

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
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## **WIPO GENERAL ASSEMBLY**

**Thirty-Third (16<sup>th</sup> Extraordinary) Session**  
**Geneva, September 25 to October 3, 2006**

### REPORT

*adopted by the Assembly*

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/42/1): 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 21, 24 and 25.
2. The report on the said items, with the exception of items 5, 8, 9, 10, 11, 12, 13 and 14, is contained in the General Report (document A/42/14).
3. The reports on items 5, 8, 9, 10, 11, 12, 13 and 14, are contained in the present document.
4. Mr. Enrique Manalo (Philippines), Chair of the General Assembly, presided over the meeting.

## ITEM 5 OF THE CONSOLIDATED AGENDA:

## REPORT ON THE OUTCOME OF THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A REVISED TRADEMARK LAW TREATY (TLT)

5. Discussions were based on document WO/GA/33/1.
6. The Secretariat introduced the document, entitled “Outcome of the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty” which contained a report on the results of the Diplomatic Conference held in Singapore in March 2006, and included, as annexes, the texts of the three instruments adopted by the Conference, namely: the Singapore Treaty on the Law of Trademarks (hereinafter called “the Singapore Treaty”), the Regulations under the Singapore Treaty and the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty. The Secretariat pointed out that this was the largest Diplomatic Conference ever organized by WIPO. It was attended by 146 Member States, three Special Member Delegations and many observer organizations. Such a large participation had been made possible thanks to the very generous contribution offered by the Government of Singapore to facilitate the participation of many delegations as well as to the excellent facilities that the said Government had made available to host the event. The Conference had adopted the three instruments mentioned above after two and a half weeks of intensive discussion and negotiation, undertaken in a very constructive climate, under the most able leadership of H.E. Ambassador Burhan Gafoor, Permanent Representative of Singapore in Geneva, who presided over the Conference and directed a very efficient team of conference officers.
7. The Secretariat informed the Assemblies that the Singapore Treaty became open for signature immediately after its adoption and, to date, it had been signed by 45 States. Annex III of document WO/GA/33/1 listed the 43 States that had signed the Singapore Treaty at the date of publication of that document. Thereafter, two more States: Mali and Hungary had become signatories. New Zealand had announced its intention to sign the Treaty within the ongoing week. The Treaty would remain open for signature until March 27, 2007.
8. The Secretariat highlighted the fact that the Resolution Supplementary to the Singapore Treaty contained very detailed provisions on technical assistance to be offered to least developed countries (LDCs) and developing countries, with a view to facilitating the implementation of the Treaty provisions. In accordance with that Resolution, WIPO had already taken steps to make available such assistance to all LDCs and developing countries interested in preparing their accession to this Treaty.
9. The Delegation of Iran (Islamic Republic of) congratulated the Director General of WIPO and the Secretariat on the conclusion of the Singapore Treaty on the Law of Trademarks. It thanked the Government of Singapore and H.E. Ambassador Burhan Gafoor of Singapore for the excellent organization of the Diplomatic Conference. The Delegation underlined that the Singapore Treaty contained new elements that would have an impact on future treaties. It referred to the interventions of delegations made at the Diplomatic Conference which served as an interpretation tool. Regarding the eligibility of intergovernmental organizations to become party to the Singapore Treaty, the Delegation reiterated its position that Iran (the Islamic Republic of) has not been the initiator or supporter of that idea. However, the Delegation said that it had shown flexibility in joining the consensus at the Diplomatic Conference. Therefore, it requested that paragraph 213 of

document SCT/14/8 be removed. The Delegation stressed that the Resolution Supplementary to the Singapore Treaty was a further outcome of the Conference that contained important safeguards in view of the unstoppable evolution of new technologies. Sufficient safeguards were needed with regard to the harmonization of trademark law in the field of new types of marks. Moreover, the Delegation saw a need to improve safeguards concerning new technologies. This issue should be raised at the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications. The Delegation added that the Secretariat should explore new ways of engaging Member States to take advantage of the trademark system as one of the items of the agenda for the SCT.

10. The Delegation of Kenya expressed gratitude to WIPO and to the Government of Singapore for respectively organizing and hosting the Diplomatic Conference. The Delegation recalled that Dr. Mukhisa Kituyi, Minister for Trade and Industry of Kenya signed, on behalf of his Government, both the Final Act of the Conference and the Singapore Treaty. The delegation thanked the Government of Singapore for its determination and expertise in organizing such an important international conference. The Government of Kenya thanked WIPO for making the necessary financial arrangements to facilitate the participation of developing, least developed countries, and countries in transition. This allowed them to effectively take part in the work of the conference to which the African Group attached great importance. The Delegation noted with gratitude that the Managing Director of the Kenya Industrial Property Institute (KIPI), Professor James Otieno-Odek was elected President of Main Committee II of the Conference, as a recognition of Kenya's active participation in the process. The signing of the Treaty was timely as it coincided with the final phase of automation of the trademark processing system at KIPI, done on the basis of the WIPO Intellectual Property Automation System (IPAS). In the view of that Delegation, the Treaty would not only create an Assembly of the Contracting Parties, but would also provide an avenue for electronic communication systems, harmonization of trademark laws and simplification of rules for the recording of trademark licenses. The Delegation noted that the Singapore Treaty stood to benefit Kenya and KIPI by simplifying the trademarks processing procedure and lowering costs. In addition, it was anticipated that the Treaty would boost international trade, harmonize and enhance trademark protection and maintenance procedures in the African Region.

11. The Delegation of Croatia, speaking on behalf of the Regional Group of Central European and Baltic States, commended all WIPO Members on the successful outcome of the Diplomatic Conference. The Delegation also expressed the gratitude of the Group of Central European and Baltic States to the Government of Singapore for its efforts in organizing and hosting the Conference. The Delegation emphasized the constructive and cooperative spirit displayed by all delegations during the negotiations, which contributed to the balanced outcome of the Conference. The Delegation believed that the Singapore Treaty would improve the climate for trade and investment and would provide simplified procedures for national and regional trademark administrations. The Treaty created a level playing field for all economic operators that invested in branded goods, and a dynamic regulatory framework for brand rights. The Treaty also provided legal certainty in the area of intangible assets. The Delegation was hopeful that Member States, particularly developing and least developed would fully benefit from the Treaty.

12. The Delegation of Finland, speaking on behalf of the European Community, its Member States and the acceding States Bulgaria and Romania, welcomed the outcome of the Diplomatic Conference. It underlined that the adoption of the Singapore Treaty on the Law of Trademarks was significant for the credibility of WIPO as a body capable of reaching results

in the field of international norm-setting. The Delegation thanked the Government of Singapore for hosting the Diplomatic Conference and underlined the particular role taken by the region of South East Asia with regard to the Singapore Treaty. The main purpose of the Singapore Treaty was the streamlining of administrative trademark procedures. The Delegation stated that, in line with the Resolution Supplementary to the Singapore Treaty, developing and least developed countries should be supported as necessary, to facilitate the implementation of the Treaty.

13. The Delegation of Brazil thanked the Government of Singapore for hosting the Diplomatic Conference and the WIPO Secretariat for its good work leading to a successful outcome of the Diplomatic Conference, in which Brazil was also represented. The Delegation noted that the Resolution Supplementary to the Singapore Treaty had retained its attention, as it dealt with technical cooperation to be granted to LDCs that were described in paragraph 7 of the Resolution as the primary and main beneficiaries of that cooperation. The Delegation asked what would be, in this regard, the situation of other developing countries not considered least developed. The Delegation also asked for clarification as to what would be the legal status of the Resolution in relation to the Singapore Treaty and in the context of other WIPO administered treaties.

14. The Delegation of Hungary associated itself with the interventions made by the Delegation of Croatia on behalf of the group of Central European and Baltic States, and by the Delegation of Finland on behalf of the European Community, its Member States and the acceding States Bulgaria and Romania. The Delegation said that it had pleasure in acknowledging the success of the Diplomatic Conference. It expressed satisfaction that, after hard work and intensive and difficult negotiations, the Conference had achieved a balanced outcome that would benefit all Member States of WIPO. The new Singapore Treaty on the Law of Trademarks was an important step forward with regard to international cooperation in the field of trademark protection. The Delegation thanked the Government of Singapore for hosting the Diplomatic Conference. It expressed the hope that the new Singapore Treaty would come into force soon.

15. The Delegation of Uruguay said that it welcomed the adoption of the Singapore Treaty, its Regulations and the Resolution Supplementary to the Treaty, which aimed at strengthening the institutional capacity of developing and least developed countries, in order to facilitate the implementation of the Treaty. Furthermore, the Delegation wished to thank the Government of Singapore and WIPO for the organization of the conference. It also wished to thank Ambassador Burhan Gafoor for having so successfully chaired the Conference and achieving the balanced result embodied in the Singapore Treaty.

16. The Delegation of El Salvador congratulated WIPO and its membership on the adoption of the Singapore Treaty on the Law of Trademarks. It thanked very specially the Government of Singapore for the impeccable organization of the Conference. The purpose of the Singapore Treaty was to harmonize and simplify administrative procedures relating to national and regional trademark applications and registrations and the maintenance of the registers. The new features that were introduced by the Treaty regarding the procedures carried out at trademark offices, preserved the kind of flexibility that the Government of El Salvador had sought for. In addition, the inclusion of provisions on electronic filing of trademark applications and other related communications was highly positive for those offices, which already offered on-line services.

17. The Delegation of Estonia stated that the Diplomatic Conference had been a success. It recalled that Estonia had signed the Final Act of the Conference and the Singapore Treaty on the Law of Trademarks. The Delegation underlined that Singapore had been a very pleasant conference venue. It informed the General Assembly that Estonia was preparing to ratify the Singapore Treaty and intended to conclude the ratification process at the end of the year 2007.

18. The Delegation of Switzerland expressed gratitude to WIPO and Singapore for the Diplomatic Conference. It said that the Conference had been successful in achieving a balanced result that would benefit all Member States of WIPO. The Delegation welcomed the contents of the new Singapore Treaty. It felt that positive modifications to the text of the Treaty had been made at the Diplomatic Conference. The broad scope of application of the new treaty and the new provisions on electronic communication, for instance, permitted to adequately take into account the future technical evolution while offering Contracting Parties the freedom to decide on national regulations. The new provisions on trademark licenses and the rules on relief measures to be applied in case of failure to comply with time limits were advantageous for users. The creation of an Assembly of Contracting Parties, in particular having the competence to modify the Regulations under the Singapore Treaty, constituted an important innovation. The Delegation emphasized that the different regional groups had participated in an excellent spirit in the negotiation of the Treaty, the Regulations under the Treaty and the Resolution Supplementary to the Treaty. This spirit had been essential to the success of the Conference.

19. The Delegation of Sudan wished to join others in congratulating the Government and the people of Singapore for the organization and the success of the Diplomatic Conference. The Delegation thanked H.E. Ambassador Burhan Gafoor for his successful chairmanship of the Conference and the Intellectual Property Office of Singapore for the technical and administrative support throughout the meeting.

20. The Delegation of Romania associated itself with the statement made by the Delegation of Finland on behalf of the European Community, its Member States and the acceding States Bulgaria and Romania. The Delegation participated in the Diplomatic Conference and was impressed by the professionalism and hospitality shown by the Government of Singapore. It was confident that the new treaty would constitute a further contribution to the worldwide harmonization of trademark procedures. Romania had signed both the Final Act and the Singapore Treaty, and believed that this new treaty would have a consequential effect on its legal harmonization process. Romania had already taken into account this new legal tool in drafting amendments to its national trademark legislation. The Delegation further noted that the Singapore Treaty was an example of international cooperation and of mutual understanding of the concerns of WIPO Members. It believed that this example should hopefully be followed in other fora.

21. The Delegation of the United States of America expressed its support of the Singapore Treaty on the Law of Trademarks that had been adopted by consensus at the Diplomatic Conference held in March. It congratulated WIPO and Singapore. The Delegation expressed satisfaction that the conclusion of the Treaty – and the large number of delegations that had signed the Treaty in Singapore – demonstrated the continued and important role that WIPO played as an international norm-setting body. The Singapore Treaty contained all of the important and beneficial features of the 1994 Trademark Law Treaty, including the lowering of costs for trademark owners. However, it offered a more attractive package for the Member States of WIPO to join.

