPMENT

Through its technical assistance for development, WIPO is committed to ensuring that developing countries and least developed countries are able to benefit from the use of IP for economic, cultural and social development.

The Development Sector[247] coordinates the implementation of WIPO's technical assistance and capacity building activities, including the work of the substantive sectors and Programs, which aims at contributing towards the reduction of the knowledge gap and the greater participation of the developing and least developed countries (LDCs) in deriving benefits from the knowledge economy.

The Development Sector provides substantial guidance for the development of national IP Strategies/Plans of developing and least developed countries. Each plan is informed by the overarching development goals articulated by the country itself and these goals cascade through WIPO's nine Strategic Goals into the following four pillars guiding the work of the Sector as well as the development activities of other sectors within WIPO:
- development of national IP and Innovation policies and strategies;
- development of legislative and regulatory frameworks that promote a balanced IP system;
- building of modern state-of-the-art national IP administrative infrastructure and user support systems;
- human resource capacity building.

WIPO's technical assistance and capacity building activities is entirely guided by the national IP Strategies and Plans ensuring a needs-driven and results-based approach to the delivery of technical assistance for development.

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[243] CDIP/4/8 Rev.
[244] Recommendation 33: To request WIPO to develop an effective yearly review and evaluation mechanism for the assessment of all its development-oriented activities, including those related to technical assistance, establishing for that purpose specific indicators and benchmarks, where appropriate.
[245] Recommendation 38: To strengthen WIPO's capacity to perform objective assessments of the impact of the Organizations' activities on development.
[246] Recommendation 41: To conduct a review of current WIPO technical assistance activities in the area of cooperation for development.
[247] Before July 1, 2010 called Cooperation Development Sector

PURPOSE

The purpose of the review is to conduct a macro level assessment of WIPO's technical assistance in the area of cooperation for development[248] to ascertain their effectiveness, impact, efficiency and relevance. In addition, the review will seek to determine the adequacy of existing internal coordination mechanisms for WIPO's delivery of technical assistance for development, while acknowledging that the review will be conducted during a time when the Organisation is undergoing major changes in the way it operates and delivers services as articulated in the Director General's Strategic Realignment Program (SRP).

The main objective of the review will therefore be, within the context of the MTSP, the SRP and taking duly into account the WIPO Development Agenda (DA) Recommendations, to identify ways to improve WIPO's technical assistance in the area of cooperation for development including ways to develop WIPO's RBM framework to facilitate the monitoring and evaluation of the impact of WIPO's activities on development. A critical element in this would be to identify baselines for the relevant expected results and performance indicators, in cases where they have not yet been defined.

SCOPE

The review will focus on WIPO's technical assistance in the area of cooperation for development implemented in the biennium 2008/09 and activities in progress in the biennium 2010/11. For the more in-depth country studies, the review will consider a longer period, i.e. at least six years, in order to facilitate the assessment of outcomes and impact.

The assessment will focus on all technical assistance for development provided by WIPO by both the Development Sector as well as other substantive Programs, such as Programs 1 (Patents), 2 (Trademarks, Industrial Designs and Geographical Indications), 3 (Copyright and Related Rights), 4 (Traditional Knowledge, Traditional Cultural Expressions and genetic Resources), Program 5 (The PCT System)[249], and 18 (IP and Global Challenges).

KEY QUESTIONS

In the assessment of effectiveness, impact, efficiency and relevance of technical assistance for development, the review will seek to address the following key evaluation questions:

Effectiveness and impact

- What areas of support has WIPO's technical assistance for development focused on during the period under review and has there been any shift in WIPO's approach?
- What results have been achieved and/or what progress has been made at the country level by WIPO's technical assistance during the period under review, including development results?
- What is the role of WIPO's stakeholders (Government, IP Offices, universities, research and development institutions, NGOs, civil society,…) in achieving results and what general risks can be identified?
- To what extent does WIPO's technical assistance reflect the principles of the Development Agenda, in particular the 19 recommendations for immediate implementation?
- Considering that it might be too early to gauge impact of technical assistance delivered more recently, do the conditions for achieving long term impact seem to be in place (e.g. sustainability of results achieved, national absorptive capacity, ownership of the results at the national level, follow-up activities to facilitate processes, etc)? Which specific indicators, in addition to the examples mentioned above, would be suitable for determining whether the conditions for achieving long term impact are in place?
- What tools and methodologies (benchmarking tools, tools and methodologies for developing national IP and Innovation Strategies,…) have been developed and are being

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[248] As mentioned in CDIP/1/3, Development Agenda Recommendation 41 and CDIP/4/8 Rev.
[249] "Taking into account the recommendations by the third session of the PCT Working Group numbered 204*bis* and 211*bis* as quoted in the report of the meeting (paragraph 129 of document PCT/WG/3/14 Rev.), the review shall seek to address the "key evaluation questions" in this Terms of Reference with a view to reviewing and assessing how well the PCT system has been functioning in terms of realizing its aims of organizing technical assistance for developing countries, disseminating technical information and facilitating access to technology.

used to deliver technical assistance and has the use of these tools been effective? Which additional tools and methodologies would be useful, if any?
- To what extent are policymakers at the country level informed about the WIPO Development Agenda and its impact on WIPO's activities?

Efficiency
- Are resources for technical assistance for development being used in the most cost-efficient manner? What cost efficiency measures could be introduced without impeding the achievement of results?
- What are the mechanisms in place for tracking the resource allocations for development-related activities and do they provide a sound basis for estimating the related expenditure?

Relevance
- Within the context of Development Agenda Recommendation 1[250], which aspects of national IP and innovation strategies, socio-economic objectives and/or development priorities have WIPO's technical assistance been aligned with and how were these selected?
- What means are there to ensure continuing relevance vis-à-vis changing needs and new developments?

Program and project management

- Is the delivery of technical assistance underpinned by a strong development oriented results-based framework at both the institutional (WIPO) and at country level (e.g. in the national IP and innovation strategies)[251]?
- Are the performance measures in the Program and Budget for 2010/11 adequate to facilitate the measurement of achievement of development results? Have good baselines been established?
- Are projects increasingly implemented using good practice project management tools (planning, design, monitoring and evaluation) as per DA Recommendation 1 and are results frameworks at the project level adequately linked to Organizational Goals and Expected Results?
- Are adequate monitoring and evaluation mechanisms being put in place, both at the organizational and country level, to ensure that: a) information on results achieved is captured; b) information on progress made in the implementation of the 19 DA principles is available; c) lessons learned are generated for the design of future activities; and d) the future assessment of impact of technical assistance is facilitated (DA Recommendation 38)?

Coordination of technical assistance for development
- Are the roles and responsibilities internally within the Secretariat for the delivery of technical assistance for development clearly defined? The restructuring of the Development Sector and the redefining of its roles and responsibilities vis-à-vis the substantive sectors is expected to facilitate a more effective and efficient delivery of WIPO's technical assistance for development: What are the critical success factors?
- How is technical assistance for development coordinated within the Secretariat and with other intergovernmental bodies and do the existing coordination mechanisms facilitate an efficient and effective delivery of technical assistance for development? If not, what measures or mechanisms should be put in place to improve the delivery of technical assistance?

METHODOLOGY

The assessment will be conducted through a desk review of relevant documents within the Development Sector and other substantive Programs as appropriate. This will include national IP Strategies and Plans, where available. Pertinent documents related to the work of the Assemblies, the Program and Budget Committee (PBC) and CDIP will also be included in the desk review. Completed country evaluations

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[250] DA Recommendations 1: WIPO technical assistance shall be, *inter alia*, development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion. In this regard, design, delivery mechanisms and evaluation processes of technical assistance programs should be country specific.
[251] DA Recommendation 1 should be considered in the context of this question.

conducted by WIPO's independent Evaluation Section will be used to the extent possible to inform the review.

The desk review will be complemented by interviews internally with all Programs involved in the delivery of technical assistance.

Feedback from the beneficiaries of WIPO's technical assistance for development at the national level will be sought through a questionnaire survey. Information obtained through the survey will be supplemented by field visits to six countries, which will be selected based on at least the following criteria:

- o Geographical balance and stage of development;
- o Representation of both developing countries and LDCs;
- o Countries have received substantial technical assistance from WIPO during the period under review;
- o Balance of "success cases" and less successful cases, based on the feedback from the questionnaire survey.

Additional criteria may be added by the Evaluation Team.

Field visits will incorporate interviews with a range of relevant stakeholders.

The review shall be conducted in accordance with the United Nations Evaluation Group (UNEG) Standards for Evaluation in the UN System[252] and the UNEG Code of Conduct for Evaluation in the UN System[253].

PLANNING, CONDUCT AND MANAGEMENT OF THE REVIEW

Input from Member States at the CDIP will be sought on the draft ToR to ensure that the review addresses the issues of greatest interest to Member States.

The review will be managed by the Program Management and Performance Section (PMPS). In order to ensure full objectivity and independence of the review, PMPS's role will be limited to coordination and providing support to the external Review Team.

The review will be conducted by two independent external consultants selected by PMPS.

EXTERNAL REVIEW TEAM

The Review Team should possess the requisite skills and knowledge required to conduct the review in a credible and independent manner. The team should hence include one IP and development expert and one development evaluation expert, preferable also with some knowledge of IP related issues and experience in the delivery of technical assistance and capacity building activities in developing countries and LDCs. Once the team is in place, a Team Leader will be appointed who will be responsible for conducting the review and delivering the outputs as per the ToR.

EXPECTED OUTPUTS AND TIMELINE

The review is expected to be undertaken during the period June to November 2010. A first draft report with preliminary findings and recommendations will be made available by the Review Team to the Secretariat by mid-September 2010. A final report will be submitted by the Review Team to the Secretariat by the end of November 2010.

The Review Team will present its preliminary findings, conclusions and recommendations to Member States at the 6th session of the CDIP in November 2010. The final report, together with the comments of the Secretariat, will be submitted to Member States at the first session of the CDIP in 2011.

BUDGET

Budget Item Description	Unit cost SFR	Total SFR
Expert honoraria (2 experts, 40 days / expert)	1,000 / expert / day	80,000

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[252] http://www.uneval.org/papersandpubs/documentdetail.jsp?doc_id=22
[253] http://www.unevaluation.org/unegcodeofconduct

3 missions to Geneva (2 experts, 1 week / expert / mission)	8,000 / mission	48,000
Field visits (2 experts, 6 countries)	8,000 / mission	48,000
2 briefing sessions for Member States (2 experts)	5,000 / mission	10,000
Publication, translation and distribution of final review report	n/a	8,000
Provision for unforeseen costs	n/a	2,000
Total budget		**196,000**

[End of document]

2. Biographies of Consultants

Carolyn DEERE BIRKBECK (Team Leader)

Dr. Carolyn Deere Birkbeck is a Senior Researcher at the Global Economic Governance Program at the University of Oxford where she is Director of GEG's Global Trade Governance Project and its Expert Taskforce on Global Knowledge Governance. She is also the founder and Chair of the Board of Directors of Intellectual Property Watch.

