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IDRIS, Kamil Eltayeb

Sudanese diplomat and third Director General of the World Intellectual Property Organization (WIPO) 1997-2008 and third Secretary-General of the International Union for the Protection of New Varieties of Plants (UPOV) 1997-2008

By **Joan van Heijster and Thomas R. Eimer** · Version 7 March 2016

Was born 26 August 1954 in Sudan. He is the son of Eltayeb Idris and Amouna Haj Hussein. He married Azza Mohyeldin Ahmed. They have five children.

Biography

Idris grew up in Sudan, where he earned his Sudan School Certificate, and then studied at the Khartoum Branch of the University of Cairo, where he obtained a Bachelor degree in philosophy, political science and economic theories in 1976 and a Bachelor of laws in May 1977. He also received a Certificate from the Institute of Public Administration in Sudan in August 1977. He then moved to Athens, Ohio in the United States (US), where he studied at Ohio University and obtained a Masters degree in international law in June 1978. Idris picked up English and French in addition to his Arabic mother tongue. Between 1971 and 1979 Idris also worked as a part-time journalist for two Sudanese newspapers, *El-Ayam* and *El-Sahafa*, and in 1976 he briefly lectured at the Khartoum Branch of the University of Cairo. In 1977 and 1978 he carried out small assignments for the Ministry of Foreign Affairs in Khartoum, in respectively the Arab Department, the Research Department and the Legal Department. In 1978 and 1979 he was a legal adviser to the Sudanese delegation in ministerial meetings and summit conferences of the Organization of African Unity (OAU). In 1979 the

Ministry employed him and he became a member of the Sudanese mission to the United Nations (UN) Office at Geneva, where he worked until 1982 and familiarized himself with the environment of international politics and the UN System, while also serving as Sudan's Vice Consul in Switzerland. In 1980 he was rapporteur of the resumed UN Conference on the Law of the Sea and in March 1981 he headed the Sudanese delegation to the OAU Preparatory Meeting on the Draft Code of Conduct on Transfer of Technology in Addis Ababa, Ethiopia. In 1981 he also became spokesman of the African Group of UN member states and of the coalition group of developing countries within the UN, known as Group of 77, on issues such as the transfer of technology, energy, restrictive business practices and technical cooperation among developing countries. Between 1980 and 1983 he chaired the Permanent Group of 15 in the UN Conference on Trade and Development and in October 1982 he was coordinator of developing countries on the drafting of a resolution concerning the mandate of the Office of the UN High Commissioner for Refugees. In Geneva he also studied at the Graduate Institute of International Studies, where he defended his doctoral thesis on a Case Study on the Treaty Establishing a Preferential Trade Area for Eastern and Southern African States in 1984.

In December 1982 Idris joined the World Intellectual Property Organization (WIPO) in Geneva, which was established as a self-funding agency of the UN System in 1970. Since 1973 Director General Árpád Bogsch had promoted universal membership and worked to establish norms that obliged member states to grant a certain level of protection to the creators and owners of intellectual property, particularly when they were foreigners. This strategy of universalization and norm socialization was not easy in the context of ongoing discussions about a New International Economic Order, as it was at odds with the preference of developing states to stress national autonomy over property-related policies. Bogsch therefore launched an ambitious plan of assistance to developing states. Idris became a senior programme officer in Bogsch's plan with a focus on Africa and began to work his way to the top of the organization. In October 1985 he was appointed Director of the Development Cooperation and External Relations Bureau for Arab Countries, a position he held for nine years. His work included the formulation, negotiation and monitoring, on behalf of WIPO, of projects relating to development cooperation in the field of intellectual property, the drafting of documents on developmental aspects of intellectual property and the organization of seminars and workshops. He represented WIPO at several policy and operations meetings of the UN Development Programme. In 1986 he undertook a study tour focused on the teaching of intellectual property law at the Max Planck Institute in Munich, Germany and, between 1992 and 1996, he was a member of the UN International Law Commission (again in 2000-2001), acting as Vice Chairman of the Commission's 45th Session in 1993. Between 1990 and 1992, he was also in charge of WIPO activities in Central and Eastern European countries. In July 1994 Idris was appointed Deputy Director General under Bogsch. Given Bogsch's upcoming retirement in 1997, the WIPO Coordination Committee decided to invite nominations for the post of Director General in October 1996. By March 1997 ten candidates were announced, with the Coordination Committee deciding to nominate Idris, who as a candidate had been presented by the African Group in Geneva and the OAU, for appointment by the General Assembly. In September 132 delegations to the General Assembly appointed Idris unanimously and by acclamation for a period of six years. Since Bogsch delayed the date of his retirement by one month, the appointment of Idris as Director General was advanced to 1 November 1997.