22. The Delegation of Japan expressed gratitude to WIPO and to the Government of Singapore for the successful conclusion of the Singapore Treaty on the Law of Trademarks. It congratulated the President of the Conference, H.E. Ambassador Burhan Gafoor of Singapore, on the excellent guidance of the Conference, the final text of which Japan had signed. The Delegation stressed the importance of the Singapore Treaty which signaled that WIPO was an effective forum to achieve results beneficial to users and trademark offices alike.

23. The Delegation of Kyrgyzstan expressed its gratitude to WIPO and to the Government of Singapore for hosting and organizing the Diplomatic Conference. The Delegation of Kyrgyzstan was the coordinator of the Group of Central Asian, Caucasus and Eastern European Countries during the Conference. That regional group had actively participated in the conference and made an effective contribution to its success. Kyrgyzstan had signed the Final Act and the Singapore Treaty and considered that the outcome of the Conference was very positive. The Delegation informed the General Assembly that the Government of Kyrgyzstan had sent the Law on the Ratification of the Singapore Treaty to parliament and also expressed the hope that Kyrgyzstan would be one of the first to ratify the Treaty.

24. The Secretariat, in response to the questions raised by the Delegation of Brazil, explained that the legal status of the Resolution Supplementary to the Singapore Treaty had to be seen in the framework of the Vienna Convention on the Law of Treaties and in particular, in the intention of the parties negotiating that Treaty. Such intention had been expressed by several delegations as their understanding that the Resolution was an integral part of the outcome of the Conference. Resolutions of this type had been adopted by previous diplomatic conferences organized by WIPO and more recently by the Diplomatic Conference which adopted the Patent Law Treaty. As depositary of the Singapore Treaty, the Director General of WIPO had sent certified copies of the three instruments adopted by the Diplomatic Conference in one single document to all Member States of WIPO. Furthermore, the Secretariat confirmed that even though paragraph 7 of the Resolution identified LDCs as primary and main beneficiaries of technical assistance, in paragraph 4 of the same Resolution WIPO was requested to provide additional and adequate technical assistance also to other developing countries. The Secretariat had taken steps to make available such assistance to all developing and least developed countries that requested this kind of technical assistance from WIPO.

25. The General Assembly took note of the contents of document WO/GA/33/1.

#### ITEM 8 OF THE CONSOLIDATED AGENDA:

#### REPORT OF THE PROVISIONAL COMMITTEE ON PROPOSALS RELATED TO A WIPO DEVELOPMENT AGENDA (PCDA)

26. Discussions were based on document WO/GA/33/2 Rev.

27. The Secretariat introduced the document and referred to the WIPO General Assembly resolution adopted in its Session of 2005, in which it was decided to constitute a Provisional Committee to take forward the IIM process to accelerate and complete discussions on proposals relating to a WIPO Development Agenda, and to report with any recommendations

to the General Assembly in its 2006 Session. The decision also emphasized that the Provisional Committee would hold two one-week sessions. The Secretariat further stated that the said sessions of the PCDA were held from February 20 to 24 and June 26 to 30, 2006. Ambassador Rigoberto Gauto Vielman of Paraguay was elected as Chair for both sessions of the PCDA and Ambassador Muktar Djumaliev of the Kyrgyz Republic as Vice Chair. The Secretariat recalled that the first session of the PCDA in February discussed new proposals submitted by Member States and that the PCDA was successful in placing the 111 proposals, which were formulated in actionable and operational form, in a set of clusters. At its session in June the PCDA considered the proposals contained in the above-mentioned clusters, and a submission by a group of Member States on a decision to be adopted by the PCDA, and a proposal by a Member State concerning a recommendation to the General Assembly. The Secretariat concluded that the PCDA did not reach consensus on any recommendation to be reported to the General Assembly at that session, and that the reports of the first and second sessions of the PCDA were contained in documents PCDA/1/6 and PCDA/2/4 respectively. The Secretariat invited the General Assembly to consider the information contained in paragraph six of document WO/GA/33/2 Rev. and drew its attention to a document WO/GA/33/9, dated September 26, 2006, entitled Proposal of the Kyrgyz Republic on Agenda Item 8, which would be introduced by the Delegation of the Kyrgyz Republic.

28. The Chair thanked the Secretariat for its presentation and drew the Assembly's attention to the fact that they were faced with the situation where the Committee, which was entrusted with the task of considering this item, was unable to make a recommendation to the Assembly, neither on the proposals nor on how to proceed. The Chair urged the Assembly and welcomed the Director General's support to look at the subject of how work should proceed in future with regard to the Agenda for Development, and its related issues. The Chair hoped that interventions from delegations would focus on that particular point, and perhaps refrain from discussing again the number of proposals that were on the table. The Chair urged delegations to try and focus on how they could carry forward their work. Nevertheless, the Chair stated that delegations had the right to express their views on the proposal that he was putting forward.

29. The Ambassador of Paraguay thanked the Chair and Member States for honoring him with the chairmanship of the two sessions of the Provisional Committee on Proposals Related to a WIPO Development Agenda, known as the PCDA. He stated that he had certainly done his utmost to carry out the task in the most efficient and impartial fashion possible, and that document WO/GA/33/2, was in fact the factual report submitted to the General Assembly. He added that the PCDA had met on two occasions in February and June of that year and given the fact that it was not possible to have a consensus on the final report with conclusions and recommendations for the Assembly, what was being put forward in the form of a report were a few considerations of both sessions, that had been drafted by the Secretariat and approved by the members of the Committee. The Ambassador added that in order to try to make headway in the work, he had had many meetings and consultations with groups and individual delegations, in particular, between the two above-mentioned sessions. His impression was that significant progress had been made, bearing in mind the number and quality of proposals submitted and indeed the very valuable discussions that had been held. The Ambassador felt whole-heartedly that on the basis of that progress, the Assembly would be in a position to adopt the very best decisions in the matter, to properly guide the future work on the WIPO Development Program. He thanked the delegations, which took part in the meetings of the PCDA, for their attitude and their commitment as well as the Secretariat and support staff, including interpreters, for their very valuable support during his chairmanship. He made Particular mention of the Vice Chair, the distinguished Ambassador

of Kyrgyzstan, His Excellency Muktar Djumaliev, for his help in allowing the Committee to fulfill its mandate.

30. The Delegation of India stated that the debate on the Development Agenda started about two years ago and since then, there had been several opportunities to discuss the various elements contained in the proposals submitted by Member States. While these discussions had helped to shed light on the issues involved, unfortunately, the Committee was unable to cover much ground, in respect of carrying out in-depth analysis of the proposals presented or determining an effective strategy for the way forward. The Delegation elaborated that the issues before the Assembly were twofold: the process to be adopted hereafter for the consideration of the Development Agenda, and the content thereof. These elements were interlinked. It emphasized that in everyone's mind their endeavors to establish a development agenda for WIPO would have to continue and must continue. The Delegation, however, strongly urged that the discussions in the future be continued in a focused and streamlined manner, geared towards achieving swift and optimal results. It believed that there was a need to set clear guidelines to ensure that the debate was targeted at the achievement of tangible results and suggested that the General Assembly decide on extending the mandate of the PCDA for another one year, within which there would be two to three sessions to discuss the proposals. The Delegation proposed that in the very first session, the PCDA should decide on a plan of action, which might include a phased program for consideration of proposals. This would be with a clear understanding, that while the program for consideration could be phased, at the end of such consideration, the development agenda should be adopted as a package. With respect to the content, the Delegation stated that the Committee was faced with the prospect of examining 111 proposals, which, on the face of it, was an intimidating exercise. However, it believed that if they could sift through these proposals, they might find that quite a few of them carried the same idea, articulated similar concerns and sought to attain common objectives. Therefore, by approaching the exercise seriously, combining similar proposals and eliminating repetitive elements, the actual number of issues to be addressed could be reduced significantly. It reiterated that the proposals had already been categorized into different clusters and all that was left to be done was to carry out the above exercise for each cluster, thereby coming up with a total of 20 to 25 implementable proposals. The Delegation, therefore, urged the Committee to focus its attention on achieving this objective in the early stages of their considerations. The Delegation further suggested that in order to gauge the ramifications of the major proposals and to comprehend their likely impact, all the aspects of the proposals should be studied and examined by experts in the field. It saw it necessary to identify such elements during discussions and to entrust the task to the International Bureau, to have these aspects analyzed, with the help of external experts wherever necessary, and to present the conclusions in the subsequent meetings. It believed this would enable them to take meaningful decisions, based on relevant data and empirical evidence. In short, it emphasized that a scientific approach should be adopted and not one, based on conceptions and somewhat hazy ideas on the subject. The Delegation stated that the Member States must make the process succeed, as there was a lot at stake. In order to invest the intellectual property system with a higher degree of credibility, it was necessary to address the major concerns being voiced, and restore the balance in areas where it was believed to have been distorted. It added that if a robust and effective development agenda was established, it would go a long way in reinforcing and strengthening the IP system, which could then truly catalyze the growth process in their countries.

31. The Delegation of Argentina, speaking on behalf of the "Friends of Development", said that it had already made some substantial comments on that issue the previous day and so would not like to repeat them. The Delegation thanked Ambassador Rigoberto Gauto for his



work as Chairman during the two sessions of the PCDA held that year. It stated that there was no doubt that they had recognized that the exercise itself had not perhaps been as fruitful as they had expected, and that they were all rather disappointed by the outcome. Nevertheless, given the general statements made the day before, all delegations which took the floor highlighted the importance of the development issue and the Delegation itself, believed that it was a very important issue. The Delegation reiterated the need to look at the procedures as well as the substance, since the discussions which took place, contained over-lapping of substance and procedure, and as such, it was not sure whether that had actually assisted them in the entire process. It further stated that as a representative of the Group of "Friends of Development", the Delegation has tried its best to simplify the exercise with its original proposal, as well as in the second session of the PCDA, by compiling proposals as specific decisions. The Delegation felt that it would be a useful method, not only to further facilitate discussions and simplify analyses, but also that it was a good basis for carrying the process through. The Delegation concluded by saying that it understood Group B's view expressed the day before, with respect to clarity on the procedure. The Delegation saw this as a very valid point and believed that this should be explored further. The Delegation confirmed its openness to consultations, as to how to make progress in the discussions.

32. The Delegation of the United Kingdom said it was a rare opportunity for it to have the opportunity to come and address that distinguished body. It stated that it was a pleasure to do so and recognized the Director General whom it rarely saw. It added that a number of Geneva Permanent Representatives had been quietly working with the Chair, to try and break the stalemate on the issue of the development agenda. It believed that some progress had been made in raising a level of confidence, which was one of the more vital things that needed to be done in that particular context. The Delegation stated that the United Kingdom was well known to be development friendly and that, they had been conscious of the importance of this area and the relative lack of progress, at a time when many other parts of the trade and development agenda, were stalled in Geneva. It did not see a need to say more, since the Delegations of India and Argentina had essentially said all that was to be said, namely that during the current meeting, the Member States should endeavor to make a serious attempt to work out a methodology or a road map. This would help to take them through the plethora of mostly worthwhile proposals, which had been on the table for rather too long, with a view to moving the agenda forward in a constructive fashion. In closing, the Delegation recalled that some people present in the room had spent half of that morning in a useful seminar with Dr. Supachai Panitchpakdi, Director General of UNCTAD. They were looking at the reform agenda underway at UNCTAD, which needed to be changed, so that it could adopt a forward-looking and cooperative approach with other organizations in Geneva. It felt that by looking for ways in which the PCDA might move forward, it would be possible to pay perhaps a little more attention than in the past, to ways in which WIPO could cooperate with other organizations in Geneva, which had interests and activities in the IP field.