Dr. Deere Birkbeck previously worked at the Rockefeller Foundation in New York where she was responsible for grant-making on intellectual property, trade and sustainable development. In partnership with colleagues across the Foundation, she designed and coordinated the Foundation's initiative to Promote a Fairer Course for Intellectual Property Policy and launched the Bellagio Series on Development and Intellectual Property Policy. During this time, she also co-founded the Funders Network on Trade and Globalization (FNTG) and served on its Steering Committee. Prior to moving to the Rockefeller Foundation, she worked in Washington, D.C. for the World Conservation Union (IUCN) and was the Manager of the Congressional Staff Forum on International Development at the Overseas Development Council (ODC). She has been a consultant to a range of non-governmental and international organisations, including the World Intellectual Property Organization, UNDP's Office of the Human Development Report, the National Wildlife Federation, the Yale Centre for Environmental Law and Policy, the Open Society Institute and the South Centre.

Among other publications, Dr. Deere Birkbeck is the editor of *Making Global Trade Governance Work for Development: Perspectives and Priorities from Developing Countries* (Cambridge University Press, 2011), author of *The Implementation Game: The TRIPS Agreement and the Global Politics of Intellectual Property Reform in Developing Countries* (Oxford University Press, 2008), and co-editor (with Dan Esty) of *Greening the Americas: NAFTA's Lessons for Hemispheric Trade* (MIT Press, 2002). She holds a DPhil in International Relations (University College, Oxford), an MA (Johns Hopkins University School of Advanced International Studies) and a Bachelor of Economics (Hons I) (Political Economy) from the University of Sydney. She is an Australian and British citizen.

Santiago ROCA

Santiago Roca is a Professor of Economics and Finance at the Graduate School of Business Administration at ESAN University in Lima, Peru, where he is also Director of the International Center for Intellectual Property, Competition, Consumer Protection and Trade, CEPIC. From August 2008 to February 2009, he was invited to act as a Senior Economic Advisor at the Competition Policy and Consumer Protection Branch at the United Nations Conference for Trade and Development, UNCTAD, Geneva. Before that he served for two and a half years (2004-2006) as President of the Board of Directors of the Peruvian Intellectual Property and Competition Authority, INDECOPI, in Lima, Peru. As Chairman of the Board he was in charge of the Patent, Trademarks and Copyrights Offices, which together with other units (Competition, Consumer Protection and Technical Norms and Standards) employs more than 1,200 lawyers and economists. INDECOPI represents Peru at multilateral institutions like the World Trade Organization (TRIPS agreement) and the World Intellectual Property Organization, WIPO. He was also Member of the Board of Directors of the Peruvian Water and Sanitation Authority. Before becoming President of INDECOPI, he served during two years (2002-2004) as one of the six members of Peru's Tribunal for the Defense of Competition and Intellectual Property Rights and, has been a Visiting Professor for two full academic years each both at the Arizona State University (2000-2001) and at Pennsylvania State University (1985-1987), an for one academic year at The Institute of Social Studies at The Hague, The Netherlands (1981-1982). He has also been Peruvian Representative at the Pacific Economic Cooperation Council, for about 5 years in charge of making annual economic projections. His work long life base is at the Graduate School of Business, at ESAN University, in Lima, Peru.

Santiago Roca holds a Ph.D. and Master of Arts in economics from Cornell University, is an expert on development issues, co-author of various small institutional books on: trade and intellectual property, trade and competition policy, and trade and standards, all of them relating to Peru. In addition he is the author and/or editor of nine books on various development subjects most of them also related to Peru and Latin America, like: investment, intellectual property rights and trade, a national development plan, macroeconomic management, stabilization and structural adjustment in Latin America, cooperatives and self-management in Latin America, and income distribution in the sugar industry in Peru.

He is author of a dozen of academic articles in well known academic refereed journals and in various development books. He contributes regularly writing journalistic articles in daily newspapers and weekly

magazines. He is currently an external consultant at WIPO and has been consultant at UNCTAD, EDI/World Bank, Inter-American Development Bank, International Labor Office, and the Interamerican Foundation, among others. In the private sector he is an independent consultant of private corporations and various business associations and confederations, and was for 7 years President of ROI Consultores, a private consultancy firm. Member of the board of various private corporations and one commercial bank, and has run for 9 years a quarterly economic projection and strategic management service "Riesgo y Futuro" addressed to private business and corporations, organized at the Graduate School of Business Administration, ESAN University.

3. List of Interviews

Interviews with WIPO Staff

Ranjana ABEYSEKERA, Director, Regional Bureau for Asia and the Pacific
Maya BACHNER, Acting Head, Program Management and Performance Division
Philippe BAECHTOLD, Director, Patents and Innovation Division
Irfan BALOCH, Acting Director, Development Agenda Coordination Division
Joseph BRADLEY, Head, Intergovernmental Organizations and Partnerships Section
Trevor CLARKE, Assistant Director General, Culture and Creative Industries Sector
Carole CROELLA, Counsellor, Copyright Law Division
Andrew CZAJKOWSKI, Head, Innovation and Technology Support Section
Marcelo DI PIETRO PERALTA, Acting Director, WIPO Academy
Tuncay EFENDIOGLU, Senior Internal Audit Office, Internal Audit Section, IAOD
Octavio ESPINOSA, Director, Legislation Advisory Division
Carsten FINK, Chief Economist, Economics and Statistics Division
Amgad M. ABDEL GHAFFAR, Director-Advisor, Office of the Deputy Director General, Development Sector
Georges GHANDOUR, Consultant, Development Agenda Coordination Division
Federico GUICCIARDINI, Senior Advisor, Reginal Bureau for Asia and the Pacific.
Francis GURRY, Director General
Guriqbal Singh JAIYA, Director, Small and Medium-Sized Enterprises (SMEs) Division
Lucinda LONGCROFT, Acting Deputy Director, Development Agenda Coordination Division
Michael JUNG, Head, Internet Services Section
Konrad Lutz MAILÄNDER, Head, Patent Information Section
Elizabeth S. MARCH, Deputy Director, Communications Division
Claus MATTHES, Director, and **Michael RICHARDSON,** Deputy Director, PCT Business Development Division
Carlos MAZAL CASELLA, Acting Director, Regional Bureau for Latin American and the Caribbean
William MEREDITH, Director, and **Sarah NEYROUD,** Senior Administrative Assistant, Infrastructure Modernization Division
Mohammed MOAYEDODDIN, Deputy Director, Regional Bureau for Asia and the Pacific
Tamara NANAYAKKARA, Counsellor, Small and Medium-Sized Enterprises (SMEs) Division
Chitra NARAYANASWAMY, Acting Director, Resource Planning, Program Management and Performance Division
Yves NGOUBEYOU, Senior Program Officer, Regional Bureau for Africa
Herman NTCHATCHO, Senior Director, Regional Bureau for Africa
Neema NYERERE DRAGO, Senior Program Officer, Regional Bureau for Africa
Geoffrey ONYEAMA, Deputy Director General, Development Sector
Rowena PAGUIO, Senior Counsellor, Development Sector
Nuno PIRES de CARVALHO, Acting Director, Intellectual Property and Competition Policy Division
Mr. Naresh PRASAD, Executive Director and Chief of Staff, Office of the Director General
Mansur RASA, Deputy Director, Regional Bureau for Asia and the Pacific
Allan ROACH, Project Director, Technical Assistance Database Projects
Alejandro ROCA CAMPAÑA, Senior Director-Advisor, Office of the Assistant Director General, Global Infrastructure Sector
Kiflé SHENKORU, Director, Division for Least-Developed Countries (LDCs)
Yoshiyuki TAKAGI, Assistant Director General**,** Global Infrastructure Sector
Altayework TEDLA, Head, Distance Learning Progam, WIPO Academy
Ye Min THAN, Senior Program Officer, Regional Bureau for Asia and the Pacific
Francesca TOSO, Project Manager, Development Sector
Louise VAN GREUNEN VUAGNAT, Director, Building Respect for IP Division
Víctor VÁZQUEZ LOPEZ, Senior Legal Counsellor (Digital Future Project), Office of the Assistant Director General, Culture and Creative Industries Sector
Binying WANG, Deputy Director General, Brands and Design Sector
Wend WENDLAND, Director, Traditional Knowledge Division
Christian WICHARD, Deputy Director General, Global Issues Sector
Heike WOLLGAST, Senior Legal Officer, Building Respect for IP Division
Françoise WEGE, Deputy Director, Regional Bureau for Africa
Fabio **WEISSERT,** SLC, Communications Division
Takashi **YAMASHITA,** Director, PCT International Cooperation Division
Ali **JAZAIRY**, Head, Innovation and Technology Transfer Section

External Interviews Conducted
Javier MORENO, Director, International Relation Department, Spanish Patent and Trademark Office (OEPM), Madrid
Tony TAUBMAN, Director, Intellectual Property Division, WTO Secretariat
Roger KAMPF, Counsellor, Intellectual Property Division, WTO Secretariat
Pierre ARHEL, Counsellor, Intellectual Property Division, WTO Secretariat
Kiyoshi ADASHI, Legal Officer, Technology Transfer & Intellectual Property, UNCTAD

4. List of Interviews and Documents Consulted for Country Visits

Dominican Republic

Interviews

Juan José Baez, Director General, Oficina Nacional de Propiedad Industrial, ONAPI.

Josefina Aquino, Consultora de la OMPI, ONAPI

Ibeth Vargas, Jefa de la Oficina de Signos Distintivos, ONAPI

Wilson Grullón, Jefe Sistemas de Tecnología de Información, ONAPI

Raquel Nuñez, Sub-Directora de la Oficina de Patentes, ONAPI

Ayalibis Garcia, Jefa Relaciones Internacionales, ONAPI

Mariano Feliz Terrero, Director, Oficina de Derechos de Autor, ONDA, Ministerio de Educación

Julio Sanchez, Vicerector de Investigación, Instituto Tecnológico Santo Domindo, INTEC.

Anne Tejada, Emprendurismo, INTEC

Andrea Paz, Innovación, INTEC

Bernarda Castillo, Directora Ejecutiva, Instituto de Innovación Industrial y Biotecnológico, IIBI.

Laura del Castillo, Sub-Directora Técnica, Consejo Nacional de Competitividad, CNC.

Documents Consulted

Estrategia Nacional de Desarrollo 2010-2030 de la República Dominicana, www.end.gov.do

Memoria 2008, Instituto de Innovación en Biotecnología e Industria, IIBI

WIPO (2010) "Metodología y Preguntas para Recabar Información y Evaluar el Sistema de Propiedad Intelectual para la Realización de un Marco Estratégico en República Dominicana"

WIPO (2010), "Resultados Primera Fase: Proyecto para Recabar Información y Evaluar el Sistema de Propiedad Intelectual para la Realización de un Marco Estratégico en República Dominicana"

WIPO (2010), "Resultados Segunda Fase del Proyecto Piloto para Evaluar el Sistema de Propiedad Intelectual para la Realización de un Marco Estratégico en República Dominicana" Elaborado por Josefina Aquino, Consultora Proyecto Piloto, Agosto 2010.

