

## **Statement by 3D for the Fifth Session of the Committee on Development and Intellectual Property (CDIP)**

**Geneva, April 26 – 30, 2010**

Thank you, Mr. Chairman, for giving us the opportunity to speak, and I congratulate you on your election.

I am speaking on behalf of the nongovernmental organization *3D → Trade – Human Rights – Equitable Economy*. Our mandate is to promote collaboration amongst trade, development and human rights professionals, so that trade regulations are prepared and implemented with the objective of an equitable economy.

The reason for my brief remarks is to speak in favour of a human rights approach in implementing the *Development Agenda* to identify the real conflicts that can exist between intellectual property rights and the realization of the right to development in the field and to propose constructive solutions.

I am taking advantage of this opportunity to draw your attention to the fact that our association just published Policy Brief 4, available in English (on the tables outside the room and on our web site), entitled “How Human Rights Can Inform the WIPO Development Agenda.” This document provides details of several aspects of the approach we are endorsing here.

One of the aspects addressed in this Policy Brief shows how using a human rights-based approach makes it possible to guide the implementation of the *Development Agenda*, taking into account the fundamental needs of developing countries, in particular the needs of the most disadvantaged social groups, for example, with regard to access to health, education and sufficient and safe food. In these areas, strict and standardized intellectual property laws may limit or actually prevent meeting these fundamental needs, thereby undermining the realization of the right to development.

Here we give a practical example of implementing this human rights-based approach for implementing the WIPO *Development Agenda*. Consider for example the work done by the secretariat on flexibilities in CDIP document 5/4. A human rights-based approach would have resulted in substantially different laws that would have been more useful in our opinion.

Instead of being limited to reviewing the flexibilities that already exist in the TRIPS agreement and specifically in the field of health, a human rights-based approach would first of all have identified the specific and diverse needs of developing countries in the areas in which realization is constrained by intellectual property. Next, this approach would have led to reflection on the conceivable flexibility mechanisms to resolve these specific challenges.

The outcome of this work would be twofold. First, it would have made it possible to research whether the recommended flexibilities already exist in the numerous international agreements. If the CDIP finds that the prescribed flexibilities do not exist, it should then inform the Member States so that they could discuss possibilities to introduce them into the international agreements that already exist.

Second, this approach would have established a series of “flexibilities for development” that the Member States would be called on to observe outside WIPO as well, for example, when they negotiate other international agreements or free trade agreements that introduce new intellectual

property measures. In fact, all the Member States present today have signed at least one human rights convention. Therefore, compliance with all the flexibilities established would also imply concrete progress in the realization of the obligation Member States have to put in practice the different national and international human rights conventions they have signed.

In conclusion, Mr. Chairman, Distinguished Delegates, Ladies and Gentlemen,

We are convinced that a systematic human rights approach can bring about tangible gains in implementing the *Development Agenda* and thus realize a twofold objective. First, this approach provides a concrete and meaningful response to the real needs of people in developing countries. Second, it applies the legal human rights framework in implementing the *Agenda*, and this also means that the Member States are complying with their international human rights obligations.

Thank you for your attention.

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