33. The Delegation of Croatia stated that it was an honor to present views and positions of the Group of Central European and Baltic States, that emerged from their common deliberation on that issue. It stated that the paramount importance of IP, and its intrinsic relationship with the development objective had been recognized by all member countries on numerous occasions, during past discussions in the framework of the IIM process, as well as, the PCDA exercise. The Delegation agreed that WIPO's role in the area of development should be reconsidered, but at the same time they had to bear in mind that the scope of WIPO's activities, as a component of the UN system, were clearly defined. The Delegation added that IP could be only part of the solution for development, just as WIPO's work was

only part of the solution that was being provided by various international organizations and bodies, aimed at helping countries achieve their development objectives. It emphasized the appreciation of the member countries of the Regional Group, for the work WIPO had undertaken so far, in order to ensure that IP became a veritable tool for development. It further added that WIPO's efforts in that area, had been made with the aim of promoting an international IP system, that would be well balanced and responsive, to the needs of developing countries, as well as one that promoted research, technology transfer and the stimulation of innovation. The Delegation reiterated that from the very beginning of their deliberations on the issue of a development agenda, the Regional Group was supportive of the process, with a clear preference for the proposals that were made in a constructive spirit and in an operational manner, as well as those which would not go beyond the mandate and scope of WIPO's activities. It believed that some valuable achievements had been made but the process still remained blocked, and proved unable to bear fruits, even after some serious efforts had been made throughout the series of meeting in the past two years. It also believed that the vast majority of members, including the Regional Group, on many different occasions, had displayed a constructive approach, aimed at reaching a compromise solution. However, at the same time, a little bit more corresponding efforts, good will and readiness to compromise, were needed to bridge the differences which would have enabled them to produce the outcome they were all striving for. The Delegation reaffirmed that its regional Group supported further discussions on the Development Agenda, which should be realized through early harvest of the proposals that attracted support of all Members States. It was its belief that the rest of the proposals should be thoroughly discussed during future sessions. In that respect, it expressed the Group's support for the proposal tabled by the Chairman of the PCDA during the last meeting in June, which had attracted wide spread support by the membership, and which in its view, should be the basis for future work. It added that the Group believed that the current structure, which had been agreed upon by all, namely the division of proposals into clusters, represented a viable and constructive basis for the successful conclusion of their work. That is to say the set of clear recommendations to the WIPO General Assembly in 2007. The Delegation was of the opinion that further discussions should be clearly result oriented, and should therefore take into account and build upon the progress made within the IIM and PCDA. The Delegation expressed the Group's disappointment with the evident inability of Member States to reach any kind of conclusions. That disappointment was amplified by the feeling that the solution to the advancement of the discussions was within their reach. The Delegation concluded by stating that if Member States wanted to increase their chances of reaching a conclusion, it believed that all stakeholders should approach the exercise in a pragmatic way, taking into account different realities and positions of all Member States. The Delegation expressed its hope that future steps in the process taken by the Member States, and in particular the first step, made during the present Assemblies, would be a step in the right direction.

34. The Delegation of Kyrgyzstan emphasized the importance of the matters related to a WIPO Development Agenda, both for its own country and for other members of the Organization. It underscored its firm conviction that the Development Agenda was a topical issue for all countries, regardless of their level of social and economic development. The Delegation added that it considered that a Development Agenda could not be restricted to any particular sector, such as technical assistance, despite the fact that technical assistance was extremely important for many states. In that connection, the Delegation commended the activities undertaken by WIPO, in terms of providing different forms of assistance to developing countries. It pointed to the documents prepared by the International Bureau, which spoke for themselves. The documents reflected the areas, the volume and the forms of technical assistance in which WIPO was involved. The Delegation added that certain

countries and regions of the world, benefited each year from the various technical assistance programs of WIPO. The Delegation hoped that, in the future, its region could also reap the benefits of being a member of the Organization. It shared the view of Member States that if an agenda was imposed, that did not take due account of the interest of as many countries as possible, it could not be successful. The Delegation underlined that what was needed was to show patience, seek compromise and be consistent in all that was done. It supported, therefore, a step-by step approach, that was constructive and in search for mutually agreed decisions, in the form and the substance of a WIPO development agenda. The Delegation recalled that Kyrgyzstan had actively participated in the work that had been undertaken by the two PCDA sessions. It also considered that under the Chairmanship of His Excellency, Mr. Gauto, the Permanent Representative of Paraguay, the Committee had successfully accomplished significant work of compiling and structuring the several proposals, received from Member States and classifying them into clusters. That, in itself, was a major step towards the development of a WIPO Development Agenda. The Delegation was of the view that it was necessary to continue the work on a WIPO Development Agenda, taking into account the interests of all Member States. The Delegation of Kyrgyzstan believed that the principle of taking into account all the proposals that had been made, which had been a guiding principle so far should continue to be respected. In view of the aforementioned considerations, and the fact that, as members of the Organization, all the countries wished to move that process forward towards defining and determining a Development Agenda, Kyrgyzstan had submitted, for the consideration of Member States, a draft decision to be taken by the WIPO General Assembly on that particular Agenda item. The proposal, reproduced in document WO/GA/33/9, contained a number of key elements. The Delegation hoped that the contents of that document would be understood and supported by distinguished Member States. The Delegation then elaborated on the content of the proposal. It first referred to the preamble, which stipulated that "Bearing in mind the crucial importance of a strengthened Development Agenda for Member States of WIPO". The Delegation explained that that was stated that way, because it thought that an important aspect such as technical assistance, which was an important component of a Development Agenda, would also clearly involve capacity building, and it believed that a lot of work had already been done in that area, both by countries themselves on a bilateral basis and through WIPO. That was what was being recognized in the first paragraph of the preamble. The second paragraph read "Taking into account that fruitful and positive discussions during two sessions of the Provisional Committee on proposals related to a WIPO Development Agenda (PCDA), in February and June 2006 where the WIPO Member States have identified a number of proposals on a cluster basis". That was stated because the Delegation considered that all the ideas that had been voiced and all the proposals that had been tabled, should be carefully scrutinized, compiled and disseminated. The third paragraph said, "Taking also into account the necessity of setting up of an appropriate body of WIPO, where Member States can continue discussions on all aspects of proposals relating to WIPO Development Agenda." Moving to the operative part, the Delegation noted that there were some very important points to note. In the first paragraph, there was a proposal to set up, in replacement of the Provisional Committee which had concluded its mandate, a Committee which consisted of all Member States of WIPO representing developed, developing and least developed countries and countries in transition, to continue work on the proposals related to a WIPO Development Agenda. The Delegation said that that Committee would replace the PCIPD. The second paragraph said, "The Committee will examine all the proposals submitted to the IIM/PCDA for which two sessions shall be organized in the year 2007." The third paragraph was "The Committee shall report to the WIPO General Assembly in 2007 with specific recommendations for establishing a strengthened WIPO Development Agenda." In conclusion, the Delegation stated that it was ready to work constructively, with all Regional Groups and individual countries, on the

proposals it had tabled. The Delegation counted on the understanding and support from distinguished Member States of WIPO.

35. The Delegation of Indonesia reiterated the importance of the Development Agenda in WIPO. The Delegation was of the view that efforts to integrate and mainstream the development dimension in WIPO activities represented a significant milestone. Developing countries could determine the appropriate approach of WIPO, in promoting IP, consistent with their respective stages of development. The Delegation admitted that the PCDA had not been able to agree on concrete recommendations for the General Assembly. It said that that should not necessarily put an end to the process, and should not also be seen as an indication that it was not yet time for decision. The Delegation still saw a wide space for all Member States to build a common ground to move forward, despite differences on the elements of such an agenda, and the pace at which it should be adopted. The Delegation pointed out that no single Member State of WIPO had expressed its opposition to the adoption of a Development Agenda. As a matter of fact, many delegations had expressed their strong willingness to continue the process. The Delegation strongly recommended that the General Assembly renew the mandate of the PCDA and provide the PCDA a clear and workable guidance, to enable it to start the process of substantive discussions. It hoped that by doing so, the PCDA would be able to organize its work efficiently in a more result-oriented fashion. It stressed that such guidance should contain steps to be taken by the PCDA, in order to ensure that specific and concrete recommendations were formulated within the given time frame. Moreover, the guidance should clearly point out that all proposals, as defined in the previous PCDA meetings, should be considered in an inclusive manner. The Delegation underlined that streamlining the proposals could be done, but that should be cautiously carried out. It should be ensured that no proposal was excluded from consideration. Regarding the first step, the Delegation shared the view that there should be an informal, open-ended consultation, with all stakeholders preceding the formal decision of the PCDA. Such informal consultations would serve as a confidence building measure, that could create a conducive atmosphere for reaching a consensus to move forward. After the informal consultations, a formal meeting of the PCDA would be convened to deliberate on the outcome of the informal meeting, and come up with specific recommendations for WIPO to implement.

36. The Delegation of Nigeria reiterated the importance that the African Group attached to that particular agenda item. The Delegation believed that all that was needed to be said on the Development Agenda had been spelt out in previous meetings. What mattered at that stage was to embark on a course of action. The Delegation observed that many delegations and Groups, including the African Group, had introduced comprehensive and ambitious proposals on the Development Agenda. Both the proponents of the various proposals and other delegations had, on many occasions, underscored the importance of the Development Agenda for obvious and manifest reasons. The Delegation felt that what was to be done, in that meeting, was to agree on a work program on the Development Agenda, which should be focused, targeted and determined. In that regard, the Delegation mentioned the eight-point program of action submitted by the African Group, for the consideration and possible adoption by that august Assembly. Those proposals had been submitted the day before, in the general statement read out by the Coordinator of the Group. The Delegation added that the eight points were predicated upon careful and objective assessment of the work, of both the IIM and the PCDA. They were also driven by the collective desire to make progress and adopt a set of concrete proposals for implementation. The work program had been devised, following wide-ranging consultations with Member States, civil society members and other stakeholders. It was, therefore, a carefully calibrated action plan. On the substantive level, the Delegation added, the African Group was of the view that all the 111 proposals,

comprising the Development Agenda, should be discussed objectively and comprehensively. None of the proposals should be ignored. None should be discarded or sidelined. There should also be a systematic and rational approach to handling the 111 proposals. As regards the future course of action, the African Group had called for the renewal of the mandate of the PCDA. The Delegation was gratified to hear such calls being reiterated by other members of that Assembly. The Delegation strongly recommended that that renewal option should be the only option to be considered by that Assembly. In conclusion, the Delegation noted that the African Group would reserve the right to return to that subject, in order to propose an action plan, to be adopted by that Assembly. It hoped that the Chairman would give the Group the floor again to submit its elaboration.

37. The Delegation of El Salvador said that it appeared that the problem was a matter of strategy for any international organization. It emphasized that what any such organization had to do was to try to take due account of the aspirations of all of its members. The Delegation reiterated its commitment to the idea of a Development Agenda for WIPO. It pointed out that El Salvador had a similar Development Agenda in its own national planning system, and resources had been allocated to promoting development in the country, and some of those resources were directed to developing IP. The Delegation, therefore, believed that all countries undoubtedly did have to shoulder some responsibility for their own development. The Delegation underlined that that was clearly the case and its country was living up to its responsibilities, but at the same time everyone ought to bear in mind what the overall objectives were, and what were the kind of resources available to different countries. The Delegation understood that the Provisional Committee had been given a mandate to carry out certain things, to find a solution to certain problems, and yet it failed or had not yet been able to do so. The Delegation therefore believed that the mandate should be renewed, and that its recommendation on that matter should be adopted as soon as possible, in order to move forward to take due account of all proposals that had been tabled so far, or those that might be submitted in the future.