Indonesia

Interviews

Mohammad Adri, Director International Cooperation Division, DGIPR.

Dede Mia Yusanti, Head International Cooperation Division, DGIPR

Agung Damarsasongko, Head Legal Affairs, Directorate of Copyrights, DGIPR

Sutikno, Administrative & Technical Services, Directorate of Copyrights, DGIPR

Stephanie Cano, Chief Section for Copyrights, Directorate of Copyrights, DGIPR

Salman, Litigation Section, Directorate of Copyrights, DGIPR.

Morata Lumbarraza, Industrial Design Examiner, DGIPR..

Habibah, Head Division Personnel Affairs, Secretariat, DGIPR

Arry Ardanta Sigit, Director, Information Technologies, Secretariat, DGIPR

Erbita Dumada Riani, Head Division Administration, Patent Directorate, DGIPR

Aribudhi Suyoho, Patent Examiner, Patent Directorate, DGIPR.

Mohamad Zainudin, Patent Examiner, Patent Directorate, DGIPR

Abdi Saputra, Patent Examiner, Patent Directorate, DGIPR

NNK, Patent Cooperation Treaty, DGIPR

Didiek Taryadi, Head Division for Legal Services, Directorate of Trademarks, DGIPR

Suryadi Zaenai, Head Division Administrative Serices, Directorate of Trademarks, DGIPR.

Irnie Mela Yusnita, Trademark Examiner, Directorate of Trademarks, DGIPR.

Marulam Hutauruk, General Manager, Sound Recording Industry

Agus Sardjono, Indonesia IP Academy

Lembaga Hak Pelaku, Performers´s Rights Society of Indonesia

Edy Haryatno, Wakana Musik Indonesia

Gunawan Suryomurcito, Patent Attorney

Husain Audah, Royalti Musik Indonesia

NNG, Business Software Alliance, Indonesia.

Dwi Pudi, Genetics Resources Department, Ministry of Agriculture.

Agus Heryana, IP Section, Ministry of Foreign Affairs.

Dodong Sofyan, Head, Division of Intellectual Property, Indonesian Institute of Sciences and Innovation, LIPI.

NNK, Food & Drug Office, Ministry of Health

NNK, Ministry of SME and Cooperatives

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DGIPR (2010), "Statistics on Patents, Trademarks and Copyrights", Manuscript, 2010.

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WIPO (2010), "Country Action Plan: Indonesia", Asia Pacific Bureau, Development Sector.

WIPO (2010), WIPO-ASEAN Consultation Meeting on Cooperation in the Field of Intellectual Property, September, 2010.

Panama

Interviews

William Gonzáles, Director Nacional de Comercio, Ministerio de Industrias y Comercio

Luz Celeste Rios de David, Directora, Dirección General de Registro de Propiedad Industrial, DIGERPI.

Zereth Torres, Abogada de Negociaciones Internacionales, Ministerio de Comercio e Industrias

Teresita Bordelon, Directora Ejecutiva, Programa Impulso, Banco Interamericano de Desarrollo, Ministerio de Industria y Comercio.

Enrique Balberto, Asesor Propiedad Intelectual, Programa Impulso, Banco Interamericano de Desarrollo, Ministerio de Industria y Comercio.

Julio Coronado, Jefe de Sistemas de Información, DIGERPI

Crecencio Melgar, Sub-Director, DIGERPI

Cathia Fletcher, Jefa de Oficina de Marcas, DIGERPI

Angela Shelton, Directora, Oficina de Derechos de Autor, ONDA

Maria Eugenia López, Magistrada, Tercer Tribunal Superior, Corte Suprema de Justicia

Armando Abrego, Jefe, Zona Libre de Colon.

Denisse Solís, Jefa, Aduanas, Zona del Canal

Cristina Grimaldo de Cedeño, Fiscalía, Ministerio Público

Leonardo Uribe, Jefe de la Oficina de Propiedad Industrial, Autoridad Nacional del Ambiente, Departamento de Vida Silvestre, Ministerio de Agricultura.

Arezio Valiente, Centro de Asistencia Legal Popular, ONG

Regner Araoz, Funcionario, Autoridad Nacional del Ambiente, Ministerio de Agricultura.

Anibal Fossatti, Profesor, Universidad Tecnológica de Panama

Documents Consulted

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Government of Panama, Table summarizing Legislation on Intellectual Property in Panama

Valerio, F. (2007) "Action Plan to Strenghten and Modernize the IP System in Panama", IDB and the Ministry of Industry and Trade, June 2007

Senegal

Interviews

Pascal Badji, Agence Sénégalaise pour la Propriété Industrielle et l'Innovation Technologique (ASPIT), Ministry of Mining, Industry, Agroindustry and SMEs

Abdourahmane Fady Diallo, Technical Director, Senegalese Agency for the Industrial Property and the Technological Innovation (ASPIT), Department of Mining, Industry, Food Processing, Agricultural Products and SME.

Moussa Gning, Secretary General, Senegalese Association for the Promotion of Inventions and Innovation

Moussa Gning, Director of Communication, Focal Points, Programmes and Projects, Centre Régional Africain de Technologie (CRAT).

Youssouph Diatta, Director, Division of Technology, Research and Science, Centre Régional Africain de Technologie (CRAT).

Dr. Ababacar Ndoye, Directeur Général, Institut de Technologie Alimentaire.

Cheikh Saadbouh Seck, Director, Department of Foreign Trade, Ministry of Trade

Nafissa Dramé Dia DIPO, Commissioner for Economic Inquiries, Head of the Office for Cultural Services and Intellectual Property, Department of Foreign Trade, Ministry of Trade

Mrs. Ndeye Abibatou Youm Diabe Siby, Director General, Senegalese Copyright Office,
Ministry of Culture and Communication

Documents Consulted

ASPI (date unknown), Information Brochure on the Association Sénégalaise pour la Promotion des Inventions et Innovations (ASPI).

ASPIT (date unknown) Information Brochure. Agence Sénégalaise pour la Propriété Industrielle et l'Innovation Technologique.

ASIT (date unknown) Information Brochure 'Le Sénégal Ouvert à l'Innovation', Agence Sénégalaise pour l'Innovation Technologique (Ministere des Mines et de l'Industrie, Republique du Sénégal

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WTO (2009) *Trade Policy Review: Senegal*, WT/TPR/S/223/SEN. Geneva: WTO.

Tanzania

Interviews

Mr. Yustus A.B. Mikinga, Copyright Administrator and CEO, Copyright Society of Tanzania (COSOTA) and SEACONET, The United Republic of Tanzania, Ministry of Industry, Trade and Marketing

Doreen Anthony Sinare, Principal Copyright Documentation Office and Advocate, Copyright Society of Tanzania (COSOTA), The United Republic of Tanzania, Ministry of Industry, Trade and Marketing

Dr. Geoffrey Mariki, Director General, Chief Inspector of Mechandise Marks Act, Fair Competition Commission

John Esau Mponela, Ag. Director, Anticounterfeit Division, Fair Competition Commission

Mr. Esteriano Mahingila, Registrar General, Intellectual Property Division, Business Registrations and Licensing Agency, Ministry of Industry, Trade and Marketing

Mr. H. O. Mjonga, Assistant Registrar, Intellectual Property Division, Business Registrations and Licensing Agency (BRELA), Ministry of Industry, Trade and Marketing

Legu Ramadhani Mhangwa, Pharmaceutical Advisor, Tanzania Food and Drugs Authority

Evarist Makene, Tanzania Intellectual Property Advisory Services and Information Centre (TIPASIC), Tanzania Commission for Science and Technology

Georges.S. Shendoe, Tanzania Commission for Science and Technology (COSTECH)

Japhet Kilangi, Small Industries Development Organization (SIDO)

Seka Kasera, Business Registrations and Licensing Agency (BRELA)

Tawi G. Kikumile, MIT

Herment A Mrema, Africa Rural Development Support Initiative (ARUDESI)

Magdalene Mkocha, Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA)

Paul Kihwelo, Intellectual Property Lawyer and Lecturer, Open University of Tanzania

Documents Consulted

BRELA, A Step-by-Step Guide to Access, BRELA Service 2010/11: How to Give your Business its Legal Life and How to Protect Your Intellectual Property in Tanzania, Business Registrations and Licensing Agency

COSTECH (2010) Accessing Technologies and Information Contained in Patent Documents to Enhance Innovative Research in Tanzania, Tanzania Commission for Science and Technology (COSTECH)

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Oyelaran-Oyeyinka, B. and Sampath, P. (2007) *Innovation in African Development: Case Studies of Uganda, Tanzania and Kenya,* A World Bank Study. March 2007.

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Vietnam

Interviews

Mai Van Son, Director, International Cooperation Division, National Office of Intellectual Property, (NOIP)

Le Ngoc Lam, Director, Industrial Designs, NOIP.

Ngo Viet Thang, Deputy Director, Trademarks Division 2, NOIP.

Nguyen Hung, Deputy Director, Information Technologies, NOIP

NNK, Research and Training Center, NOIP

Tran Thi Triyet Mai, Patent Examiner, NOIP

Trinh Thu Hai, Officer, IP Supporting and Consultation Center, NOIP.

Nguyen Viet Ha, Legislative and Policy Division, NOIP

Vu Manh Chu, Director General, Copyright Office of Vietnam, VCO.

Phan Huy Thong, Deputy Director, Department of Crop Production, Ministry of Agriculture and Rural development.

Mai Ha; President, National Institute for Science, Technology and Strategic Studies, NISTPASS.

Le Duy Tien; Director, Vietnam Fund for Supporting Technology Creations, VIFOTEC.

Le Xuan Thao, President, INVENCO

Documents Consulted

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WIPO (2010), "Cooperation between WIPO and Viet Nam since 2008", Note prepared by Asia Pacific Bureau, Development Sector, 2010.

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5. List of Country Survey Responses Received

Africa Region
1.   Congo-Brazzaville
2.   Cote d'Ivoire
3.   Madagascar (x) (copyright and industrial property offices)
4.   Mauritania
5.   Nigeria
6.   South Africa
7.   Togo

Latin America And The Caribbean
1.   Argentina
2.   Bolivia
3.   Brazil (x2) (Ministry of Foreign Affairs, and National Industrial Property Institute)
4.   Costa Rica (x2) (copyright and industrial property offices)
5.   Colombia
6.   Dominican Republic (copyright and industrial property offices)
7.   Ecuador
8.   Guatemala
9.   Mexico (x2) (copyright and industrial property offices)
10.   Panama
11.   Peru (+ additional responses to some questions from the trademarks and copyright authorities)
12.   Chile

Arab Region
1.   Algeria
2.   Egypt
3.   Jordan
4.   Oman

Asia-Pacific Region
1.   Cambodia
2.   China
3.   Indonesia
4.   Philippines
5.   Vietnam

6. Background on Orientation of Beneficiary Country Survey Respondents

The Review Team's survey of beneficiary was addressed to countries as a whole, and could be answered by the government as a whole or by a number of different Ministries or government agencies. However, most of the responses received were from intellectual property offices. As such, while the feedback from the surveys is important, it does not necessarily reflect views of the diversity of IP stakeholders in beneficiary countries nor of the full range of national beneficiaries of WIPO development cooperation activities.

