

IMPLEMENTING THE WORLD INTELLECTUAL PROPERTY ORGANIZATION'S DEVELOPMENT AGENDA

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In September-October 2004, some of the Member States of the World Intellectual Property Organization (WIPO) introduced onto the agenda of the Organization's annual meeting of member states what they referred to as a "WIPO Development Agenda". That agenda has since taken firm root, and is now at centre stage of debates involving intellectual property and trade.

As part of the WIPO Development Agenda, in 2007 the Organization's General Assembly adopted 45 recommendations aimed at integrating the development dimension in all WIPO's activities, and established a Committee on Development and Intellectual Property (CDIP) whose task, among others, was to develop a work program for the implementation of the Development Agenda recommendations. In general, the Development Agenda provides that: WIPO's technical assistance to its Member States must be development-oriented, taking into account the priorities and special needs of developing countries, as well as the different levels of development of Member States; WIPO must further mainstream development considerations into WIPO's substantive and technical assistance activities and debates, in accordance with its mandate; and 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. This Development Agenda is now clearly expressed as part of WIPO's ongoing program and budget activities, and the CDIP is set to meet at least twice each year in the next few years to determine how best to improve the implementation of WIPO's newly established Development Agenda.

It is against this background that the book under review here has been written. Jeremy de Beer's book is a collection of essays by different authors on the various aspects of WIPO's Development Agenda. To begin with, a foreword by Daniel Gervais sets out the reasons why WIPO started work on a Development Agenda. The first essay, by Jeremy de Beer, then sets the stage by explaining the history and the context within which the Development Agenda came about. It provides an analytical framework, links the various essays in the book to the defining characteristics of the Development Agenda, and suggests how best to implement the Agenda. Sara Bannerman next tackles the issue of prospects for the Development Agenda, taking into account different levels of development. Xuan Li's subsequent essay provides a conceptual and methodological framework for impact assessment under the Development Agenda. In a general discussion on governance, Carolyn Deere discusses how WIPO's governance structure can be reformed in order to advance the Development Agenda at WIPO. Richard Gold and Jean-Frédéric Morin next develop various arguments, which, in their view, militate against WIPO's ability to effectively implement the Development

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Agenda. The essay by Sisule Musungu discusses the reasons why effective leadership at WIPO is crucial for the sustainable implementation of the Development Agenda. Peter Yu's essay explains how building IP coalitions for development can help developing countries to influence negotiating outcomes, and to promote effective and democratic decision making in the international intellectual property system. Shamnad Basheer and Annalisa Primi then discuss how to factor in what they refer to as "technologically proficient" developing countries, in particular, by taking into account the technological heterogeneity among various developing countries. The next essay, by Lihong Li, draws lessons from China's experience with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement in respect of localizing WIPO's legislative assistance. V.C. Vivekanandan then provides recommendations for the WIPO Development Agenda from a viewpoint of the public-private dichotomy of intellectual property, while Pedro Paranagua's essay explores strategies to implement WIPO's Development Agenda from a Brazilian perspective and beyond. The final essay, by Andrew Rens, looks specifically at treaty provisions on minimum exceptions and limitations for education in implementing WIPO's Development Agenda. An epilogue, by Christopher May, reflects on the possible continued role of WIPO in respect of the global governance of intellectual property, concluding that the Development Agenda may be the last best chance for WIPO to maintain its relevance to the global governance of intellectual property rights.

The concept of development in the context of intellectual property is a relatively new one. There is no doubt that WIPO is not a development agency. However, there also is no doubt that the Development Agenda, if scrupulously implemented, would ultimately bring WIPO's activities closer to those of a development agency. In effect, implementation of the Development Agenda is key to determining its eventual impact. In that sense, *Implementing the World Intellectual Property Organization's Development Agenda* is indispensable and most timely.

This book provides a comprehensive and useful set of essays on a very important subject in the context of international organizations, in particular, and international relations in general. Development, as we all know, has been with us since time immemorial. However, in recent times, it has gained increased significance and a higher profile in discussions on the international agenda. Its foray into the hitherto esoteric arena of intellectual property is indeed quite revealing. It is for this reason that Jeremy de Beer's book provides a very timely and important introduction and description of this significant and unprecedented subject of a development agenda at WIPO.

Certain stark, if not somewhat surprising, conclusions are made in this book, as demonstrated by the following illustrative examples. Jeremy de Beer categorically states in his chapter that WIPO's Development Agenda "is the most significant IP matter to confront the international community since the TRIPS Agreement and perhaps ever" (15). While this may sound like a far-reaching statement, the level of attention given to the Development Agenda by WIPO's Member States, as well as the Secretariat, does not in any way belie de Beer's statement. Richard Gold and Jean-Frédéric Morin also make the rather bold argument that WIPO is incapable of managing the cultural change required by the Development Agenda. They, therefore, opine that WIPO's role in the implementation of its own

Development Agenda should be restricted to “finding and funding outside organizations to do the transformative work that is required to implement the Development Agenda” (57). This would seem to be a line of argument that will have no difficulty in finding its critics. In any event, given the consensual manner and the goodwill with which the WIPO Member States have embraced the Organization’s implementation of the Development Agenda so far, it would be fair to say that time has not been kind or receptive to Gold and Morin’s suggestions. And finally, in a wide-ranging and comprehensive discussion on governance, Carolyn Deere provides various suggestions as to how best to revamp, reform and overhaul WIPO’s governance structure in order to allow for a more effective implementation of the Development Agenda. While some of her proposals have been implemented recently in one form or the other (such as a New Policy for Public Consultation and Participation, and an expanded Office of External Relations), other proposals would need a more fundamental and even constitutional reform of the Organization’s structure before they could be implemented (such as her proposals that WIPO establish an Executive Board, restructure the Secretariat, and create a Treaty Administration Unit).

This collection of essays provides a comprehensive and cohesive set, with all the topics tying in very well with each other. The overall quality of the collection is quite impressive. The writing styles, while provided by different authors, are similar enough to give the impression that this collection is done by a single writer. In that regard, one of the strengths of the collection is the multidisciplinary nature of the experts who wrote the articles. The scholarship by the various authors is sound, current, and comprehensively documented with relevant footnotes. The objectives of the book are very clearly set out in the Introduction, and one concludes, by the end, that these objectives have largely been met.

My only regret is that the book does not include an essay on one fundamental question that, in my view, also deserves attention: the relationship between the WIPO Development Agenda and WIPO’s mandate and *raison d’être*. However, that does not detract from the quality of erudition and care used in presenting this very important subject. The book provides much revealing information, as well as useful guidance on issues that need to be taken into account in order to ensure an effective and successful implementation of WIPO’s Development Agenda. Jeremy de Beer and the other contributors are to be congratulated on a work well done.