In his acceptance speech in September Idris showed initiative by arguing that in times of strong technological change WIPO's dual character (both an intergovernmental organization serving the international community of states and a market-oriented institution serving users) required three major initiatives with regard to accountability, transparency and information technology. He proposed the establishment of a management and oversight mechanism, a contracts review facility and a Global Intellectual Property Issues Division (GIPID), meant to identify new technological and political issues or problems that might arise from new patterns of globalization. In November he also addressed the staff to explain his three initiatives and his intention to reorganize the Secretariat through rationalizing staff tasks and responsibilities, reassigning staff members and regrouping

them into effective work units and an upgrading of management and supervision along efficient lines, with a firm intention of openness and dialogue. Like Bogsch, Idris combined his function of WIPO Director General with the function of Secretary-General of the International Union for the Protection of Plant Varieties (UPOV), based on an agreement between the two organizations. He elected not to receive an allowance from UPOV in favour of putting the money towards activities of particular interest to developing countries. In his new position as WIPO Director General Idris visited several countries, such as France and the US, and attended the second Ministerial Conference of the World Trade Organization (WTO) in May 1998 in order to further discuss and elaborate the working agreement between the two organizations. This was necessary since WIPO had lost ground to the WTO after the conclusion of the Doha Round of the General Agreement of Tariffs and Trade in 1994, which resulted in a strong and competing Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement administered by the WTO. Idris succeeded in strengthening WIPO's position in the heated debates about international intellectual property regulations in the early 2000s. He championed a recalibration of priorities and attempted to promote a compromise between the interests of developing and industrialized countries, most notably by actively supporting the WTO's Doha Development Agenda. His proposal, which initially was sponsored mainly by Latin American countries, aimed to incorporate knowledge transfer into international attempts to harmonize intellectual property laws. Within WIPO he proactively opened a discussion space for these demands, which led to a further spread of the debate and motivated additional developing countries to ally with the initial sponsors of the Doha Development Agenda. Between the WTO and WIPO a *de facto* division of labour emerged, with political disputes being conducted at the WTO and its specialized TRIPS Council and WIPO's extensive resources being employed to support training and development in developing countries. As a result GIPID, set up with a relatively wide remit to identify new technological and political issues, increasingly focused on issues around the exploitation and protection of traditional knowledge. Three years after its establishment GIPID was renamed the Traditional Knowledge Division. The division of labour with the WTO made WIPO a 'much more focused agency, leaving enforcement to the WTO and [WIPO] now concentrating on socialization and norm-building' (May 2007: 35). When Idris took over as the WIPO Director General he had attempted to divert from Bogsch's central task of norm setting, but he had to accept that WIPO's focus on norm setting continued to exist.

In May 2003 Idris was re-appointed as Director General of WIPO for another six-year term and, in October, he was also re-appointed Secretary-General of UPOV (both tenures in office scheduled to end in November 2009). Several WIPO bodies were devoted to the concerns of developing countries, which tried to defend themselves against the demands from the developed world to establish further limitations on the use of pharmaceuticals, textbooks and other knowledge-intensive goods. Idris also facilitated the debate on the legal protection of biological resources and traditional (indigenous) knowledge and made WIPO more accessible to civil society actors. With its Open Forum in 2006 WIPO engaged in a debate with civil society groups which, however, weakened the previously dominant position of lawyers' associations from industrialized countries. While his strategy proved successful in terms of increasing WIPO's prominence as a discussion forum, Idris' open sympathy for the demands of the developing countries prevented further harmonization of international intellectual property laws. Increasingly, industrialized countries withdrew from substantial debates in the organization and shifted their attention towards bilateral agreements and other multilateral treaties, which made it easier for them to pressure individual states. Observers agreed that after several years WIPO had become a forum that was unable to overcome the stalemate between industrialized and developing countries (Eimer and Schüren 2013). While Idris enjoyed the support of the developing countries, representatives from industrialized countries criticized him more and more. He began to react with personal attacks, openly accusing developed countries of racism, and also later argued that these countries had tried to kick him out of office (Musungu 2007). Because of his by-now overly centralized and authoritarian administrative style he also lost the support of WIPO staff members and high-ranking officials. Both substantial and personal conflicts fuelled accelerating controversies about his leadership. The first controversy was about the renovation of WIPO's headquarters in

Geneva, whose cost was estimated at 50 million American dollars, and, in early 2005, was linked to possible bribery. A Swiss criminal investigation, instigated by the US, established that a three to four million-dollar payment was made by WIPO to a Ghanaian businessman, who in turn had paid hundreds of thousands of dollars to a Swiss bank account of WIPO Assistant Director General Khamis Suedi from Tanzania, who then left the organization. The second controversy later that year concerned the purchase of a villa in the canton of Geneva by Idris. The installation of a swimming pool, allegedly paid for by WIPO, triggered critical questions and allegations of corruption in the media. The auditing firm Ernst & Young was commissioned to investigate the charges. Though the investigation found no direct evidence of fraud, the concluding report uncovered serious weaknesses in the organization, which might lead to irregularities with regard to finances.