Of the 34 responses received to the survey of beneficiary countries, 30 were from intellectual property offices. Twenty-one of the respondents indicated that intellectual property was the primary responsibility of their offices, while others reported that trade/commerce (4), industry (4), or foreign affairs (3) were their main responsibility. No responses were received from regional IP offices (such as ARIPO or OAPI). The size of intellectual property offices from which responses were received varied widely in terms of annual budget, number of staff (from 6 to 7,640), number of professional staff (4 to 4,500) and number of patent examiners (from 0 to 3,000).

The majority of intellectual offices that responded were part of a national ministry (17), while 6 were semi-autonomous government agencies, and 7 were autonomous agencies. Among respondents, the majority were responsible for industrial property matters (e.g., patents (24), utility models (18), trademarks (24) and industrial designs (25)) (See Table A). Fewer respondents (12) were responsible for copyright. Similarly, only 12 respondents had responsibility for traditional knowledge, folklore, cultural expressions and/or genetic resources and 10 were responsible for plant varieties. Fifteen of the respondents were also responsible for other activities such as the registration of commercial names and companies. Only 3 respondents had responsibility for competition law and policy.

Table B presents the degree to which the survey respondents performed various functions relevant to the operation of the IP system. The most commonly-served functions were administration of IP rights, participation in international IP negotiations and discussions, and public awareness raising. Slightly fewer countries were involved in activities related to making use of IP for development, the design of national IP laws and regulatory frameworks, and participation in national policymaking on matters related to IP.

The views of survey respondents on the intellectual property system varied (see Table C). When asked which three of a list of elements were, from their perspective, the most important aspects of a 'balanced intellectual property system.' The most popular responses were: a system that promotes the creation and use of intellectual property for development; a system that efficiently administers IP rights; a system that promotes innovation and creativity in the respondent's country; and a system were intellectual property rights can be fully and efficiently enforced. These responses can be seen as a reflection of the fact that most respondents were concerned in their work primarily with the administration of IP systems rather than their design. This factor is important to keep in mind when reviewing and interpreting survey responses.
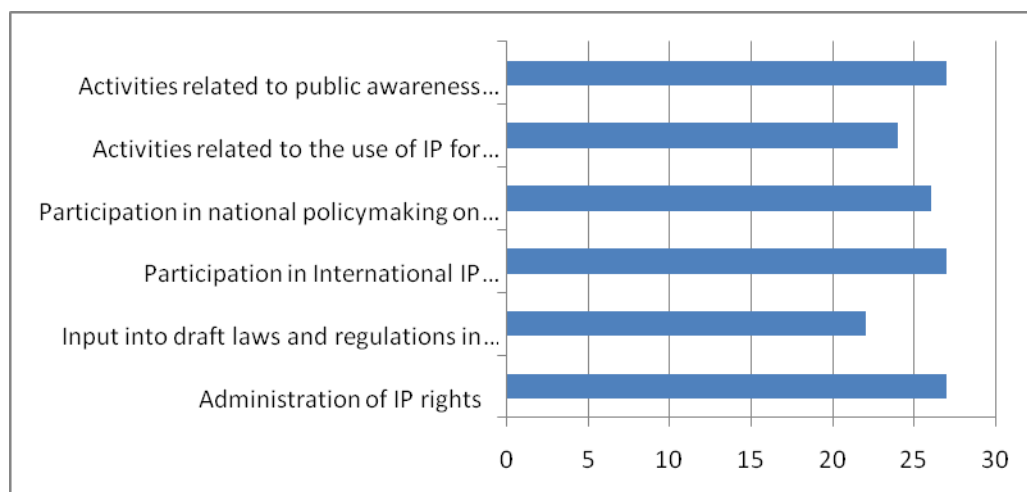
Table A. Number of Survey Respondents Indicating their Agency Has Responsibilities in Each Area of IP
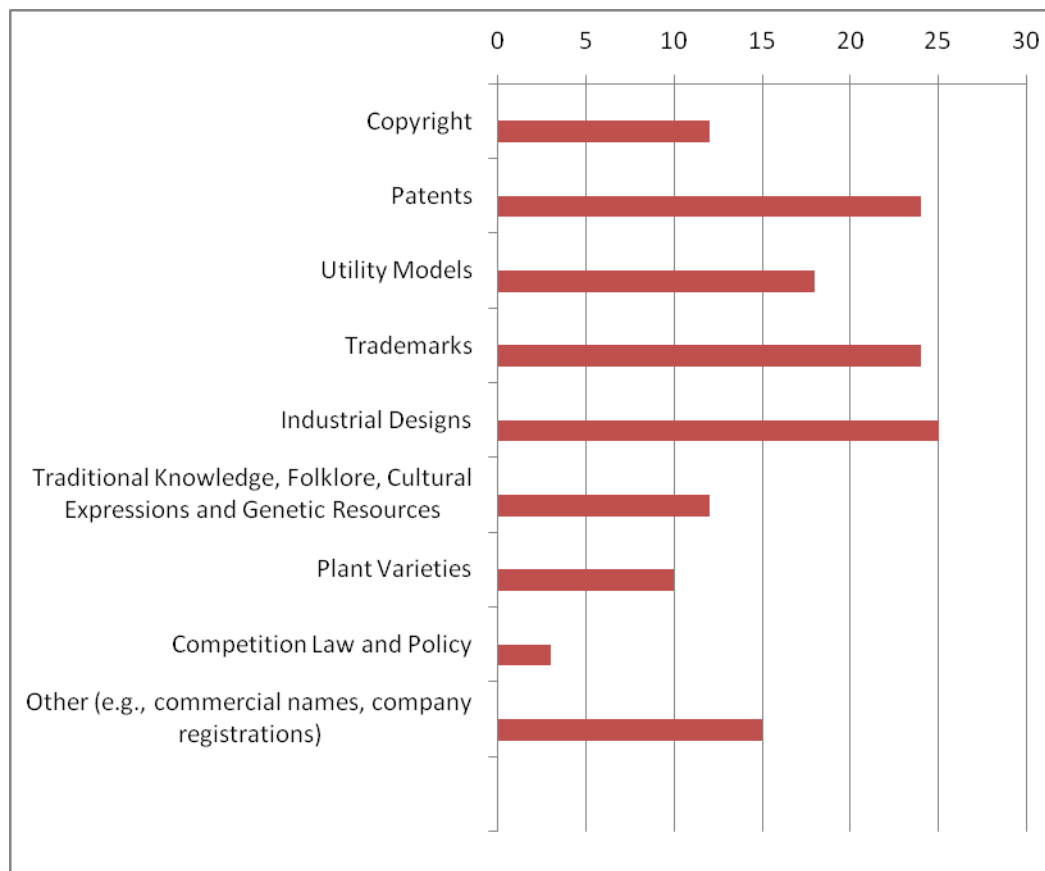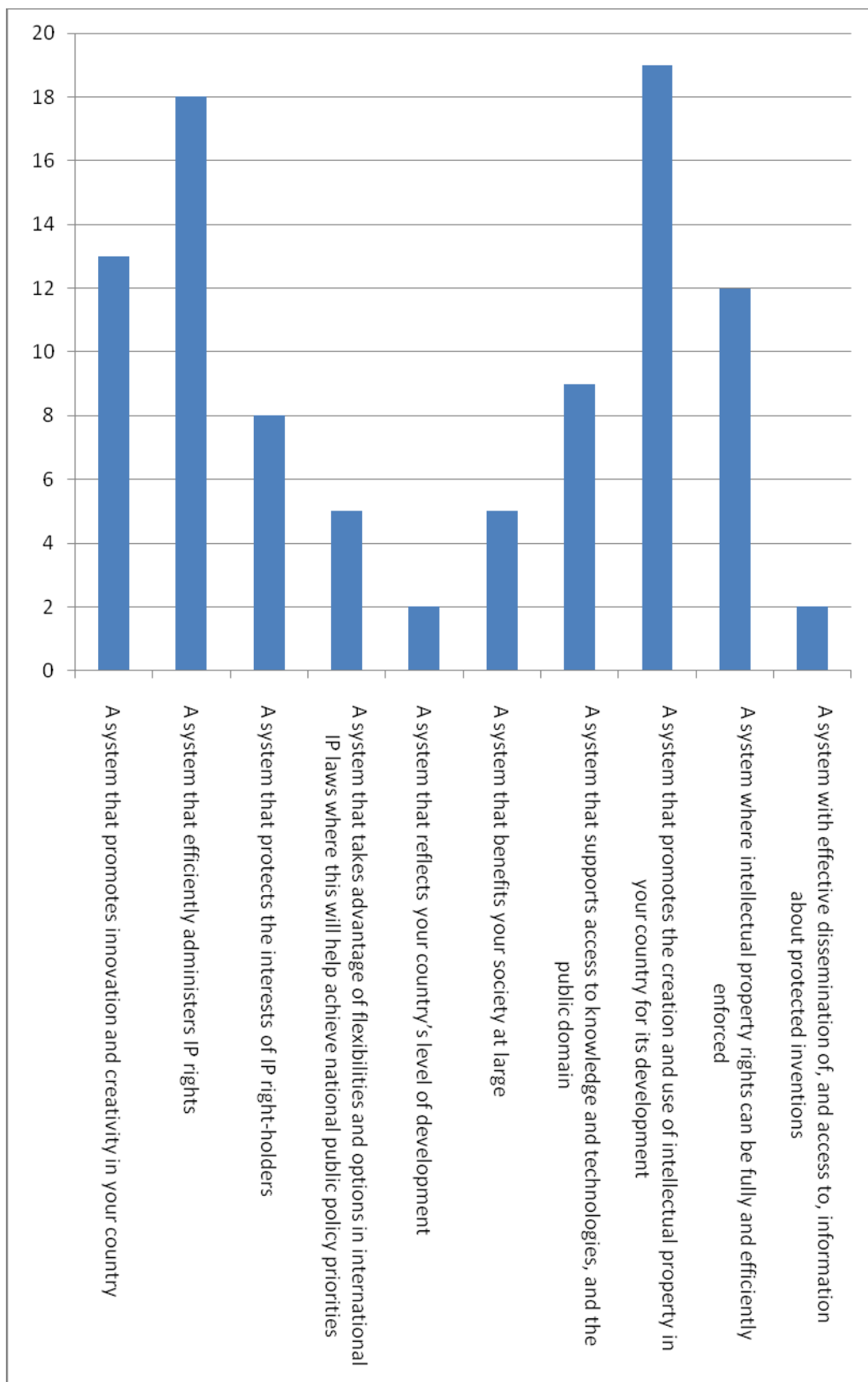

Source: Authors' Survey of Beneficiary Countries

Table B. Number of Survey Respondents Indicating Engagement in Different Functions Relevant to the Operation of the IP System