38. The Delegation of Brazil fully supported the statement made by the Delegation of Argentina, on behalf of the "Friends of Development", the Group that had been the co-sponsor of the initiative on the Development Agenda, when it was first launched during the General Assembly of 2004. The Delegation pointed out that, as far as the Brazilian Government was concerned, the Development Agenda was today the most important item in the agenda of WIPO. The Delegation knew that there was some frustration, as the PCDA had not been able to arrive at an agreement, on a set of issues and the way forward. Brazil, however, had a positive view of what had happened to the Development Agenda until then. By simply listening to the general statements made during the first day of that General Assembly, and the other interventions made that day on the Development Agenda, the Delegation saw that practically the entire membership had taken ownership of the Development Agenda, and wished to move it forward in a constructive and non-excluding fashion. The Delegation thought that the Development Agenda had already generated a change of culture, both in the attitude of Members and in the way the Secretariat had been responding. The Delegation had identified a series of concerns with development, in the several documents prepared by the secretariat that were related to the program and budget, and other activities in general in that Organization. The Delegation added that all those elements were very positive, and it had already perceived changes in the air, which were believed to be a direct consequence of the Development Agenda initiative. The Delegation thanked the Ambassador of Paraguay, for its efforts to move the process forward in the PCDA. It stressed, as stated by the Delegation of Argentina, that for them the PCDA/2/2 was a good basis to proceed. It point out that that particular document was an effort on the part of

the Group of “Friends of Development” to streamline the duplicative nature of many of the initiatives that were contained in the longer list of 111 concrete proposals. The Delegation had even made an attempt to include certain proposals made by other groups and other countries. However, it felt that it was important, especially for those who had not had the opportunity to follow the negotiations on the Development Agenda in the several meetings that had been held since the 2004 General Assembly, to refer to the broader documents that had been proposed by Brazil and others on the subject. The Delegation referred to document WO/GA/31/11, which contained the original proposal, and the IIM/1/4 document, which further elaborated on the Development Agenda. The latter was a longer document, about 34 pages, the Delegation said. It contained the context for a lot of the proposals, including PCDA/1/5 and PCDA/2/2. The reason for mentioning those documents was that if one simply looked at the list of 111 action-oriented points, one would perhaps not have the full understanding of the purpose of those actions or the objectives of those particular proposals, because they would be in a very condensed form, out of the original context. The Delegation referred to interventions made earlier on the Development Agenda, during the General Assembly. It acknowledged not only the interventions, such as those from Indonesia and other developing countries, that clearly supported the renewal of the process in an inclusive manner, but also interventions from developed countries, like that of the United Kingdom. The Delegation added that the intervention of the Delegation of the United Kingdom, indicated a very development-friendly attitude, on behalf of a developed Member of that Organization. It also demonstrated the willingness to actually accept the challenge of re-thinking the IP system a bit, in terms of what it could do for development, under a broader or perhaps more flexible perspective, that took into account different views and perceptions, and also the different levels of development of the membership of that Organization. The Delegation concluded by referring to a question that the Director General often posed to officials who met him, during the course of that General Assembly, as had been the case for the Head of the Brazil Delegation, the day before. The question was what could he do for them. The Delegation thought the important thing that could be done for the membership of WIPO was to really engage, push and move forward the Development Agenda, which was an all-encompassing initiative. It was an attempt to broaden the scope of what that Organization did, and to make it more responsive to the needs of countries that perhaps were not as effective in the past, but who wished today to have a greater influence in shaping the IP system.

39. The Director General responded that WIPO would certainly engage and push, to echo the prudent words of the Delegation of Brazil. He made an appeal to the Delegation to lift the so-called “trust deficit” with the Secretariat on that item. He added that he was personally committed to making that process a success, but needed an overall consensus in the room and mutual understanding of all delegations and constituencies.

40. Speaking on behalf of the European Community, its Member States and the acceding States of Bulgaria and Romania, the Delegation of Finland stated that it continued to believe that development was one of the most important challenges facing the international community. WIPO had a specific mandate to promote development, as an integral part of the United Nations family. In that respect, WIPO had been making great efforts, for many years, but it had then to decide how to continue and even enhance that valuable work. The Delegation regretted that the PCDA could not agree on any recommendation to be presented to the General Assembly, although a wide majority of delegations had already signaled the initial support for continuing the discussions on the basis of the Chairman’s compromise proposal. It said that priority should then be given to moving forward on the substance of the issues, with a view to achieving concrete results. According to the Delegation, it had always

felt that that could be best done in the context of the existing WIPO framework, where suitable expertise already existed. The EC and its Member States looked forward to the discussions on the Development Agenda during the General Assembly, and would participate in the process in the spirit of cooperation and constructive engagement, as they had done in the past. The Delegation expressed its sincere hope that the same spirit, which paved the way for a successful outcome in Singapore, was shared by all delegations.

41. The Delegation of Mexico said it had been keenly listening to the statements made by previous speakers, and had not taken the floor on other agenda items, because it had anticipated the discussion on that crucial Agenda item, regarding the WIPO Development Agenda. The Delegation noted that, as far as it was concerned, particular attention should be drawn to the Kyrgyz Republic proposal under Agenda item 8. The Delegation asked whether the Agenda was a program. In its view, the issue was not certainly one that could be settled over two years. The Delegation felt that it was one of the most important issues, that was considered in the 20<sup>th</sup> century, in other international agencies and bodies. The Delegation stated that it was work in progress, an ongoing issue. It was not an issue that could be sorted out in two years, nor could it be reduced to a single document or a single program. The Delegation further elaborated on its opinion and explained that countries were faced with a global economy, which was very much a knowledge-based economy, where knowledge generated value for humanity, hence the importance of WIPO. That was why it was so important that WIPO dealt with developmental issues not as a topic, but a theme that could be resolved through a resolution or a decision. The Delegation added that apart from paragraph 3 of the Kyrgyz Republic proposal, it very much believed that their proposal embodied the philosophy that should be adopted. That issue should be an ongoing, standing item on the WIPO agenda, it added. The reason for saying that was because WIPO was, after all, the body, par excellence, that dealt with the knowledge-based economy. That agenda could not be seen as the property of a given country, or a given region or, indeed, a particular group. Development as an issue had to be seen as a commitment entered into by all those who were present in that Assembly. It was not tabled for negotiation. The Delegation was convinced that it was not something that needed to be acted on. That was why it felt the proposal to create a committee, which would be responsible for promoting dialogue on that issue on a permanent basis, was an extremely useful proposal. The Delegation underlined that the issue was not a program, but a commitment. It did not wish to create a committee, which would lead to endless discussions, with no tangible results. Such a committee needed to report back, on an annual basis, to that Assembly, on what actually had been achieved over the previous year, what progress had been made, what had been done to ensure that all members cooperate in the development framework and where IP fulfilled its 21<sup>st</sup> century destiny, as it were. In other words, something that would promote development.

42. The Delegation of Pakistan stated that the Development Agenda was an issue of importance to all countries, regardless of their level of development. It believed that the IP system afforded states, at different levels of development, the necessary policy space to meet their developmental needs. The Delegation suggested that the Assembly should agree on procedures, rather than debating on the minute details of the Agenda, and try to discuss how to take the Development Agenda forward on the basis of the proposals received so far. In order to progress, the Delegation stressed the need to give a clear direction to the PCDA, by renewing its mandate in order to streamline and prioritize all the 111 proposals.

43. The Delegation of Cuba supported the declaration made by the Delegation of Argentina on behalf of the Group of the “Friends of Development.” It stressed the importance of

renewing the mandate of the PCDA, and stated that development needs should be addressed in all of WIPO's work.

44. The Delegation of China explained that it had noted, at successive meetings, the sincerity and cooperative spirit of Member States enabling the discussion on the Development Agenda to gradually gain in depth, for which it expressed its appreciation. Undoubtedly, the development issue was a major one, and was also an important topic of concern to the international community. It was a practical and real issue, for which the different agencies of the United Nations should make efforts to resolve. The Delegation noted that in the knowledge economy, the process of global economic integration was becoming stronger. There was an unprecedented movement of resources, including capital, information technology, human resources and others. Trade, technology and investment had bound countries together, in an inter-dependent network. The Delegation further added that the pace of development of developing countries and LDCs would affect development of the world as a whole. The development of developing countries, was a major issue facing the entire international community, and it was one to which delegations should give attention and attach importance. The Delegation noted several insightful views that had been put forward by all parties on the IP system and the development agenda. The Delegation of China supported the proposal of the Asian Group and that made by Kyrgyzstan to set up a committee or a Working Group which would be conducive to furthering the discussion on the development agenda by all parties in a constructive spirit. It would also provide a permanent forum for further in-depth study to resolve the development issue. This would facilitate the active and frank exchange of views in the future, and enable all parties to seek common ground with differences remaining on the basis of a full exchange of views. The Delegation further stated that as a specialized agency of the UN dealing with IP matters, WIPO had the responsibility and the obligation to explore, together with Member States, models and paths suited to the actual realities of developing countries. It should, assist developing countries, in a pragmatic manner, to truly benefit from the IP system, in order to achieve a prosperous and harmonious development of human society. The Delegation welcomed the views expressed by all parties on development, and would continue to actively participate, in a constructive spirit, in the discussions on the development agenda. At the same time it also hoped that all Member States would make concerted efforts, based on the principle of seeking common ground, so that discussions on the issues concerning the development agenda could reach consensus as soon as possible.

45. The Delegation of Ecuador endorsed the statement made by the Delegation of Argentina on behalf of the Group of "Friends of Development." The Delegation of Ecuador agreed that the mandate of the PCDA should be renewed, as many delegations had already indicated. It said that discussions should include all proposals submitted and that document PCDA/2/2 was a major effort at summarizing the proposals and showed a degree of flexibility. The Delegation stated that it was an excellent document that could be usefully debated with the new mandate for the PCDA. The Delegation also thanked the Director General for his words of commitment, which it considered extremely important. Finally, the Delegation thanked Ambassador Gauto also for his efforts as chairman of the PCDA.

46. The Delegation of Japan said that it did not intend to reiterate its position on the agenda in detail at that session. However, it wished to illustrate some of the activities in the field that Japan had undertaken. First, Japan provided 2.5 million Swiss francs per year as WIPO Funds-in-Trust. Second, it had invited Directors of the IP Offices of 40 countries from around the world, including most developing countries, to Tokyo for a co-sponsored meeting with WIPO, in order to form a common understanding on the importance of IP. Third, it



hosted the WIPO Japan Office, starting from September, to conduct empirical research, regarding IP and economic development, which would be applicable for developing countries around the globe. In so doing, the Delegation had addressed the issue of IP and development, in a pragmatic and result-oriented manner. From such a perspective, the Delegation regretted that discussions at the PCDA could not progress over the previous year. The Delegation supported the continuation of constructive discussions on development issues. However, it was convinced that the issue could not reach a breakthrough, without a pragmatic and realistic approach. It added that discussions should first focus on items, on which it was possible to reach an agreement. It concluded that delegations should pay attention to the interests of all parties, in order to obtain concrete deliverables.

47. The Delegation of Tanzania thanked the chairman and congratulated Ambassador Rigoberto Gauto Vielman for chairing the two meetings on the development agenda. The Delegation also congratulated the Director General and the Secretariat for their tireless efforts in trying to bridge the gap in that area, a task that had proved to be extremely difficult. The Delegation associated itself with the views of the Delegation of Nigeria, speaking on behalf of the African Group. The Delegation said that it was clear that during the two sessions of the PCDA held that year, it had not been possible to reach a consensus, on the way forward. The Delegation further added that development was critical for countries and their people, and that anything that could not develop in the long run, faded away or died. The Delegation stated that Tanzania could not be questioned in terms of its commitment, as far as development was concerned. At the same time, however, the Delegation pointed out that there was a need to be a little bit realistic in terms of exactly what it was that they were pursuing or wanted to pursue. The results of the previous year showed very clearly that notwithstanding the importance that delegations attached to the development agenda, it had not been possible, to have a consensus on the subject. The Delegation believed that the greatest success, if at all, was the fact that there had been a dialogue. The process of discussion had been ongoing and the Delegation joined those who had previously stated that the process of dialogue should continue, and the mandate of the Committee should be extended. The Delegation stated that the 111 proposals should be given consideration and hoped that when the Committee met and the mandate was extended, it would be able to come up with some recommendations. As a developing country, no one could question the credentials of Tanzania, as far as development was concerned. The Ambassador of the United Kingdom had spoken before about what was happening in UNCTAD and mentioned that they were having consultations on how that Organization would address development issues. However, when looking at what was happening in UNCTAD, there was less of development and there were talks on what UNCTAD needed to address. The Delegation reiterated that this was said as a note of caution, and that it was important to be realistic in terms of what was being demanded from WIPO. The Delegation stressed that development was important, and it had to be pursued, but one should not lose sight of the constitution or constraints of the Organization, and also the historical perspective of the Organization. The Delegation further noted that when Dr. Idris took over as the Director General, he had made it clear that the Organization was focusing on norm making, which was its mandate. For addressing development issues, there had been permanent committees, one dealing with copyright, and another with industrial property. But subsequently, the horizon of the Organization was extended so that it touched on several other areas. The Delegation believed that all delegations should cry for development as it was extremely important, in particular for a country like Tanzania, which was an LDC. But, at the same time, delegations needed to be guided by historical realities. The Delegation recalled that the Organization had been involved in the past in the process for the revision of the Paris Convention, but ultimately the process had been concluded elsewhere. The Delegation joined others in saying that the mandate of the Committee needed

to be extended, because there was a lot of work to be done. The Committee should look at all the 111 proposals that were on the floor, but it was important to avoid politicization of the issues and confrontation in the discussion.