Following these complaints and allegations of mismanagement, an internal and confidential WIPO report was leaked to the media in November 2006. The report summarized an investigation of allegations concerning the Director General raised by the Joint Inspection Unit (JIU) of the UN. In 2006 Idris changed his birth year in his WIPO personnel files from 1945 to 1954 (the year mentioned in all his Sudanese official documents) on the grounds that a typographical error had been made by WIPO, which needed correction. However, it was argued that he had benefitted from an additional nine years of work experience when he applied for his first job at WIPO in 1982, leading him to be appointed in a higher-graded position than justified by his actual age. According to his explanation, he had kept using the wrong birth year in WIPO and also UN documents for reasons of 'consistency' (Pautasso 2006: 9). The investigative report concluded that no formal attempts had been made to rectify the alleged error between 1982 and 2006, during which period Idris had used official identification documents with both years (1945 and 1954). The report also showed that the wife and children of Idris had acquired the Swiss nationality in 2004 and that Idris, who was also seeking to acquire Swiss nationality, needed to change his 1945 birth year in order to align all of his personal identification documents (Pautasso 2006: 29). The report concluded that the change could not be considered a mere administrative act (Pautasso 2006: 31). The report and public debate implicated doubts about his past experience, while the US, European Union (EU) and other developed countries refused to approve WIPO's two-year budget in protest over the birth date issue. The controversy heralded the end of Idris' tenure as WIPO Director General. Pressured by the developed countries, he was forced to resign on 30 September 2008, more than one year before his official term would end. In his farewell speech Idris defended his tenure and reiterated his mission to rebalance the international debate on intellectual property law. The Annex to his speech provided his inventory of new initiatives, highlights and trends that had transformed WIPO since 1997. While the issue of his birth date had overshadowed WIPO's policy debates in 2007 and 2008, the General Assembly in September 2008 finally adopted the Doha Development Agenda for WIPO, with a set of 45 proposals regrouped in six clusters and a responsible Committee on Development and Intellectual Property. The Doha Development Agenda as well as a new budgeting and audit structure that had been agreed on meant a significant reform process of the organization, which was the responsibility of Idris' successor Francis Gurry.

Assessing Idris' role as WIPO Director General is difficult, given the numerous allegations of manipulation and corruption as well as the sharp division between the developed countries and the African and other developing countries. Apart from the unambiguous conclusion of the JIU report about his use of identification documents with two different birth years, one has to keep in mind that his actions and policy course with regard to his age as well as his authoritarian style of leadership during his second term negatively affected media coverage, which actively spread the allegations. Irrespective of accusations against his administration, it should be recognized that Idris was a Director General who actively connected intellectual property regulations to the development dimension and the debates on access to knowledge. He managed to establish a division of labour with the WTO and had the Doha Development Agenda accepted by WIPO. His successor repaired

WIPO's damaged reputation and, against the hopes of the developed countries, built on Idris's legacy when implementing the Doha Development Agenda.

After his resignation Idris returned to Sudan where he became professor of public international law at the University of Khartoum. He is a member of the African Jurists Association and a member of the Scientific Advisory Committee of the Hague Center for Law and Arbitration in The Netherlands. In April 2010 he entered the Presidential elections in Sudan as an independent candidate, but lost to Omar al-Bashir of the National Congress Party even though the International Criminal Court (ICC) had indicted Bashir in 2008 and 2010 on the grounds of genocide and crimes against humanity. In 2011 rumours spread that Idris was a candidate to gain the position as prosecutor at the ICC, which the search committee tasked with selecting candidates for this function denied. The Sudanese National Intelligence and Security Services arrested Idris, who was Deputy Chairman of the Sudanese Committee to Defend Rights and Freedom, on unknown charges in June 2012, but he was released within 24 hours. On 10 February 2013 Idris met with Tomas Ulincy, head of an EU delegation to discuss the peace process in Sudan and on 17 June of that year Idris was appointed as one of Sudan's four members of the Permanent Court of Arbitration in The Hague.

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