Source: Authors' Survey of Beneficiary Countries

Table C. Number of Survey Respondent Specifying Different Possible Components

of a 'Balanced IP System'

The chart shows survey responses with the following values:

- A system that promotes innovation and creativity in your country: 13
- A system that efficiently administers IP rights: 18
- A system that protects the interests of IP right-holders: 8
- A system that takes advantage of flexibilities and options in international IP laws where this will help achieve national public policy priorities: 5
- A system that reflects your country's level of development: 2
- A system that benefits your society at large: 5
- A system that supports access to knowledge and technologies, and the public domain: 9
- A system that promotes the creation and use of intellectual property in your country for its development: 19
- A system where intellectual property rights can be fully and efficiently enforced: 12
- A system with effective dissemination of, and access to, information about protected inventions: 2

Source: Authors' Survey of Beneficiary Countries

7. List of Stakeholders that Provided Input through On-line Request

1. **1.** AISGE
2. **2.** Electronic Information for Libraries
3. **3.** European Patent Office, International Affairs
4. **4.** LATIN-ARTIS
5. **5.** Mark Pegler, Independent consultant, EU Customs Advisor on Intellectual Property (EUCTAProject)
6. **6.** South Centre
7. **7.** Third World Network

8. Technical Assistance Supported by WIPO FITs: Examples of Typical Activities and Areas of Cooperation

DONOR	ESTABLISHED	PROGRAM AREAS	ACTIVITIES	FOCUS
France	1980	· Developing more efficient procedures; · Enhance legislation, including for adapting to the TRIPS Agreement; · Providing industrial property training for officials.	· Provision of French specialists to advise on a wide range of industrial property specialized areas and to act as lecturers in training courses, seminars, workshops and other specialized meetings; · Financing of study visits, by representatives of intellectual property offices or other institutions from developing countries or countries in transition, to French institutions, organizations and the private sector; · Long-term fellowship Programs; · Provision of documentation and publications; · Financing of special projects in areas of common concern.	Worldwide
Japan	1987	· Modernization of IP systems; public outreach and educational activities; · Facilitating university-industry partnership and effective use of IP assets by SMEs; · Collective management of copyright and related rights; · Effective enforcement of industrial property and copyright and related rights.	· Seminars and training courses; · Expert advisory missions; · Long-term fellowship Programs; · Provision of office equipment; · Translation and customization of WIPO materials.	FIT-Japan (IP)- developing and LDCs in Asia and the Pacific Region FIT-Japan (Copyright) - developing countries and LDCs in Asia and the Pacific region, FIT- Japan (Africa)- activities in Africa
Spain	2004	· Disclosure and support for IP protection systems in particularly sensitive areas; · Drawing up guidelines and harmonization instruments for IP application and management; · Cooperation in the strengthening of institutions and training of human resources; · Dissemination and use of information technology and automation; · Translation and dissemination of WIPO publications in Spanish.	· Seminars and workshops; · Patent and trademark manuals; · Creation of public domain databases, electronic version manuals; · Presence of Spanish at all levels and translation of WIPO material.	Latin America

DONOR	ESTABLISHED	PROGRAM AREAS	ACTIVITIES	FOCUS
USA	2005	• Aimed at facilitating activities developing methodologies and carrying out studies on the creative industries.	• Supporting research; • Improving research methodologies on the creative industries and on activities that aim at enhancing public awareness; • Development of other measurement tools for estimating the potential of the creative sector; • Preparation of publications and other appropriate tools for creators.	Creative Industries
Korea	2006	• Enhancement of public knowledge on the emerging issues of CR&RR; • Development of human resources; • Strengthening collective management organizations; • Undertaking studies; • Promoting adherence to international conventions and treaties on CR&RR and increasing the development of copyright-based industries; • Provide additional funds for annual Programming and evaluation meetings with the officials concerned of both KIPO and MCST, for the appointment of staff to facilitate the smooth implementation of the arrangements.	• Deploying PCT-ROAD software to facilitate the procedures of PCT receiving offices in developing countries; • Translation and customization of WIPO materials; • Seminars and workshops; • Arranging consultations with experts on IP valuation, innovation promotion, and commercialization and IP asset management.	No limitation with regards to country coverage, but special emphasis is given to support for LDCs in all regions.
Finland	2006	• Aimed at facilitating activities developing methodologies and carrying out studies on the creative industries.	• Supporting research; • Improving research methodologies on the creative industries and on activities that aim at enhancing public awareness; • Development of other measurements tools for estimating the potential of the creative sector; • Preparation of publications and other appropriate tools for creators.	Creative Industries
Italy	2007	• The relationship between IP and technological development; • The development of creative industries; • Use of IP by small and medium-sized enterprises; the protection of geographical indications and industrial designs; • IP training; • Counter-fitting and audiovisual piracy	Activities which promote the key Program areas defined.	All developing countries and countries with economies in transition, special emphasis on assistance to LDCs and countries in the Mediterranean area.

9. Details of WIPO Partnerships with the EU[254]

Although most of WIPO's traditional donors are currently IP offices from Member States in OECD countries, WIPO has mobilized resources from the European Commission's development budget for three development co-operation projects in South Asia. Since 2006, the EC has co-financed three WIPO-implemented trade related technical assistance (TRTA) projects for Bangladesh, Pakistan and Sri Lanka through FITs.

The projects in Sri Lanka and Pakistan were undertaken collaboratively by WIPO with the United Nations Industrial Development Organization (UNIDO) and the International Trade Centre (ITC). In both cases UNIDO and the ITC contacted WIPO for assistance and WIPO was sub-contracted to undertake the implementation of the IP components. The third project underway is aimed at modernizing the IP system in Bangladesh and is the first direct partnership between the EC and WIPO. Further descriptions about each of the projects are set out below.

EC – Pakistan

WIPO's involvement in this project was to deliver the IP-related component of a wider EC-financed trade related technical assistance Program with Pakistan, As noted above, the project in Pakistan was undertaken collaboratively by WIPO, UNIDO and ITC. ITC contacted WIPO for assistance and WIPO was sub-contracted by ITC via an inter-agency agreement to undertake the implementation of the intellectual property component.

The aim of the IP component of the EC-financed trade related technical assistance project in Pakistan was twofold:

- Support for the integrated management of intellectual property (IP), including the setting up of a unified IPR organization.

- Modernization of the IP system through appropriate legislative advice, strengthening of the functioning of IP offices and enhanced awareness and understanding of IP.

The total cost of the IP component of the project in Pakistan was estimated at approximately Euro 470,000 of which around 90% was met from EC funds and 50,000 euros was contributed by WIPO.

EC – Sri Lanka

As with Pakistan, this project again involved the delivery by WIPO of the IP component of a broader EC-financed trade related technical assistance project in Sri Lanka. Again, the project in Sri Lanka was undertaken collaboratively by WIPO, UNIDO and ITC. WIPO was sub-contracted by ITC via an inter-agency agreement to undertake the implementation of the intellectual property component.

The project focused on facilitating registration and post-registration activities of the National Intellectual Property Office (NIPO) of Sri Lanka, including automation support to NIPO, increasing public knowledge of IP, and providing training to police and customs officials in combating piracy and counterfeiting. In this respect the activities of the project were aimed at:

- Re-engineering business processes and procedures, changing work practices and updating and deploying automated solutions in the trademark, patent and industrial design registries as appropriate.

- Conducting a public outreach Program via the local TV network to increase knowledge of IP and to emphasize the role of IP in promoting economic, cultural and social development.

- Providing training to police and customs officials in the effective enforcement of intellectual property rights.

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[254] WIPO (2011) Draft WIPO Resource Mobilization and Partnership Strategy (for Internal Review), WIPO.

The duration of the project was from June 2005 to January 2008. The total cost of the IP component of the project in Sri Lanka was estimated at approximately Euro 100,000 of which around 100% was met from EC funds and there was no contribution by WIPO.

EC – Bangladesh

The WIPO-EC Bangladesh project provided a completely new partnership experience for WIPO. This was the first time WIPO was able to have a direct partnership with the EC since WIPO had not previously signed the EC-UN Financial and Administrative Framework Agreement (FAFA). Discussions with the EC began in 2004, when the Bangladesh delegation in Geneva spoke to the EC about the need for the project. The EC invited WIPO to be the implementing agency for the project. The purpose of the project is to strengthen national capacity to develop, modernize, administer and utilize the IP system to meet national developmental objectives taking into account the relevant international standards, particularly the TRIPS agreement.

Originally this agreement was supposed to be a tripartite agreement for an overall regional IP project with Sri Lanka, Pakistan and Bangladesh, but this initiative did not go through and the EC decided to undertake separate projects in each country. In 2007 the project was signed off for implementation, with a three-year time line for project.

In 2008, the implementation of the project began, and therefore the project is now in its final year. There is a joint arrangement with funding coming from the EC totalling 1.2 million Euros. WIPO signed an agreement to contribute 120,000 Euros towards the project through a cash contribution pooled with the EC. The Government of Bangladesh also agreed to contribute 200,000 Euros, bringing the total value of the project to approximately 1.5 million Euros. The project is scheduled for completion in 2011.

10. Budget for CDIP Development Agenda Projects (in thousands of Swiss francs)

Development Agenda Projects	CDIP Reference	Non-Personnel	Personnel	Total Project Cost*
		Cost as indicated in the Project Document	Cost as indicated in the Project Document	
IP and Competition Policy	CDIP 3, April 2009 / CDIP 4, November 2009 (Trademarks component of the IP and Public Domain project approved by CDIP 5, April 2010)	430	640	1,070
IP and the Public Domain		360	322	682
IP, Information and Communication Technologies (ICTs), the Digital Divide and Access to Knowledge		1,305	418	1,723
Developing Tools for Access to Patent Information	CDIP 4, November 2009	936	640	1,576
Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities		647	114	761
IP and Product Branding for Business Development in Developing Countries and Least-Developed Countries (LDCs)	CDIP 5, April 2010	660	300	960
IP and Socio-Economic Development		1342	150	1,492
Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges		390	280	670
IP and Technology Transfer: Common Challenges - Building Solutions	CDIP 6, November 2010	1193	598	1,791
Open Collaborative Projects and IP-Based Models		734	161	895
Total	**-**	**7,997**	**3,623**	**11,620**

*The total project costs include estimates of WIPO personnel, deployed for implementation of the projects.

Development Agenda - Five Recommendations **RESERVE APPROPRIATION**	CDIP Reference	Non-Personnel Cost as indicated in the Project Document	Personnel Cost as indicated in the Project Document	Total Project Cost*
Conference on Mobilizing Resources for Development (Recommendation #2) **		*198*	*-*	*198*
IP Development cooperation activities Database (IP-TAD) (Recommendation #5)		300	490	790
Specialized Databases' Access and Support (Recommendation #8)		1,874	-	1,874
IP Development Matchmaking Database (IP-DMD) (Recommendation #9)		190	490	680
Recommendation #10: "To assist Member States to develop and improve national IP institutional capacity…"	*CDIP 2, July 2008*			
1. Pilot Project for the Establishment of "Start-Up" National IP Academies		522	120	642
2. Smart IP Institutions		1,169	150	1,319
3. Innovation and Technology Transfer Support Structure for National Institutions		600	-	600
4. Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations		840	267	1,107
5. Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity		2,209	882	3,091
Sub-total, Recommendation 10		*5,340*	*1,419*	*6,759*
Total - Five Recommendations	**-**	**7,902**	**2,399**	**10,301**

*The total project costs include estimates of WIPO personnel, deployed for implementation of the projects.