48. The Delegation of Honduras supported the continuation of discussions on matters related to the development agenda of WIPO. But before that, it suggested the following steps. Firstly, it should be clearly agreed on how to proceed and on how the process could be moved forward, by establishing a clear course of action. Secondly, the Delegation was of the view, that for any methodology or roadmap to be feasible and agreeable to the majority of members of WIPO, it would have to take into account all the proposals, in order to preserve inclusiveness and transparency of the process. The Delegation reaffirmed its agreement to continue discussions in the PCDA, but before that delegations should focus on how to consider the 111 proposals. It recognized, as other countries had stated, that it was a huge, burdensome and overloading course of action, but at that point there were no better options because of the differences and different points of view on different substantive matters. Delegations would need to decide if they should continue discussions under the PCDA, or under any other committee. Once they had reached agreement, they would proceed to engage in any substantive discussion related to all the proposals presented so far. In that regard, the Delegation commended the comments made by other delegations, especially United Kingdom and Indonesia, in order to move the process forward. In conclusion, the Delegation recognized that it could be a huge task, but it was necessary to make the process transparent and inclusive.

49. The Delegation of Bolivia stated that the development issue was the main challenge of the century. It was the key issue relevant to the work of all UN agencies, in order to achieve the millennium development goals (MDGs). That was why the Delegation was pleased to see that WIPO had taken up the challenge, in the previous years. All members were committed to the idea of directing the work of WIPO, on a result-oriented basis. The Delegation felt that development issues could not be whittled down simply to a document or declaration, and that the proposals from the Group of "Friends of Development", had suggested a permanent development agenda, which would be based on the 111 proposals that had been compiled in a balanced fashion in document PCDA/2/2. A true development agenda needed to target structural aspects, which was the essence of development. That was why the Delegation fully supported the statement made by the Delegation of Argentina, on behalf of the Group of "Friends of Development".

50. The Delegation of Morocco said that the progress of the negotiations on the Development Agenda had not allowed a specific result to be achieved. The Delegation said that the exercise in progress required delegations to show a certain flexibility and a constructive approach in order to achieve a result in line with expectations. All those who had participated in the work of the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, held in Singapore in March 2006, were well aware that the success of the Conference would not have been possible without the spirit of compromise and understanding which all the delegations had demonstrated. The interactive debate and the arduous negotiations during the past two years, and the diversity and richness of the proposals submitted in the process, were a perfect illustration of the interest which all the delegations had in that subject. For that reason, the Delegation of Morocco reiterated the importance it attached to the continuation of the process, which would necessarily involve the renewal of the PCDA's mandate in order to benefit from the achievements realized during the previous sessions, through an inclusive approach and taking into account the different concerns expressed. The Delegation's interest was based on Morocco's commitment to the National

Human Development Initiative launched by His Majesty the King, which was a global initiative intended to be the motivating force behind the Government's policy to put an end to the practices contrary to its development. Similarly, that interest was founded on the belief that intellectual property was, in view of its multidimensional nature, an incontrovertible factor in countries' development.

51. The Delegation of Kenya expressed its desire for WIPO to adopt a development agenda, in order to enhance access to knowledge, technical assistance and technology. The Delegation also reaffirmed its interest in the development agenda as a tool to find sustainable solutions for the socioeconomic development of developing countries. The Delegation pointed out that even among developing countries, there were differences, such as small island economies, LDCs and more advanced developing countries. It was important to recognize that. The Delegation identified itself with the statement made on behalf of the African Group by the Delegation of Nigeria, and encouraged the General Assembly to renew the mandate of the PCDA to allow discussions on the 111 proposals. The Delegation believed that it was possible to make incremental and measurable progress. It believed that urgent results were important, even though development was going to be an issue for a very long period. Therefore, it was important to show results in terms of integration of the development agenda in WIPO by specifically giving different shaded treatment. The Delegation stressed that it would be possible to have differential treatment for the various categories and groups, and welcomed the proposal by the Director General to mobilize the necessary support, in terms of resources, to enable the Committee to make specific progress. Annual reporting and reaching a consensus would be one way of measuring progress, towards the realization of the development agenda.

52. The Delegation of South Africa endorsed the proposals and interventions made by the Delegation of Argentina, on behalf of the Group of "Friends of Development", and by the Delegation of Nigeria, on behalf of the African Group, and also supported the other Member States that had requested the continuation of the work on the development agenda. The Delegation stressed that it would like to see a balanced approach that took into account all the proposals, and supported the idea of extending the PCDA for three or four more sessions. The Delegation made it clear that a balanced approach should take into account the idea that technical assistance was not the only issue on the development agenda. It stressed that norm -setting and standard-setting also had to be taken into account. The Delegation further added to what the Director General had said the previous day, that one of the objectives of the development agenda was to promote the idea of inclusion. To achieve that objective, the Delegation wished to ensure that the development agenda would continue.

53. The Delegation of Iran (Islamic Republic of) associated itself with the statement made by the Delegation of Argentina, on behalf of the Group of "Friends of Development". The necessity of international cooperation for progress in development had been recognized more than ever before. The Delegation believed that the process of establishing the development agenda in WIPO had had some positive achievements. The cross-cutting nature of issues, and the need for addressing the proposals of Member States in different clusters, required that the exchange of views and the discussion be continued in an inclusive manner. In that context, it was necessary to carry forward the process by formulating a framework for the continuation of the debate with a reasonable time frame. The extension of the PCDA for the following two years, as was the case in other committees in WIPO, could provide enough space for Member States to address all the proposals and analyze the alternatives, both for the procedure and substance.

54. The Delegation of Venezuela supported the statement made by Argentina, on behalf of the Group of “Friends of Development”, who were committed to development issues from the very outset. The Delegation referred to the summary of proposals that had been prepared in advance and included in document PCDA/2/2. For the Delegation, simplification and streamlining were key issues in that area. The Delegation indicated that it was extremely important that delegations built on what had been achieved during the previous two years. Development was not only a need but also a demand from the Group of “Friends of Development”.

55. The Delegation of Canada was of the view that there had been many practical suggestions made on that agenda item, in comments made earlier and the Delegation joined others in seeking a practical solution to that issue. One way of achieving that would be to concentrate efforts on a priority basis, starting with proposals where progress could be achieved. The Delegation noted that there had been a lot of discussions on the issue in general terms, and a key to making progress was to focus on the pragmatic areas.

56. The Delegation of Ukraine stated that the work that had been done by the PCDA showed that the members of WIPO intended to do their utmost to promote future multilateral cooperation within WIPO. The Delegation believed that it was important to be realistic, and that as far as possible, decisions should be taken that were in line with reality, recognizing the varying levels of economic development in different countries of the world. The Delegation noted that the list of proposals that was available at present was not complete, but on the other hand, it was not yet sufficiently specific in nature and needed further efforts to be structured in some way. The Delegation, therefore, supported the proposal made by Kyrgyzstan on the idea of establishing some kind of Committee, which would be responsible for continuing the work in that area, and stressed that such a Committee should return the following year, with a specific report and recommendations.

57. The Delegation of the Russian Federation noted that the delegations were having a very effective discussion, and pointed out that that was to a very large extent, thanks to the Chairman and the work he had done, both before the opening of the Assembly and in the course of the Assembly, which had made it possible to reach a consensus. The Delegation referred to its detailed statement made the day before, which reflected the position of the Delegation on the matter under consideration. It wished to reiterate the content of that statement, and also express its support for the statement made by the distinguished representative of Kyrgyzstan, coordinator of the Regional Group. The Delegation regarded that as a very useful way of moving forward over the following year, so that a definitive decision could be taken on that issue.

58. As a co-sponsor of the proposal from the Group of “Friends of Development”, the Delegation of Uruguay endorsed what had been said by the Delegation of Argentina on behalf of that group. The Delegation stated that the PCDA should have its mandate renewed, so that the program could make substantive progress, and the Committee could reach tangible recommendations. Bearing in mind the millennium development goals (MDGs) adopted by the UN in 2000, the Delegation stressed that development issues had to be incorporated into a broad global WIPO program.

59. The Delegation of Chile wished to restate what it had said the previous day. First of all, it was necessary to renew the PCDA mandate so that it could continue discussing the 111 proposals submitted. The Delegation thanked Ambassador Gauto for his efforts and stated

that it would closely scrutinize the Kyrgyz proposals. The Delegation also expressed its keenness to hear the African Group and what they had to say on that item.

60. The Delegation of Ethiopia believed it was important to note that several members present in the organization, perhaps the overwhelming majority of the members of WIPO, on various occasions, including during the Assembly, had already expressed their views in favor of renewing the life of the PCDA. The Delegation recognized the fact that the progress made thus far in the course of the PCDA process had been encouraging and worthwhile. What was needed in that regard, was not reinventing the wheel, but building on the process that had been going on. The Delegation stressed that it would be a mistake if delegations contemplated on whether they should continue a dialogue on development or not, as the process so far had been a dialogue on process. It would also be sending a wrong signal if the house could not allow the forum to continue to work. Therefore, the Delegation supported, in full, the view that had been put forward by the Delegation of Nigeria, on behalf of the African Group.

61. The Delegation of the Dominican Republic restated its commitment to the proposals. The Delegation believed that the documents submitted were very valuable as was the experience accumulated over the previous two years, both in the IIM and the PCDA. It was important to pursue the work in that area, so that a true development agenda could be established, and the over-arching aim of mainstreaming development in WIPO's day-to-day work, could be attained. The Delegation pointed out that the General Assembly could adopt recommendations on the scope of such a development agenda, covering all areas of interest and dealing with all the proposals that had been submitted by members. The Delegation restated its support for the renewal of the PCDA's mandate and also its endorsement of the statement made by the Delegation of Argentina.

62. The Delegation of the United States of America said that since the beginning of the discussions, two years earlier, the United States had constructively engaged in the discussion on proposals aimed at strengthening WIPO's development work, within its core competencies and mandate. The Delegation expressed its disappointment that even after two years, WIPO members had been unable to reach consensus on concrete and practical results. At the end of the first meeting of the PCDA in February, WIPO members had submitted their proposals under six clusters, with a total of 111 proposals. At the second PCDA, all 111 proposals had been considered and indeed, all 111 had remained on the table. The Delegation welcomed the document PCDA/2/3, which provided the second PCDA with a possible way forward, as it had garnered wide support. The Delegation remained committed to finding areas of emerging consensus on proposals, that would strengthen and focus WIPO's work in the field of IP and development. The Delegation agreed with the statement made by the Delegation of Croatia, that an imposed agenda would not be successful. It thanked the Delegation of Tanzania for its perspective on WIPO's role in development. The Delegation believed that the proposal submitted by the Kyrgyz Republic, was most promising for achieving a consensus, in the short term and for producing concrete results. An orderly procedure was required if discussions were to result in a successful outcome. Those proposals that did not enjoy consensus, may in time gain support. It was also possible that we may not reach consensus on some of them. The Delegation did not see the latter possibility as a reason for failing to achieve any practical results, in the short term. The Delegation noted that the most appropriate way forward, might have been touched upon by the Delegation of Indonesia, when it suggested an informal session, prior to any PCDA session, to ensure that any subsequent session of the PCDA would be successful. Without agreement on a clear procedure, simply extending the mandate may lead to the same result from the previous two

PCDAs. The Delegation sought a positive outcome for the discussions, and was committed to continue to engage constructively on the issue.

63. The Chair thanked all the delegations that had taken the floor and those who had wanted to speak but had refrained from doing so due to time constraints. The subject being discussed was a very important one, as evidenced by the fact that 33 delegations had taken the floor. The Chair explained that he would not attempt to summarize all that had been said, but noted that it was quite clear that all delegations that had spoken favored the continuation of the process. The Chair pointed out that the only place where there were some nuances, was how to continue and in what form. There appeared to be some differences between delegations, but more in nuance than in substance. The Chair explained that he was not in a position yet to come up with any concrete solution to the issue at that stage, other than to state the general desire to continue the process. He also noted that there were some elements that would have to be looked at, in order to decide the appropriate forum. A decision would have to be taken on the mandate of such a process, the need to have some targeted or tangible results and recommendations, an appropriate time frame, as well as what kind of process would be adopted in order to reach tangible results. The Chair said he was heartened by the desire to continue the process, and thought it might be possible to come up with some kind of a solution. He proposed to suspend consideration of the item in the plenary. The intention was to begin some open-ended informal consultation, maybe even the following day, so that a more intensive discussion could be held on the various elements he had mentioned and others which may come up in the discussions, in order to come up with an agreed text to address the issue. In order to help him in the process, the Chair requested written proposals from the delegations, as that would help him to get a good feel of how delegations or groups felt about the topic. The Delegation of Kyrgyzstan had already given a proposal so he was quite open to any delegation or group that wished to give the Chair a suggestion or a written proposal. It did not have to be in resolution form, it could be elements that could be used to prepare the resolution. The Chair indicated that he was not going to say how he was going to conduct the informal consultations yet, but he would once he had a clear picture of the situation. The Chair requested delegations to be prepared, as he would probably make an announcement that some time the following day there may be open-ended, informal consultations on that item.

