



KENYA

54th Session of WIPO General Assembly; African Group Opening

Statement by Amb. Dr. John O. Kakonge

Monday, 22nd September, 2014

Madam President,

The African Group is happy to see you presiding over this Assembly and is confident that under your able leadership we shall reach a satisfactory result. The Group would also like to thank the secretariat for the excellent arrangements and the documents prepared for this session.

Madam President,

The past year that has elapsed since the last ordinary session of the Assembly has been very difficult, with protracted discussions and negotiations in various committees of WIPO. While the African Group has been constructive in its engagement, it is sad to note that there has been very little progress on issues of interest to the Group.

The Group also notes that all the issues referred by the Assembly to the various committees remain unresolved and some are back again before the Assembly for direction and consideration. Some of the challenges faced by the

Group in these negotiations include the lack of political will by our partners to engage in good faith, in the spirit of give and take. We believe that WIPO is big enough to meet the interests of all Member States, be they developing or developed, and it is our hope that all Member States will engage in good faith and in a true cooperative spirit so as to advance all issues of interest to various groups.

If I may now turn to some of the issues of critical importance to the Group: On external offices, the African Group would like to reiterate once again its position on this matter. The Group would like to see a decision during this session of the Assembly to open two external offices in Africa in the current biennium. We note that funds for the two offices have been budgeted for and we hope that this Assembly will finally take the decision to open the two offices in Africa.

In this regard, the Group would like to thank all the facilitators, starting with the Ambassador of Belarus, the Ambassador of Singapore and finally Ambassador Fitschen, Deputy Permanent Representative at the German Mission, for their tireless efforts in leading informal consultations on the guiding principles. While it was not possible to have the guiding principles finalized before the Assembly, we are very close to reaching an agreement. As indicated in our previous statements, the Group views the adoption of the guiding principles and the decision on number and location as a package.

We therefore look forward to adopting the guiding principles together with a decision on number and location during this Assembly.

With regard to the work of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGC), the Group believes that the time has come for this Assembly to take the decision to convene a diplomatic conference to adopt a legally binding instrument(s) for the effective protection of genetic resources, traditional knowledge and traditional cultural expressions.

Significant progress has been achieved in the course of the year, on the basis of which this Assembly should be able to convene a diplomatic conference in 2015. We note that the mandate of IGC ends in 2015 and therefore the decision to convene the diplomatic conference has to be taken during this session.

On the proposed Design Law Treaty, the Group would like to state that the inclusion of technical assistance as an integral part of the treaty is still an element of importance to the Group. This is critical as it will ensure predictability and availability of technical assistance to implement the treaty. We note that discussions on technical assistance have of late become convoluted, as evidenced in stalemates in various committees of WIPO.

Despite statements of commitment on the provision of technical assistance, the reality is different and remains bleak. For example, the report on External Review on Technical Assistance in the area of Cooperation for Development, which was finalized in August 2011, has yet to be implemented. Instead of focusing on the implementation of the recommendations, there has been a push to discuss best practices for the effective delivery of technical assistance without first digesting the various recommendations in the report.

The stalemate is also affecting the implementation of Article 51 under the Patent Cooperation Treaty (PCT), which is critical in enabling developing countries to implement the treaty. The implementation of this critical provision now appears doubtful given that it is being tied to resolution of the stalemate in the Committee on Development and Intellectual Property (CDIP).

According to some Member States, however, Article 51 can only be implemented after resolving the stalemate in the CDIP and this is a sure sign of the lack of political will to provide targeted technical assistance to developing countries, assistance which would have the desired impact in developing the necessary capacity and infrastructure to enable them participate fully in the intellectual property system.

It is for this reason that the African Group would like to have the assurance that targeted technical assistance will actually be provided to implement the

Design Law Treaty, by including a specific provision to that effect within the treaty. We fear that leaving it outside the treaty will make it hostage to the ongoing stalemate in the CDIP and the PCT.

It should be noted that, during the last session of the CDIP, some Member States questioned the relevance and usefulness of the Committee, stopping just short of calling for its disbandment. It is therefore difficult to seek comfort in the statements that technical assistance will always be provided, regardless whether there is a binding provision or not, when the evidence clearly suggests otherwise.

The discussions on technical assistance have therefore become philosophical arguments with no guarantees as to the adequacy and relevance of the technical assistance to be provided. This is why the African Group is asking for a clear binding provision to implement the proposed Design Law Treaty.

Another critical element in the proposed Design Law Treaty which is important to the Group is the issue of the registration of traditional designs and traditional cultural expressions. We note that Article 3 of the draft articles of the proposed Design Law Treaty provides a closed list of requirements which can be requested by parties to the treaty. With developed countries seeking extensive exceptions and limitations in the negotiations on the traditional knowledge, traditional cultural expressions, and genetic resources provisions, it would be impossible for some of those provisions to be implemented, especially in regard to disclosure requirements, if the Design

Law Treaty is implemented before the IGC process is finalized. In this regard, it would be important for the adoption of this treaty to await the completion of negotiations in the IGC so that, when formalities are adopted, they can also take into account the provisions of the various instruments under the IGC. This is critical if we have to preserve work of the IGC.

With regard to the Standing Committee on Copyright and Related Rights (SCCR), the Group would like to state that it has always been supportive of the proposed treaty for the protection of broadcasting organizations as per the 2007 General Assembly mandate. This commitment has not changed. In addition, in relation to exceptions and limitations for libraries and archives and education and research, the Group has made substantive proposals on various topics and has been working with other proponents of text to come up with consolidated text. It is important to note that, during the last SCCR, Brazil on behalf of the proponents of texts announced the finalization of the consolidation process with regard to all topics under the libraries and archives.

This initiative has gone a long way towards bringing the texts to the desired maturity, thereby enabling this Assembly take a decision to convene a diplomatic conference to adopt the treaty on exception and limitations for libraries and archives. While a great deal remains to be done in the area of education and research, with political will, the text in this area can also be

brought to maturity fairly quickly, to enable the General Assembly in 2015 to take a decision to convene a diplomatic conference by 2016.

On the issue of governance of WIPO, the Group welcomes the recommendations of the Joint Inspection Unit on the review of WIPO management and administration and its specific recommendation to the WIPO General Assembly to review the WIPO governance framework and also its current practices, with a view to strengthening the capacity of governing bodies to guide and monitor the work of the organization. The African Group, together with other Member States, has made proposals and comments in this area. The Group would therefore like to see informal consultations launched to deal with issues related to governance in a comprehensive manner.

Last but not least, the Group welcomes the report of the External Auditor and the recommendations contained therein. In particular, the Group would like to have a new definition on the development expenditure adopted so as to enable Member States to track the resources being devoted to the implementation of development agenda recommendations. During the last session of the Programme and Budget Committee we were very close to reaching an agreement on a new definition. We therefore look forward to having informal consultations in this area during this Assembly.

I thank you.