** This project is completed and the remaining balance of CHF 42,000 is transferred to Rec. 10.2, approved during CDIP / 6 Session.

Total amounts devoted to the implementation of the 19 approved Development Agenda projects		**15,899**	**6,022**	**21,921**

11. Posts by Program for Revised 2008/09 Budget and Proposed 2010/11 Budget

	2008/09 Revised Budget					2010/11 Proposed Budget					Difference 2010/11 vs. 2008/09 Revised Budget				
	DG/DDG /AD	D	P	G	Total	DG/DDG /ADG[1]	D	P	G	Total	DG/DDG /ADG	D	P	G	Total
1 Patents[2]	-	-	3	2	5	-	1	3	2	6	-	1	-	-	1
2 Trademarks, Industrial Designs and Geographical Indications	-	-	3	2	5	-	-	3	2	5	-	-	-	-	-
3 Copyright and Related Rights	1	3	12	4	20	1	3	12	4	20	-	-	-	-	-
4 Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources	-	-	5	4	9	-	1	5	3	9	-	1	-	-1	-
5 The PCT System	1	2	130	213	346	1	4	128	227	360	-	2	-2	14	14
6 Madrid, Hague and Lisbon Systems	2	2	48	70	121	1	2	48	71	122	-	-	-	1	1
7 Arbitration, Mediation and Domain Names	-	-	9	5	14	-	1	10	4	15	-	1	1	-1	1
8 Development Agenda Coordination	-	-	3	4	7	-	-	4	4	8	-	-	1	-	1
9 Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, Least Developed Countries	1	6	37	16	60	1	7	33	15	56	-	1	-4	-1	-4
30 Small and Medium Sized Enterprises[3]	-	1	2	2	5	-	1	3	2	6	-	-	1	-	1
10 Cooperation with Certain Countries in Europe and Asia	-	1	4	3	8	-	1	6	5	12	-	-	2	2	4
11 The WIPO Academy	-	-	10	10	20	-	-	9	10	19	-	-	-1	-	-1
12 International Classifications and WIPO IP Standards[4]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
13 Patent Classifications and WIPO IP Standards	-	-	12	1	13	-	1	12	2	15	-	1	-	1	2
14 Global IP Information Services[5]	-	2	5	2	9	-	1	4	1	6	-	-1	-1	-1	-3
15 IP Office Modernization	-	1	5	1	7	-	1	5	-	6	-	-	-	-1	-1
16 Economic Studies, Statistics and Analysis Coordination	-	-	3	1	4	-	-	3	2	5	-	-	-	1	1
17 Building Respect for IP	-	1	8	-	9	-	1	8	-	9	-	-	-	-	-
18 IP and Global Challenges[6]	-	-	17	11	28	-	1	18	14	33	-	1	1	3	5
19 Communications	1	3	6	4	14	1	5	9	3	18	-	2	3	-1	4
20 External Offices and Relations	1	3	12	6	22	1	3	14	6	24	-	-	2	-	2
21 Executive Management	-	1	16	23	40	-	1	16	23	40	-	-	-	-	-
22 Finance, Budget and Program Management	1	3	17	30	51	1	3	15	33	52	-	-	-2	3	1
23 Human Resource Management and Development	-	2	36	17	55	-	2	35	15	52	-	-	-1	-2	-3
24 Administrative Support Services	-	1	5	-	6	-	1	5	-	6	-	-	-	-	-
25 Information and Communication Technology	1	-	30	42	73	1	-	31	45	77	-	-	1	3	4
26 Internal Audit and Oversight	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
27 Conference and Language Services	8	34	462	499	1,003	8	43	466	519	1,036	-	9	4	20	33
28 Security	-	9	1	31	41	-	-	-	8	8	-	-9	-1	-23	-33
29 New Construction															
Total															
Unallocated															
GRAND TOTAL	8	43	463	530	1,044	8	43	466	527	1,044	-	-	3	(3)	-

[1] The D2 post re-classified at ADG level, as per the decision of the Coordination Committee (WO/CC/54/3 Corr., paragraph 77(i)), continues to be included in the above at ADG level, subject to confirmation by the Coordination Committee at its June 2009 session.

[2] This Program now only includes Patents

[3] This is a new Program

[4] This Program now incorporates the activities from previous Program 13 Patent Classification and WIPO IP Standards. The 2008/09 Revised Budget for Program 12 has been restated to include the budget for Program 13.

[5] The name of this Program has been changed from PATENTSCOPE® and Associated Patent Services to Global IP Information Services

[6] This Program now incorporates the activities from the Innovation and Technology Transfer previously under Program 1

12. Status of CDIP Projects for the Implementation of Development Agenda Recommendations

Projects for Recommendations 2, 5, 8, 9 and 10

RECOM. No.	PROJECT	DOCUMENT NUMBER	STATUS
2	Conference on "Mobilizing Resources for Development"	CDIP/3/INF/2	Implementation started in early 2009 (see oral report to CDIP/4) See progress report CDIP/6/2
5	Intellectual Property Development cooperation activities Database (IP-TAD)	CDIP/3/INF/2	Implementation started in early 2009 See progress report CDIP/6/2
8	Specialized Databases' Access and Support Study paper regarding recommendation No. 8. Specialized Databases' Access and Support	CDIP/3/INF/2 CDIP/3/INF/2/STUDY/III/INF.1	Implementation started in early 2009 See progress report CDIP/6/2
9	IP Development Matchmaking Database (IP-DMD)	CDIP/3/INF/2	Implementation started in early 2009 See progress report CDIP/6/2
10	A Pilot Project for the Establishment of "Start-Up" National IP Academies	CDIP/3/INF/2	Implementation started in early 2009 See progress report CDIP/6/2
10	Smart IP Institutions Project	CDIP/3/INF/2	Implementation started in early 2009 See progress report CDIP/6/2
10	Innovation and Technology Transfer Support Structure for National Institutions Project paper on innovation and Technology Transfer Support Structure for National Institutions (recommendation No. 10)	CDIP/3/INF/2 CDIP/3/INF/2/STUDY/VII/INF.1	Implementation started in early 2009 See progress report CDIP/6/2
10	Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity	CDIP/3/INF/2	Implementation started in early 2009 See progress report CDIP/6/2
10	Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations	CDIP/3/INF/2	Implementation started in early 2009 See progress report CDIP/6/2

Thematic Projects

RECOM. No.	PROJECT	DOCUMENT NUMBER	STATUS
16, 20	Intellectual Property and the Public Domain Scoping Study on Copyright and Related Rights and the Public Domain	CDIP/4/3/REV. CDIP/4/3/REV./STUDY/INF.1	Approved. Implementation started in January 2010 See progress report CDIP/6/2
7, 23, 32	IP and Competition Policy	CDIP/4/4/REV.	Approved. Implementation started in January 2010 See progress report CDIP/6/2
19, 24, 27	IP, Information and Communication Technologies (ICTs), the Digital Divide and Access to Knowledge	CDIP/4/5/REV.	Approved. Implementation started in January 2010 See progress report CDIP/6/2

19, 30, 31	Developing Tools for Access to Patent information	CDIP/4/6	Approved. Implementation started in January 2010 See progress report CDIP/6/2
33, 38, 41	Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities Terms of reference for the review of WIPO's development cooperation activities in the area of cooperation for development A Survey of Developing Country Governments on World Intellectual Property Organization (WIPO) Development cooperation activities in the Area of Cooperation for Development	CDIP/4/8/REV. CDIP/4/8/REV./TOR	Approved. Implementation started in January 2010 See progress report CDIP/6/2
4, 10	Project on Intellectual Property and Product Branding for Business Development in Developing Countries and Least-Developed Countries (LDCs)	CDIP/5/5	Approved. Implementation started in 2010
19, 30, 31	Project on Capacity Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges	CDIP/5/6REV.	Approved. Implementation started in 2010
35, 37	Project on Intellectual Property and Socio-Economic Development	CDIP/5/7REV.	Approved. Approved at CDIP/5 Session. Implementation started in third quarter 2010
19, 25, 26, 28	Intellectual Property and Technology Transfer: Common Challenges – Building Solutions	CDIP/6/4 Rev.	Discussed at CDIP/4 and CDIP/5 and approved during CDIP/6
36	Open Collaborative Projects and IP-Based Models	CDIP/6/6 Rev.	Approved during CDIP/6
3 & 4	IP Advantage Database (ex E-SPEED)	CDIP/3/8	Completed
6	Roster of Consultants	CDIP/3/2	Completed

13. Sample of WIPO Global and Regional Events (2008-2010)

Access to Medicines: Pricing and Procurement Practices (WIPO-WTO/WHO/GE/10)
July 16, 2010(*Geneva, Switzerland*)

WIPO Symposium on the Evolution of the Regulatory Framework of Test Data - From the Property of the Intellect to the Intellect of Property (WIPO/IP/LSS1/GE/10)
February 8, 2010(*Geneva, Switzerland*)

Symposium on Future Challenges of International Law: The Way Forward in Patenting Biotechnology (WIPO/LS/BIOT/GE/09)
November 25, 2009(*Geneva, Switzerland*)

Worldwide Symposium on Geographical Indications (WIPO/GEO/SOF/09)
June 10, 2009 to June 12, 2009(*Sofia, Bulgaria*)

Forum on Geographical Indications and Appellations of Origin and Commemoration Ceremony for the 50th Anniversary of the Adoption of the Lisbon Agreement (WIPO/GEO/LIS/08)
October 30, 2008 to October 31, 2008(*Lisbon, Portugal*)

WIPO Sub-Regional Seminar on Geographical Indications (WIPO/GEO/ALP/08)
August 26, 2008 to August 28, 2008(*Aleppo, Syrian Arab Republic*)

International Forum on Distinctive Signs for Collective Use (WIPO/DS/VRS/08)
June 12, 2008 to June 13, 2008(*Versailles, France*)

Interregional Workshop on Geographical Indications (WIPO/GEO/ANK/08)
April 3, 2008 to April 4, 2008(*Ankara, Turkey*)

Seminar on the Hague System for the International Registration of Industrial Designs (WIPO/HS2/09)
November 12, 2009(*Geneva, Switzerland*)
This Seminar is aimed at increasing awareness and practical knowledge of the Hague system of international registration of industrial designs among industry and private practitioners who use, or will use, the system.

WIPO Regional Forum on the Role of National Design Councils for the Effective Promotion and Protection of Industrial Design (WIPO/ID/VTE/09)
August 27, 2009 to August 28, 2009(*Vientiane, Lao People's Democratic Republic*)

Interregional Intermediate Seminar on Industrial Property (ISIP/09)
June 10, 2009 to June 12, 2009(*Geneva, Switzerland*)
The WIPO Academy will organize its annual seminar directed towards government officials from IP offices in cooperation with twelve partner institutions.