64. The Delegation of Mexico requested a point of clarification from the Chair. It thanked the Chair for the summary of discussions, and asked whether the document submitted by Kyrgyzstan and the proposals in document PCDA/2/2, would be the basis for the open-ended informal discussions.

65. The Chair explained that he had requested groups or countries to give proposals to him by that evening or the following morning. In fact, he had already been approached by delegations saying that he would receive other proposals. He was not yet clear on how exactly to proceed, but, if he got a number of proposals from different groups or countries, he might be able to propose some common elements, and perhaps that would form the basis for discussions. He, therefore, requested once again for groups or countries which had clear and definite ideas, to hand them to him in writing so as to help him to see how to proceed further. The Chair expressed his optimism and reiterated that all delegations seemed to agree on the fundamental need to continue the discussions. After intensive informal consultations on the subject, the following decision was adopted in plenary:

66. The General Assembly reviewed the positive discussions during the two sessions of the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA) in February and June 2006, emphasized the need to continue discussions on the proposals submitted, and placed in the six clusters during the IIM/PCDA process, and decided as follows:

- To renew the mandate of the PCDA for another period of one year.
- The PCDA will hold two 5-day sessions, in a manner that allows for structured in-depth discussions, on all 111 proposals made so far, during the sessions of the IIM and PCDA in 2005 and 2006 respectively, taking into account the decision of the 2005 General Assembly, on the deadline for submission of new proposals.
- As done during the sessions of the PCDA in 2006, WIPO will provide financing for the participation of representatives from developing countries, including LDCs, as well as from countries with economies in transition, to attend the meetings of the PCDA.
- The first session of the PCDA in 2007 will consider the proposals as attached in Annex A to this decision. The second session of the PCDA in 2007 will consider the proposals as attached in Annex B to this decision.
- In order to facilitate the task and streamline the process for detailed examination of all proposals in an inclusive manner, the PCDA should undertake an exercise:
  - (a) to narrow down the proposals, in order to ensure that there is no repetition or duplication;
  - (b) to separate the proposals, which are actionable, from those which are declarations of general principles and objectives; and
  - (c) to note those proposals, which relate to existing activities in WIPO and those which do not.

In this regard, the Chair of the General Assembly will, in consultation with Member States, produce initial working documents.

- The PCDA will report to the 2007 General Assembly, with recommendations for action on the agreed proposals, and on a framework for continuing to address, and where possible to move forward, on the other proposals following the 2007 General Assembly.
- In the interim, and without prejudice to the provision of technical assistance, the PCIPD will cease to exist.

## ANNEX A

CLUSTER A - TECHNICAL ASSISTANCE AND CAPACITY BUILDING	
1.	To make technical assistance development-oriented and demand-driven. Furthermore, it should be targeted at specific areas and include timeframes for completion.
2.	To provide increased assistance to WIPO through donor funding, so as to enable the organization meet its commitments in regards to technical activities in Africa.
3.	To establish a Trust Fund within WIPO to provide specific financial assistance for least developed countries (LDCs).
4.	Development of agreements between WIPO and private enterprises, allowing the national offices of developing countries to access specialized databases for the purposes of patent searches.
5.	To expand WIPO's advice and technical assistance provided to SMEs and sectors dealing with scientific research and cultural industries.
6.	To request WIPO to assist Member States in setting-up national strategies in the field of intellectual property.
7.	To increase financial resources for technical assistance for promoting an IP culture with an emphasis on introducing intellectual property at different academic levels.
8.	To request WIPO to establish a voluntary contribution fund to promote the legal, commercial and economic exploitation of intellectual property rights in developing countries and LDCs.
9.	WIPO Partnership Program Database: Create a WIPO Partnership Program Database, an Internet-based tool to facilitate the strategic use of intellectual property by developing countries by bringing together all stakeholders to match specific IPR-related development needs with available resources, thereby amplifying the impact of intellectual property development assistance.
10.	Competing in the Knowledge Economy: Recognizing the importance to the economic and cultural development of effectively participating in the "knowledge economy," the WIPO Partnership Office should aggressively seek out potential partners to assist countries making the transition to or competing more effectively in the knowledge-economy.
11.	To create a web page containing technical assistance information provided by WIPO and other relevant international organizations, in order to enhance transparency, by including, for example, requests of technical assistance made by Member States.
12.	To take into account the different levels of development of various countries in designing, delivering and evaluating technical assistance.
13.	To establish a Code of Ethics for the Secretariat technical assistance staff and consultants.
14.	To make publicly available roster of consultants for technical assistance.
15.	To ensure that WIPO technical assistance staff and consultants are fully independent and avoid potential conflicts of interest.
16.	To provide technical cooperation to developing countries, at their request, in order to better understand the interface between intellectual property rights and competition policies.
CLUSTER B - NORM SETTING, FLEXIBILITIES, PUBLIC POLICY AND PUBLIC DOMAIN	
17.	Consider the protection of the public domain within WIPO's normative processes.
18.	To ensure member-driven procedures in which the WIPO's Secretariat does not play a role by endorsing or supporting particular proposals, particularly in the negotiation of international treaties and norms.
19.	To ensure that norm-setting activities recognize the different levels of development of Member States and reflect a balance between benefits and costs of any initiative for developed and developing countries.



20.	To preserve the interests of the society at large, and not only those of IP owners in norm-setting activities.
21.	To reflect the priorities of all WIPO Members, both developed and developing countries, in all norm-setting activities.
	<b>CLUSTER C – TECHNOLOGY TRANSFER, INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) AND ACCESS TO KNOWLEDGE</b>
22.	To request WIPO 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) in its future activities, especially in respect of existing proposals within the context of the development agenda that should also take into account the significance of the Digital Solidarity Fund (DSF).
23.	To devise innovative ways and means, including the fostering of transfer of technology, to enable SMEs take better advantage of flexibilities as provided by relevant international agreements.
24.	To request developed countries to encourage their research and scientific institutions to enhance cooperation and exchange with research and development institutions in developing countries and LDCs.
25.	Facilitating IP-related aspects of ICT for growth and development: Provide for a forum in WIPO Standing Committee on Information Technologies (SCIT) for discussion focused on the importance of IP-related aspects of ICT and its role in economic and cultural development, with specific attention focused on assisting Member States to identify practical strategies to use IP/ICT for economic, social and cultural development.
26.	To explore policies, initiatives and reforms necessary to ensure the transfer and dissemination of technology to the benefit of developing countries.
27.	To debate on supportive IP-related Policies and measures industrialized countries could adopt for promoting transfer and dissemination of technology to developing countries.
28.	To promote measures that will help countries combat IP related anti-competitive practices.
	<b>CLUSTER D - ASSESSMENTS, EVALUATION AND IMPACT STUDIES</b>
29.	To request WIPO to develop an effective review and evaluation mechanism, on an annual basis, for the assessment of all its development-oriented activities.
30.	To conduct a study in developing countries and LDCs on obstacles to intellectual property protection in the informal sector, with a view to creating substantial programs, including the tangible costs and benefits of IP protection with regards to generation of employment.
31.	To request WIPO to undertake studies to demonstrate the economic, social and cultural impact of the use of intellectual property systems in Member States.
32.	WIPO should deepen the analysis of the implications and benefits of a rich and accessible public domain.
33.	To continuously evaluate WIPO's technical assistance programs and activities to ensure their effectiveness.
34.	To establish Indicators and benchmarks for evaluation of technical assistance.
	<b>CLUSTER E - INSTITUTIONAL MATTERS INCLUDING MANDATE AND GOVERNANCE</b>
35.	To request WIPO to assist African countries, in cooperation with relevant international organizations, to create, as appropriate, legal and regulatory framework in order to reverse brain drain into brain gain.

36.	To request WIPO to intensify its cooperation with all UN agencies, in particular UNCTAD, UNEP, WHO, UNIDO, UNESCO and other relevant international organizations, especially WTO in order to strengthen the coordination and harmonization for maximum efficacy in undertaking development programs.
37.	Stocktaking of WIPO Development Activities: Conduct a quantitative and qualitative stocktaking of current WIPO development cooperation activities with a longer-term view of developing a statement of core policies and objectives in the area of cooperation and development activities.
38.	To undertake measures to ensure wider participation of civil society and public interest groups in WIPO's activities.
39.	To adopt UN system criteria regarding NGO acceptance and accreditation.
	CLUSTER F – OTHER ISSUES
40.	To approach intellectual property enforcement in the context of broader societal interests and development-related concerns, in accordance with <i>Article 7</i> of the TRIPS Agreement.

## ANNEX B

	CLUSTER A - TECHNICAL ASSISTANCE AND CAPACITY BUILDING
1.	To develop and improve national institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property (IP) institutions more efficient and ensuring a fair balance between IP protection and safeguarding public interest. This technical assistance should be extended to sub-regional and regional organizations dealing with IP
2.	To strengthen national capacity for protection of local creations, innovations and inventions in order to develop national scientific and technological infrastructure
3.	To implement principles and Guidelines for technical assistance to ensure, <i>inter alia</i> : (a) transparency; (b) that flexibilities existing in international treaties are taken full advantage of; (c) that technical assistance is tailor-made and demand-driven
4.	To make publicly available all information about design, delivery, cost, financing, beneficiaries and implementation of technical assistance programs as well as the results of internal and external independent evaluation
5.	To establish in the Program and Budget Committee consistent pluriannual programs and plans for cooperation between WIPO and developing countries aiming at strengthening national intellectual property offices, so that they may effectively become an acting element in national development policy. Those programs should be guided, moreover, by the principles and objectives as proposed in document WO/GA/31/11
6.	To expand the coverage of technical assistance programs to include matters related to the use of competition law and policy to address abuses of intellectual property and practices that unduly restrain trade and the transfer and dissemination of technology
7.	To provide neutral technical assistance of an advisory nature based on actual and expressed needs. The assistance should not discriminate among recipients or issues to be addressed and should not be perceived as being a reward system for supporting certain positions in WIPO negotiations
8.	To ensure that laws and regulations are tailored to meet each country's level of development and are fully responsive to the specific needs and problems of individual societies. The assistance should correspond to the needs of various stakeholders in developing and least developed countries and not just the intellectual property offices and right holders
9.	To separate the norm-setting functions of the WIPO Secretariat from those of technical assistance

10.	To ensure that legal-technical and technical assistance activities provided to developing and least developed countries are able to implement the pro-development provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), for example, <i>Articles 7, 8, 30, 31 and 40</i> , in addition to subsequent pro-development decisions, such as the Doha Declaration on the TRIPS Agreement and Public Health
11.	To mainstream development dimension into all of WIPO's substantive and technical assistance activities and debates, including the way in which the Organization deals with "enforcement" issues
12.	To ensure that technical assistance is demand-driven in the sense that it corresponds to the needs and global political objectives of developing and least developed countries, taking also into account the legitimate interests of various stakeholders and not only those of right holders
13.	To orient technical assistance to ensure that national regimes are set up to implement international obligations in an administratively sustainable way and do not overburden scarce national resources that may be more productively employed in other areas
14.	To ensure that technical cooperation contributes towards maintaining the social costs of IP protection at a minimum
15.	To ensure WIPO's legislative assistance tailors national laws on intellectual property to meet each country's level of development and is fully responsive to the specific needs and problems of individual societies
16.	To promote model approaches on how to implement the relevant provisions on anti-competitive practices of the TRIPS Agreement
	<b>CLUSTER B - NORM SETTING, FLEXIBILITIES, PUBLIC POLICY AND PUBLIC DOMAIN</b>
17.	To request WIPO to examine the flexibilities under the TRIPS Agreement and Doha Summit decisions with a view to giving practical advice to developing and least developed countries on how to enable them gain access to essential medicines and food, and also to elaborate a mechanism to facilitate access to knowledge and technology for developing and least developed countries
18.	To request WIPO to adopt an internationally binding instrument on the protection of genetic resources, traditional knowledge and folklore in the nearest future
19.	To elaborate a mechanism to facilitate access to knowledge and technology for developing and least developed countries
20.	To formulate and adopt measures designed to improve participation by civil society and other stakeholders in WIPO activities, relevant to their respective domains and interests
21.	Best Practices for Economic Growth: Compile and disseminate the "best practices" of Member States related to fostering the development of creative industries and attracting foreign investment and technologies based, at least in part, on the baseline national surveys for economic growth, which are discussed more fully below under cluster D
22.	Increasing understanding of the adverse effect of counterfeiting and piracy on economic development: Through the WIPO Advisory Committee on Enforcement (ACE), conduct analyses of the relationship between high rates of counterfeiting and intellectual property piracy and technology transfer, foreign direct investment and economic growth
23.	Draw up proposals and models for the protection and identification of, and access to, the contents of the public domain