Seminar on the Hague System of International Registration of Industrial Designs (WIPO/HS1/09)
May 13, 2009(*Geneva, Switzerland*)
This Seminar is aimed at increasing awareness and practical knowledge of the Hague system of international registration of industrial designs among industry and private practitioners who use, or will use, the system.

XXVIII Seminario sobre Propiedad Industrial para países de América Latina (OMPI/PI/RIO/08)
December 1, 2008 to December 5, 2008(*Rio de Janeiro, Brazil*)

Seminar on the Hague System of International Registration of Industrial Designs (WIPO/HS2/08)
November 5, 2008(*Geneva, Switzerland*)

WIPO National Seminar on Industrial Property and on the Implementation of TRIPS' Obligations in the Pursuance of National Public Policies and Goals (WIPO/IP/DAM/08)
May 28, 2008 to May 29, 2008(*Damascus, Syrian Arab Republic*)

Seminar on the Hague System of International Registration of Industrial Designs (WIPO/HS1/08)
April 9, 2008(*Geneva, Switzerland*)

Joint WIPO-ITU Accessibility Workshop (WIPO-ITU/WAI/GE/10)
February 2, 2010 to February 5, 2010(*Geneva, Switzerland*)

The event aims at raising awareness on accessibility within the UN system by bringing together webmasters and content publishers

[Seminario Regional de la OMPI sobre propiedad intelectual y la informática en el siglo XXI en América Latina: Tendencias, desafíos y perspectivas](#) (OMPI/PI/COS/08)
August 19, 2008 to August 20, 2008(*San José, Costa Rica*)

[International Seminar on Promoting Innovation and Intellectual Property in Information Technology](#)
(WIPO/INN/CWB/08)
May 28, 2008 to May 30, 2008(*Curitiba, Brazil*)

[Cuarto Curso de capacitación OMPI/OEP/OEPM en el marco del Proyecto LATIPAT para especialistas en tecnologías de la información](#) (OMPI-OEP-OEPM/PI/PAN/08)
February 26, 2008 to February 29, 2008(*Panama, Panama*)

Workshops on Innovation Support Services and their Management

[5th International Forum on Creativity and Inventions A Better Future for Humanity in the 21st Century - Intellectual Property (IP) in a Changing World: New Challenges and Opportunities](#) (WIPO/INV/DEL/09)
November 11, 2009 to November 13, 2009(*New Delhi, India*)

(OMPI/INN/PAN/08)
September 11, 2008 to September 13, 2008(*Panama, Panama*)

[Atelier de formation de l'OMPI en mati1ere de rédaction de brevets d'invention](#) (OMPI/INV/TUN/08)
April 21, 2008 to April 25, 2008(*Tunis, Tunisia*)

[WIPO Regional Conference on Technology and Innovation Support](#) (WIPO/IP/SIN/10)
May 19, 2010 to May 21, 2010(*Singapore, Singapore*)
The aim of the Conference is to promote patent and technology information retrieval from databases to reduce the knowledge gap in developing and least-developed countries of the Asia and Pacific region, demonstrate the practical advantages of using IP information, as well as support the establishment of a regional network of technology and innovation support centers to increase the capacity to manage and use intellectual property (IP) in the countries concerned.

[Regional Forum on the Role of Patents and the Patent Cooperation Treaty (PCT) in Research in Developing Countries](#) (WIPO/PCT/NBO/09)
March 30, 2009 to April 1, 2009(*Nairobi, Kenya*)

[Special Edition of the Successful Technology Licensing Program (STL) for the Biotechnology Sector](#)
(WIPO/STL/BIOT/RIO/08)
July 14, 2008 to July 17, 2008(*Rio de Janeiro, Brazil*)

[Taller sobre la redacción de solicitudes de patentes en las areas de la biotecnologí a y mecanica y electrica](#)
(OMPI/BIOT/BOG/10)
November 29, 2010 to December 3, 2010(*Bogotá, Colombia*)

[Life Sciences Symposium: Public Sector Intellectual Property Management](#) (WIPO/IP/LSS3/08)
December 15, 2008(*Geneva, Switzerland*)

[Life Sciences Symposium on Patent Landscaping and Transfer of Technology under Multilateral Environmental Agreements](#) (WIPO/IP/LSS2/GE/08)
August 26, 2008(*Geneva, Switzerland*)

[Symposium on Public Policy Patent Landscaping in the Life Sciences](#) (WIPO/IP/LSS1/GE/08)
April 7, 2008 to April 8, 2008(*Geneva, Switzerland*)

[Seventh WIPO Forum on Intellectual Property and Small and Medium-Sized Enterprises for Intellectual Property Offices and Other Relevant Institutions in the Organization for Economic Cooperation and Development (OECD) Countries](#) (WIPO-OECD/SMES/GE/09)
September 14, 2009 to September 15, 2009(*Geneva, Switzerland*)

[Brazil - Workshop on IP Business Strategies in the Pharmaceutical Industry; and Training for Trainers on IP Business Strategies](#) (WIPO/IP/RIO/09)
May 18, 2009 to May 22, 2009(*Rio de Janeiro, Brazil*)

[WIPO Regional Workshop on IP Management & STL fro R&D Institutions](#) (WIPO/IP/CAI/09)
May 14, 2009(*Cairo, Egypt*)

[WIPO Inter-Regional High-Level Forum on Intellectual Property](#) (WIPO/IP/BEI/09)
March 30, 2009 to March 31, 2009(*Beijing, China*)

[Launch of WIPO Seminar Series "The Economics of Intellectual Property"](#) (WIPO/IP/ECON/GE/10)
March 26, 2010(*Geneva, Switzerland*)

[WIPO Expert's Meeting on Intellectual Property and Economic Development](#) (WIPO/IP/GE/10)
March 25, 2010 to March 26, 2010(*Geneva, Switzerland*)

[Symposium on the Evolution of the Regulatory Framework of Test Data - From the Property of the Intellect to the Intellect of Property](#) (WIPO/IP/LSS/GE/09)
February 8, 2010(*Geneva, Switzerland*)

[WIPO Regional Workshop on Effective Management of Intellectual Property Academies: Challenges and Responses](#) (WIPO/IP/JKT/10)
February 2, 2010 to February 4, 2010(*Jakarta, Indonesia*)

[WIPO Regional Seminar on Technology Transfer by Universities and Public Research Institutions throught the Strategic Use of the Patent System](#) (WIPO/IP/CM/09)
December 9, 2009 to December 11, 2009(*Colombo, Sri Lanka*)

[Regional Forum on Intellectual Property for the Policy Makers of the English Speaking African Least Developed Countries](#) (WIPO/IP/KLA/09)
December 8, 2009 to December 9, 2009(*Kampala, Uganda*)

[Study Program in Japan on Effective Development and Utilization of IP Assets](#) (WIPO/IP/DEV/TYO/09)
November 25, 2009 to November 27, 2009(*Tokyo, Japan*)

[WIPO Asia-Pacific Conference on National Intellectual Property Strategies for Development](#) (WIPO/IP/MNL/2/09)
October 27, 2009 to October 28, 2009(*Manila, Philippines*)

[Global Symposium of Intellectual Property Authorities](#) (WIPO/IP/AUT/GE/09)
September 17, 2009 to September 18, 2009(*Geneva, Switzerland*)
The Symposium will discuss issues relating to the modernization and administration of IP Offices (Patent and Trademark Offices), brainstorm the vision for the future on the global IP infrastructure including common tools and databases for facilitating international collaboration, study the value of IP statistics for managing IP Office operation, and exchange experiences on different financial models of IP Offices

[WIPO Sub-Regional Seminar on the Protection of Computer Software and Databases](#) (WIPO/IP/MNG/10)
August 25, 2010 to August 28, 2010(*Mangalia, Romania*)

[Inter-Regional Meeting Brazil-Africa on Intellectual Property for Economic Development](#) (WIPO/IP/SSA/10)
July 29, 2010 to July 30, 2010(*Salvador de Bahia, Brazil*)

[WIPO Seminar Series on "The Economics of Intellectual Property"](#) (WIPO/IP/ECON/GE/3/10)
June 28, 2010(*Geneva, Switzerland*)

[WIPO Seminar Series on "The Economics of Intellectual Property"](#) (WIPO/IP/ECON/GE/2/10)
June 16, 2010(*Geneva, Switzerland*)

[WIPO Regional Seminar on Intellectual Property, Software and E-Health: Trends, Issues, Prospects](#)
(WIPO/IP/KGL/10)
June 3, 2010 to June 4, 2010(*Kigali, Rwanda*)

[Training of Trainers Program on Intellectual Property Asset Management for Biotechnology Industry](#)
(WIPO/IP/DEL/10)
April 5, 2010 to April 9, 2010(*New Delhi, India*)

[Taller de la OMPI sobre la redacción de solicitudes de patentes en el área de la mecánica](#) (OMPI/PI/BUE/08)
December 9, 2008 to December 12, 2008(*Buenos Aires, Argentina*)

[WIPO IMPI Workshop on the Use of Patent Information Systems for the Promotion of Innovation](#) (WIPO-IMPI/INN/GDL/08)
June 11, 2008 to June 12, 2008(*Guadalajara, Mexico*)

[WIPO Regional Capacity Building Workshop on Patent Drafting](#) (WIPO/IP/SIN/08)
February 25, 2008 to March 7, 2008(*Singapore, Singapore*)

[WIPO National Seminar on the Strategic Use of the Madrid System for Business Development](#)
(WIPO/TM/BUD/10)
November 30, 2010 to December 1, 2010(*Budapest, Hungary*)

[Seminar on the Madrid System of International Registration of Marks](#) (WIPO/TM/DOH/09)
April 20, 2009 to April 21, 2009(*Doha, Qatar*)

[Joint WIPO-ITU Accessibility Workshop](#) (WIPO-ITU/WAI/GE/10)
February 2, 2010 to February 5, 2010(*Geneva, Switzerland*)
The event aims at raising awareness on accessibility within the UN system by bringing together webmasters and content publishers

[Study Visit to WIPO: Cooperation Agreement between WIPO, INPI Portugal and the Technical University of Lisbon](#) (WIPO-INPI/IP/GE/09)
March 24, 2009 to March 27, 2009(*Geneva, Switzerland*)

[WIPO Regional Seminar on IP and TK, Genetic Resources and Traditional Cultural Expressions](#)
(WIPO/IPTK/BKK/09)
December 16, 2009 to December 17, 2009(*Bangkok, Thailand*)

[International Conference on Intellectual Property and Cultural Heritage in the Digital World](#) (WIPO/CR/MAD/09)
October 29, 2009 to October 30, 2009(*Madrid, Spain*)
The International Conference on Intellectual Property and Cultural Heritage in the Digital World took place in Madrid on October 29 and 30, 2009, jointly organized by WIPO and the Ministry of Culture of Spain. The Conference focused on the nexus between intellectual property rights (IPRs) and cultural heritage institutions (CHIs) such as museums, libraries and archives, and on their role in the dissemination and promotion of culture in the digital environment

[International Copyright Forum "Music: Sounding Out the Future"](#) (WIPO/CR/BEI/10)
November 18, 2010 to November 19, 2010(*Beijing, China*)

[Facilitating Access to Culture in the Digital Age - WIPO Global Meeting on Emerging Copyright Licensing Modalities](#) (WIPO/CR/LIC/GE/10)
November 4, 2010 to November 5, 2010(*Geneva, Switzerland*)

[WIPO Regional Seminar on the Protection of Broadcasting Organizations](#) (WIPO/CR/ABU/10)
October 18, 2010 to October 19, 2010(*Abuja, Nigeria*)

[Interregional Intermediate Seminar on Copyright and Related Rights](#) (WIPO/CR/GE/10)
October 13, 2010 to October 15, 2010(*Geneva, Switzerland*)
The main objectives of this seminar is to provide an opportunity for training and provision of information on various aspects of copyright and related rights; to promote debate on topical issues among the participants through case studies; as well as to raise awareness of the role of intellectual property as a tool for development and to enhance and develop skills in collective management of rights, especially in a fast changing environment.

[Regional Seminar for the Asia Pacific Countries on the Protection of Broadcasting Organizations](#)
(WIPO/CR/DEL/10)
July 12, 2010 to July 13, 2010(*New Delhi, India*)

[Symposium on Intellectual Property and Competition Policy](#) (WIPO/IPCP/GE/2/10)
October 25, 2010(*Geneva, Switzerland*)

[WIPO Symposium on Intellectual Property and Competition Policy](#) (WIPO/IPCP/GE/10)
May 11, 2010(*Geneva, Switzerland*)

14. The 45 Adopted Recommendations under the WIPO Development Agenda (including 19 for Immediate Implementation)

At the 2007 General Assembly, WIPO Member States adopted 45 recommendations (of the 111 original proposals) made by the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA). The 45 adopted recommendations are listed below in six clusters:

 * The 19 Recommendations with an asterisk were identified by the 2007 General Assembly for immediate implementation

Cluster A: Technical Assistance and Capacity Building

* 1. WIPO technical assistance shall be, *inter alia*, development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion. In this regard, design, delivery mechanisms and evaluation processes of technical assistance programs should be country specific.

2. Provide additional assistance to WIPO through donor funding, and establish Trust-Funds or other voluntary funds within WIPO specifically for LDCs, while continuing to accord high priority to finance activities in Africa through budgetary and extra-budgetary resources, to promote, *inter alia*, the legal, commercial, cultural, and economic exploitation of intellectual property in these countries.

* 3 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.

* 4. Place particular emphasis on the needs of small and medium-sized enterprises (SMEs) and institutions dealing with scientific research and cultural industries and assist Member States, at their request, in setting-up appropriate national strategies in the field of intellectual property.

5. WIPO shall display general information on all technical assistance activities on its website, and shall provide, on request from Member States, details of specific activities, with the consent of the Member State(s) and other recipients concerned, for which the activity was implemented.

* 6. WIPO's technical assistance staff and consultants shall continue to be neutral and accountable, by paying particular attention to the existing Code of Ethics, and by avoiding potential conflicts of interest. WIPO shall draw up and make widely known to the Member States a roster of consultants for technical assistance available with WIPO.

* 7. Promote measures that will help countries deal with intellectual property-related anti-competitive practices, by providing technical cooperation to developing countries, especially LDCs, at their request, in order to better understand the interface between IPRs and competition policies.

8. Request WIPO to develop agreements with research institutions and with private enterprises with a view to facilitating the national offices of developing countries, especially LDCs, as well as their regional and sub-regional intellectual property organizations to access specialized databases for the purposes of patent searches.

9. Request WIPO to create, in coordination with Member States, a database to match specific intellectual property -related development needs with available resources, thereby expanding the scope of its technical assistance programs, aimed at bridging the digital divide.

10 To assist Member States to develop and improve national intellectual property institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promote fair balance between intellectual property protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with intellectual property.

* 11. To assist Member States to strengthen national capacity for protection of domestic creations, innovations and inventions and to support development of national scientific and technological infrastructure, where appropriate, in accordance with WIPO's mandate.

* 12. To further mainstream development considerations into WIPO's substantive and technical assistance activities and debates, in accordance with its mandate.

* 13. WIPO's legislative assistance shall be, *inter alia*, development-oriented and demand-driven, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion.

* 14. Within the framework of the agreement between WIPO and the WTO, WIPO shall make available advice to developing countries and LDCs, on the implementation and operation of the rights and obligations and the understanding and use of flexibilities contained in the TRIPS Agreement.

Cluster B: Norm-setting, Flexibilities, Public Policy and Public Domain

* 15. Norm-setting activities shall: be inclusive and member-driven; take into account different levels of development; take into consideration a balance between costs and benefits; 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 (IGOs) and NGOs; and be in line with the principle of neutrality of the WIPO Secretariat.

* 16. Consider the preservation of the public domain within WIPO's normative processes and deepen the analysis of the implications and benefits of a rich and accessible public domain.

* 17. In its activities, including norm-setting, WIPO should take into account the flexibilities in international intellectual property agreements, especially those which are of interest to developing countries and LDCs.

* 18. To urge the IGC to accelerate the process on the protection of genetic resources, traditional knowledge and folklore, without prejudice to any outcome, including the possible development of an international instrument or instruments.

* 19. To initiate discussions on how, within WIPO's mandate, to further facilitate access to knowledge and technology for developing countries and LDCs to foster creativity and innovation and to strengthen such existing activities within WIPO.

20. To promote norm-setting activities related to IP that support a robust public domain in WIPO's Member States, including the possibility of preparing guidelines which could assist interested Member States in identifying subject matters that have fallen into the public domain within their respective jurisdictions.

* 21. WIPO shall conduct informal, open and balanced consultations, as appropriate, prior to any new norm-setting activities, through a member-driven process, promoting the participation of experts from Member States, particularly developing countries and LDCs.

22. WIPO's norm-setting activities should be supportive of the development goals agreed within the United Nations system, including those contained in the Millennium Declaration.

The WIPO Secretariat, without prejudice to the outcome of Member States considerations, should address in its working documents for norm-setting activities, as appropriate and as directed by Member States, issues such as: (a) safeguarding national implementation of intellectual property rules (b) links between intellectual property and competition (c) intellectual property -related transfer of technology (d) potential flexibilities, exceptions and limitations for Member States and (e) the possibility of additional special provisions for developing countries and LDCs.

23. To consider how to better promote pro-competitive intellectual property licensing practices, particularly with a view to fostering creativity, innovation and the transfer and dissemination of technology to interested countries, in particular developing countries and LDCs.

Cluster C: Technology Transfer, Information and Communication Technologies (ICT) and Access to Knowledge

24. To request WIPO, within its mandate, to expand the scope of its activities aimed at bridging the digital divide, in accordance with the outcomes of the World Summit on the Information Society (WSIS) also taking into account the significance of the Digital Solidarity Fund (DSF).

25. To explore intellectual property -related policies and initiatives necessary to promote the transfer and dissemination of technology, to the benefit of developing countries and to take appropriate measures to enable developing countries to fully understand and benefit from different provisions, pertaining to flexibilities provided for in international agreements, as appropriate.

26. To encourage Member States, especially developed countries, to urge their research and scientific institutions to enhance cooperation and exchange with research and development institutions in developing countries, especially LDCs.

27. Facilitating intellectual property -related aspects of ICT for growth and development: Provide for, in an appropriate WIPO body, discussions focused on the importance of intellectual property -related aspects of ICT, and its role in economic and cultural development, with specific attention focused on assisting Member States to identify practical intellectual property -related strategies to use ICT for economic, social and cultural development.

28. To explore supportive intellectual property -related policies and measures Member States, especially developed countries, could adopt for promoting transfer and dissemination of technology to developing countries.

29. To include discussions on intellectual property -related technology transfer issues within the mandate of an appropriate WIPO body.

30. WIPO should cooperate with other IGOs to provide to developing countries, including LDCs, upon request, advice on how to gain access to and make use of intellectual property-related information on technology, particularly in areas of special interest to the requesting parties.

31. To undertake initiatives agreed by Member States, which contribute to transfer of technology to developing countries, such as requesting WIPO to facilitate better access to publicly available patent information.

32. To have within WIPO opportunity for exchange of national and regional experiences and information on the links between IPRs and competition policies.

Cluster D: Assessment, Evaluation and Impact Studies

33. To request WIPO to develop an effective yearly review and evaluation mechanism for the assessment of all its development-oriented activities, including those related to technical assistance, establishing for that purpose specific indicators and benchmarks, where appropriate.

34. With a view to assisting Member States in creating substantial national programs, to request WIPO to conduct a study on constraints to intellectual property protection in the informal economy, including the tangible costs and benefits of intellectual property protection in particular in relation to generation of employment.

* 35. To request WIPO to undertake, upon request of Member States, new studies to assess the economic, social and cultural impact of the use of intellectual property systems in these States.

36. To exchange experiences on open collaborative projects such as the Human Genome Project as well as on intellectual property models.

* 37. Upon request and as directed by Member States, WIPO may conduct studies on the protection of intellectual property, to identify the possible links and impacts between intellectual property and development.

38. To strengthen WIPO's capacity to perform objective assessments of the impact of the organization's activities on development.

Cluster E: Institutional Matters including Mandate and Governance

39. To request WIPO, within its core competence and mission, to assist developing countries, especially African countries, in cooperation with relevant international organizations, by conducting studies on brain drain and make recommendations accordingly.

40. To request WIPO to intensify its cooperation on IP related issues with United Nations agencies, according to Member States' orientation, in particular UNCTAD, UNEP, WHO, UNIDO, UNESCO and other relevant international organizations, especially the WTO in order to strengthen the coordination for maximum efficiency in undertaking development programs.

41. To conduct a review of current WIPO technical assistance activities in the area of cooperation and development.

* 42. To enhance measures that ensure wide participation of civil society at large in WIPO activities in accordance with its criteria regarding NGO acceptance and accreditation, keeping the issue under review.

43. To consider how to improve WIPO's role in finding partners to fund and execute projects for intellectual property -related assistance in a transparent and member-driven process and without prejudice to ongoing WIPO activities.

* 44. In accordance with WIPO's member-driven nature as a United Nations Specialized Agency, formal and informal meetings or consultations relating to norm-setting activities in WIPO, organized by the Secretariat, upon request of the Member States, should be held primarily in Geneva, in a manner open and transparent to all Members. Where such meetings are to take place outside of Geneva, Member States shall be informed through official channels, well in advance, and consulted on the draft agenda and program.

Cluster F: Other Issues

45. To approach intellectual property enforcement in the context of broader societal interests and especially development-oriented concerns, with a view that "the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations", in accordance with Article 7 of the TRIPS Agreement.

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