24.	To establish in WIPO an area of analysis and discussion of incentives promoting creative activity, innovation and technology transfer, in addition to the intellectual property system, and within the intellectual property system, for example emerging exploitation models. This could be achieved through either of two mechanisms: (i) An electronic forum maintained by WIPO for the exchange of information and opinions. It could have a limited duration (e.g. one year), after which proposals and discussions could be summarized in a document. If there is interest and critical mass, we would analyze if and how to proceed. Discussions in the forum could be organized under the following sections: Tools within the intellectual property system (e.g. utility models, systems of free and open licenses and creative commons), and those complementary to the intellectual property system (e.g. subsidies, Treaty on Access to Knowledge, Treaty on Medical R&D). (ii) To include this issue as a permanent item in the agendas of the WIPO Committees.
25.	To adopt development-friendly Principles and Guidelines for norm-setting activities
26.	To undertake debates on the feasibility and desirability of new, expanded or modified rules, prior to engaging in norm-setting activities, especially by means of public hearings
27.	To pursue a balanced and comprehensive approach to norm-setting, emphasizing the design and negotiation of rules and standards that are guided by and fully address the development objectives and concerns of developing and least developed countries and of the international community
28.	To ensure that norm-setting activities are fully compatible with and actively support other international instruments that reflect and advance development objectives, in particular Human Rights international instruments
29.	To include in treaties and norms provisions on, <i>inter alia</i> : (a) objectives and principles; (b) safeguard of national implementation of intellectual property rules; (c) against anti-competitive practices and abuse of monopoly rights; (d) promotion of transfer of technology; (e) longer compliance periods; (f) flexibilities and “policy space” for the pursuit of public policies; (g) exceptions and limitations
30.	To include in all treaties and norms operative and substantial special and differential treatment provisions for developing and least developed countries
31.	To ensure that norm-setting activities provide developing countries with policy space commensurate with their national development needs and requirements
32.	To ensure that norm-setting activities help identify and maintain a robust public domain in all WIPO’s Member States
33.	To examine non-intellectual property type and/or non-exclusionary systems for fostering, creativity, innovation and transfer of technology (e.g., free software development and creative commons models)
34.	To ensure that new subjects and areas for norm-setting are identified on the basis of clear defined principles and guidelines and on assessment of their development impact
35.	To establish a Treaty on Access to Knowledge and Technology
36.	To develop an international framework to deal with issues of substantive law relating to anti-competitive licensing practices, primarily those that adversely affect the transfer and dissemination of technology and restrain trade
37.	To protect and promote in all negotiations the development oriented principles and flexibilities contained in existing Agreements, such as the TRIPS Agreement
38.	To promote models based on open collaborative projects to develop public goods, as exemplified by the Human Genome Project and Open Source Software
39.	To set objectives and issues to be addressed in each proposed treaty or norm based on the views of all stakeholders, with special emphasis on participation by public interest groups
	<b>CLUSTER C – TECHNOLOGY TRANSFER, INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) AND ACCESS TO KNOWLEDGE</b>
40.	To develop criteria and methodology to select essential technologies, monitor and facilitate the transfer and the diffusion of such technologies in accessible and affordable cost to developing countries and LDCs

41.	To contribute effectively to individual nation's self-reliance, including through relaxation of patent rules in the area of technology by facilitating access to foreign patented information on technology and technical resources
42.	To create a new body for formulating, coordinating and assessing all transfer of technology policies and strategies
43.	To develop and maintain, in collaboration with other intergovernmental organizations, a list of essential technologies, know-how, processes and methods that are necessary to meet the basic development needs of African countries aimed at protecting the environment, life, health of human beings, animals and plants, promoting education and improving food security
44.	To work on any initiative intended to facilitate the implementation of technology-related provisions of Multilateral Environmental Agreements (MEAs), so as to ensure that countries where biological, traditional or other environmental resources originate from, participate in the process of research and development
45.	To adopt development-friendly principles and guidelines on transfer of technology
46.	To adopt specific measures that ensure transfer of technology to developing countries;
47.	To incorporate in intellectual property treaties and norms relevant provisions dealing with anti-competitive behavior or abuse of monopoly rights by rights holders
48.	To devise a mechanism whereby countries affected by anti-competitive practices request Developed Countries authorities to undertake enforcement actions against firms headquartered or located in their jurisdictions
49.	To establish a special fee on applications through the Patent Cooperation Treaty, the revenues of which would be earmarked for the promotion of research and development activities in the developing and least developed countries
50.	To establish a WIPO Standing Committee on IP and Technology Transfer and a dedicated Program on these issues, including related Competition Policies
51.	To adopt commitments like those contained in <i>Article 66.2</i> of the TRIPS Agreement, expanded to benefit all developing countries
52.	To establish an intermediary conduit to reduce the asymmetric information problem in private transactions between technology buyers and sellers, for knowledge about successful technology-acquisition programs that have been undertaken by national and sub-national governments in the past
53.	To negotiate a multilateral agreement where signatories would place into the public domain, or find other means of sharing at modest cost, the results of largely publicly funded research. The objective would be to set out a mechanism for increasing the international flow of technical information, especially to developing countries, through expansion of the public domain in scientific and technological information, safeguarding, in particular, the public nature of information that is publicly developed and funded without unduly restricting private rights in commercial technologies
<b>CLUSTER D - ASSESSMENTS, EVALUATION AND IMPACT STUDIES</b>	
54.	To establish an independent development impact assessment with respect to technical assistance, technology transfer and norm-setting on developing and least developed countries (LDCs)
55.	Baseline National Surveys for Economic Growth: Provide assistance through the WIPO Secretariat to Member States requesting help to conduct base-line national economic surveys and make the results of such surveys available to other Member States
56.	Measuring the contribution of national creative and innovative industries: Expand the successful WIPO Guide for Surveying the Economic Contribution of the Copyright-based Industries to include the patent-based innovative industries
57.	Conducting Global economic surveys of the creative and innovative sectors: Explore the feasibility of WIPO conducting its own economic surveys on a regular basis to support the creative and innovative sectors with useful data

58.	Collecting Data on Global IPR Piracy and Counterfeiting: The WIPO Secretariat should assist in the collection of data on global piracy and counterfeiting rates with a view toward making the information widely available
59.	Study to evaluate the appropriate levels of intellectual property, to identify the links between IP and development. For example, a study of a limited, but representative, number of countries, with participation on a voluntary basis, in specific areas of IP, such as patents, exceptions and limitations and institutional capacity to administrate the IP system, including costs to government, as well as to individuals (cost in GDP)
60.	To establish, through a member-driven process, an independent Evaluation and Research Office (WERO) that would be responsible for, <i>inter alia</i> , evaluation of all WIPO's programs and activities and carrying out of "Development Impact Assessments" in norm-setting activities, and technical cooperation
61.	To undertake independent, evidence-based "Development Impact Assessments" with respect to norm-setting activities that could be carried out by the proposed WERO
62.	To compile empirical evidence and carry out cost-benefit analysis that consider, <i>inter alia</i> , alternatives within and outside the IP system. These endeavors should form the basis of norm-setting activities that attain the objectives pursued with less monopoly of knowledge
63.	To establish a mechanism, overseen by Member States, to ensure a continuous objective evaluation of the actual impact and costs of treaties that have been adopted, especially for developing countries
	CLUSTER E - INSTITUTIONAL MATTERS INCLUDING MANDATE AND GOVERNANCE
64.	Proposal to reinvigorate the PCIPD
65.	WIPO Partnership Office: Establish within the WIPO International Bureau a Partnership Office staffed by WIPO personnel deployed for the purpose of evaluating requests by Member States for assistance related to IPR and development and actively seeking to find partners to fund and execute such projects
66.	To amend WIPO Convention, bringing it in line with WIPO's mandate as an UN-specialized agency
67.	To maintain the mandate of WIPO's Advisory Committee on Enforcement within the limits of a forum for exchange of information on national experience, excluding norm-setting activities. The ACE agenda of discussion should also tackle how to best ensure the implementation of all TRIPS-related provisions, including those that provide for exceptions and limitations to the rights conferred
68.	To reinforce WIPO's member-driven nature as a United Nation system organization. That would include, <i>inter alia</i> , that formal and informal meetings or consultations held between Members or organized by the International Bureau upon request of the Member States should be held in Geneva, in an open and transparent manner that involves all interested Member States
	CLUSTER F – OTHER ISSUES
69.	To establish a working group on the Development Agenda to further discuss issues of the Development Agenda and the Work-Program for WIPO that were not subject of decision in the 2006 General-Assembly
70.	To adopt measures that provide for membership and functions of the Policy Advisory Commission (PAC) and the Industry Advisory Commission (IAC) being determined by Member States
71.	To adopt a high-level declaration on intellectual property and development

67. The Delegation of Kyrgyzstan expressed its admiration for generating the miracle of a mutually acceptable, compromise decision which would give new breath to defining and further shaping the parameters of the development agenda. The Delegation said that the key word for success, the victory of common sense and wisdom, as Director General, Dr. Kamil Idris, expressed so capaciously, was "inclusion". The Delegation also commended all

delegations who had shown readiness to accommodate the concern of others, as well as goodwill, commitment and cooperation. It thanked, in particular, those delegations that had stood side-by-side with it to defend prudence and maturity, and to avoid unacceptable and extreme claims. The Delegation stated that in its opinion, the development agenda was a topic of great importance to all countries, regardless of their social and economic development. The Delegation was convinced that the best way to work on the issue was to use a step-by-step approach, to seek for compromise and be consistent in all that was to be done. The Delegation reiterated that the process should be inclusive and on a voluntary basis, without imposing anything unacceptable to all, or to the overwhelming majority of Member States. It believed that by adopting the General Assembly decision unanimously, Member States had established new parameters for their common future work. The Delegation underscored its active and constructive participation in the work undertaken by the two sessions of the PCDA, in its capacity as the Vice-Chair of the Committee. The Delegation praised His Excellency Mr. Gauto for his extraordinary efforts in structuring and compiling many proposals, to be precise 111, that had been received from Member States. The Delegation also believed that the Chair's approach in classifying all those proposals, on a cluster basis, was a bold step in bringing that particular matter to a higher level of generalization and consideration. The Delegation compared the work of the PCDA with that of extracting gold from ore, which requires for each 2.5 grams of Kyrgyz gold, the refinement of one million grams of ore. The efficiency of the work of the PCDA was of course much higher percentage wise. The Delegation expressed satisfaction with the fact that in the decision adopted by the General Assembly, there were a number of important elements: recognition of the relevance of the topic and the necessity to continue work, using a two-phased approach. The PCDA would take up 40 proposals in the first session and the remaining proposals in the second session, so as to come up with specific recommendations to the 2007 WIPO General Assembly. The Delegation stated that it was the most sincere and committed friend of development, because such a phenomenon of being multi-dimensional was inextricably linked to Life. That was to say, No life – No development. It added that it would be impossible to be among those sitting in the hall those who were against Life. The Delegation recalled the magic of Dr. Idris's words "inclusion" and "win-win", invited Member States to consider a new format of their work on the development agenda, which would be inclusive for everyone, who shared prudent, step-by step, voluntary and consistent approaches. It urged that an Assembly of Prudent Champions of Development be set up, for those who wanted to become founding fathers of an Assembly, where they could work for the benefit of all.

#### ITEM 9 OF THE CONSOLIDATED AGENDA:

#### THE PROTECTION OF AUDIOVISUAL PERFORMANCES

68. Discussions were based on document WO/GA/33/3.

69. The Delegation of El Salvador supported the inclusion of an item on the protection of audiovisual performances in the agenda of the 2007 session of the General Assembly. The Diplomatic Conference on the Protection of Audiovisual Performances held in December 2000 had the objective of granting protection to a group of right owners that were not protected under the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention). The Delegation

remained committed to that objective and predicted a favorable result to the reopening of negotiations on that issue.

70. The Delegation of Mexico emphasized that the protection of audiovisual performances was of the utmost importance, and expressed support for retaining the issue on the agenda of the WIPO General Assembly. The Delegation of Mexico accorded special value to the proposed continued discussions on that matter, organized by the Secretariat.

71. The Delegation of India supported that the issue of the protection of audiovisual performances remained on the agenda of the WIPO General Assembly at its session in September 2007. India volunteered to organize a Regional Seminar on the subject, which could be scheduled by the Secretariat in consultation with the Government of India.

72. The WIPO General Assembly noted the information contained in document WO/GA/33/3, and decided that the issue of Protection of Audiovisual Performances should remain on the Agenda for its session in September 2007.

#### ITEM 10 OF THE CONSOLIDATED AGENDA:

##### PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS

73. Discussions were based on document WO/GA/33/4.

74. The Delegation of the European Community, speaking also on behalf of its member States and the acceding States Bulgaria and Romania, appreciated the open and comprehensive debate on the issue of an updated regime for the international protection of broadcasting organizations, especially during the fifteenth session of the Standing Committee on Copyright and Related Rights (SCCR). It was committed to that work, which had resulted in all essential building blocks now being in place. That work should not be ignored but continued, and the Delegation fully endorsed the recommendation of the 15<sup>th</sup> session of the SCCR and supported the convening of a diplomatic conference to be held on the proposed dates.

75. The Delegation of the United States of America noted that the work of the SCCR had set the stage for a decision to be made by the General Assembly, but the proposed scheduling was neither timely nor appropriate. The text proposed to become the basic proposal was not sufficiently stable to serve a successful diplomatic conference. Problems remained regarding the scope of the treaty, the permitted limitations and exceptions and the protection against circumvention of technological protection measures. In these areas differences of views had increased, as had the number of alternatives in the text. As many other delegations also had expressed in the SCCR, the Delegation feared that against this background, the diplomatic conference would not be successful. More experts meetings were needed in order to obtain a broader consensus before going any further. During such meetings, it would not seek to broaden the scope of the treaty to cover netcasting, which should be discussed as part of a separate track. The SCCR had taken premature action in recommending the convening of a diplomatic conference where there was no consensus on important issues.



76. The Delegation of Japan stated that the treaty would have fundamental significance in responding to digital and networking technology. It supported the objectives of the treaty, which had been intensively discussed since 1998, and the time had now come to reach a conclusion. The 2006 session of the General Assembly had called for two meetings, and the SCCR had actually convened three times, which resulted in the Recommendation now before the Assembly. It should proceed without further delay, and the Delegation supported the proposal in the document. The details of substantive issues could be clarified through discussions in the diplomatic conference. The General Assembly should therefore first and foremost decide to convene the diplomatic conference on the protection of the rights of broadcasting organizations in order to further their international protection.

77. The Delegation of Croatia, speaking on behalf of the Group of Central European and Baltic States, welcomed the Recommendation made during the last SCCR to launch a diplomatic conference to update the rights of broadcasting organizations. It was a milestone in the last eight years' discussions. The Delegation expressed the wish that the success of this process will further build up consensus on the most important issues, so that the diplomatic conference could reach a successful outcome. Further work on the draft basic proposal was needed to prepare properly for the conference, and in that light, the work of the Preparatory Committee, especially the additional meetings that will be organized in conjunction with the Prepcom will hopefully bring the agenda to the desired degree of maturity. The members of the Group of Central European and Baltic States agreed that the rich and longstanding discussions that had been held under the SCCR umbrella so far, displayed an evident need for a new treaty that would update the rights of Broadcasters, especially in its key areas. Finally, the Group appealed to the Member States to approach the exercise pragmatically and constructively, with a positive spirit, so as to enable the successful conclusion of the conference.

78. The Delegation of Nicaragua supported the convening of a diplomatic conference in 2007, if possible.

79. The Delegation of Mexico strongly supported the Recommendation of the SCCR. The Committee had worked with dedication and taken all opinions duly into account. The Delegation supported that the General Assembly decide to convene a diplomatic conference as proposed.

80. The Delegation of El Salvador expressed its support for the agreement reached during the last SCCR to recommend that the General Assembly convene a diplomatic conference. The work had gone on for many years, and the remaining issues could be solved during the diplomatic conference.

81. The Delegation of Pakistan stressed the importance of convening a successful diplomatic conference. Much work still needed to be done to bridge the differing opinions and the Delegation suggested to extend the meeting scheduled for January 2007, or rather to hold another meeting between January and July 2007.

82. The Delegation of India noted that intensive and detailed discussions regarding the contours of the treaty had taken place during the three meetings of the SCCR. It was pleased to see that the scope of the treaty had been limited to the protection of the rights of broadcasting organizations in the traditional sense. Other issues, however, remained unresolved and inconsistencies and contradictions were contained in the basic proposal. More deliberation in the SCCR was necessary to remove these in order to ensure the success of the

diplomatic conference. He believed that the two days' meeting would not be sufficient and requested clarification on the nature and scope of that meeting, in particular regarding the way in which possible conclusions would be carried on in the work at the diplomatic conference.

83. The Delegation of Norway stated that the objective of updating the international system of related rights should be to provide related rights holders a form and a level of protection regarding new technology that was as similar to copyright as possible. In addition, the different groups of related rights holders should be treated on an equal footing. It was in favor of the convening of a diplomatic conference in July 2007. The work to update the rights of broadcasting organizations had been going on continuously for more than eight years, there was now a suitable text for a basic proposal, and the report of the last SCCR session would reflect the views of delegations. Therefore, the project was now ready to be concluded as no more progress could be achieved in substance by postponing the decision on final negotiations.

84. The Delegation of Uruguay pointed out that there had not been consensus on the text of the basic proposal at the last SCCR session. The proposal contained issues that needed further study and contradictions that should not be discussed during a diplomatic conference but during meetings of experts. There was not yet sufficient ground to convene a diplomatic conference.

85. The Delegation of Mongolia supported the objectives of the treaty on the protection of the rights of broadcasting organizations and was in favor of convening a diplomatic conference.

86. The Delegation of Chile underlined that it was premature to convene a diplomatic conference on the basis of the basic proposal. The mandate given by the General Assembly in 2005 to accelerate the work was not sufficient to convene a diplomatic conference, since there was no consensus on the basic proposal. Like the Delegation of India, it had concerns regarding the procedural aspects of the proposed special meeting, and it called for studies of the development impact of the proposed protection. In order to bring the different views closer together, more meetings of the SCCR should be organized to deal, not only with the rights of broadcasting organizations, but also to cover other topics like minimum exceptions and limitations. The Delegation agreed with the Delegation of the United States of America that netcasting should not be reintroduced in the discussion. Despite progress in the SCCR regarding the focus of the treaty, it could not support convening a diplomatic conference at present.

87. The Delegation of Canada applauded the work of the SCCR on the updating of the rights of broadcasting organizations. Nevertheless, given the wide range of issues and alternatives in the basic proposal, it believed that it was premature to convene a diplomatic conference at present.

88. The Delegation of Kyrgyzstan supported the convening of a diplomatic conference on the rights of broadcasting organizations and cablecasters in the traditional sense, to be prepared through a special meeting in connection with the meeting of the preparatory committee.

89. The Delegation of Iran recalled that the rights of broadcasting organizations were very important, but the impact of a treaty would vary in different countries. The last SCCR, taking into account the necessity of maintaining the process, agreed to recommend a special two-day

meeting to evaluate differences in order to achieve common ground for the conclusion of a treaty. Procedural matters should be clarified; consensus, inclusiveness and transparency in substance and procedure were very important. In the process of the preparatory work, the concerns and views of all Member States should be duly considered in a transparent manner. It reiterated its position that the treaty should be based on a signal-oriented approach and on the exclusion of all references to webcasting and simulcasting in the Basic Proposal.

90. The Delegation of Ukraine stressed the importance of improvement of the protection of the rights of broadcasting organizations at international level. In its country, broadcasting organizations were protected under related rights. It supported the proposed further work on the basic proposal and was in favor of convening a diplomatic conference in 2007, because further delay would only bring the positions further apart. It supported the proposal to discuss the issue of Internet broadcasting on a separate track in future meetings of the SCCR.

91. The Delegation of Azerbaijan noted that the protection of the rights of broadcasting organizations was a difficult and sensitive issue. It supported the convening of a diplomatic conference in 2007 since new problems would emerge if it were delayed.

92. The Delegation of Indonesia advised that the General Assembly should consider wisely the recommendation to convene a diplomatic conference. While the Delegation did not have any objections regarding the date of a diplomatic conference, it would comment on the substance and procedure. It would like to see a treaty confined to the prevention of signal piracy which did not prejudice the interests of other right owners nor the interests in orphan works and works in the public domain. The treaty should be confined to the protection of the rights of traditional broadcasters and cablecasters. Those were fundamental issues that had to be resolved before proceeding to a diplomatic conference, and the basic proposal should be cleared of inconsistencies. There was a lack of evidence that the additional protection incorporated in the draft basic proposal was necessary or desirable from a developing country's perspective. Furthermore, the treaty should not impinge on the freedom of access to information. Regarding procedure, the Delegation noted that the SCCR had proceeded to recommend convening of a diplomatic conference despite the concerns of many delegations, and in the absence of a clear mandate. The General Assembly should seriously consider those elements. The Delegation suggested that the diplomatic conference be postponed to 2008. The SCCR could also be requested to resolve the outstanding problems during 2007, and report back to the General Assembly at its session in 2007.

93. The Delegation of China appreciated the efforts of the SCCR and supported its continued work. Given the importance of the issue, the Delegation was of the view that it was necessary to discuss it in detail at a diplomatic conference. The Delegation supported the holding of a diplomatic conference on the basis of the consensus reached by all delegations at the 15<sup>th</sup> session of the SCCR as far as the substantive issues were concerned. The Delegation further suggested that the SCCR should continue discussing those issues in order to find common ground.

94. The Delegation of the Russian Federation supported the Recommendation of the SCCR to hold a diplomatic conference in 2007. It did not object to organizing a special meeting in order to discuss further the basic proposal in connection with the meeting of a preparatory committee.

95. The Delegation of Singapore noted that in the fifteenth session of the SCCR it had supported the convening of a diplomatic conference in 2007, and that it continued to believe

that there would be sufficient time to iron out the major issues before then. However, it recognized the concerns of other delegations and it recognized the fundamental objective of convening a successful conference. Therefore, the conference might be set at a later date, but it should in any case be organized as soon as possible.

96. The Delegation of Nigeria, speaking on behalf of the African Group, stressed that the Group had actively participated in the work of the SCCR. It was an important process which had gone on for nearly a decade. The Group supported the convening of a diplomatic conference, subject to certain conditions. In order to enable the transition from the work in the SCCR into a diplomatic conference, the basic proposal should be cleaned up and the number of alternatives reduced, in order to minimize the risk of a failure. Issues like the safeguarding of the public interest, access to knowledge, unfettered flow of information, cultural diversity, the interests of the owners of rights in the content should be looked at. Impact assessment studies should be undertaken, especially in respect of the impact of technological protection measures. They were important in order to ensure that Member States could fulfill their obligations, especially regarding technological protection measures. Netcasting should under no circumstances be reintroduced in the negotiations. The Delegation supported the decision proposed by the WIPO Secretariat, and thanked the Delegation of the United States of America for its statement that a possible diplomatic conference should be confined to the protection of traditional broadcasters and cablecasters.

97. The Delegation of Morocco supported the efforts to bring the matter to fruition. Throughout its last session the SCCR had striven to reach a solution. It was not a question of granting new rights to broadcasting organizations, but just to keep track of technological innovations. The issue had been discussed at earlier sessions of the General Assembly, and while the Delegation hoped that a diplomatic conference could now be called, it accepted the need to be flexible because some delegations needed more time. At the additional sessions held following the decision of the last session of the General Assembly, it had tried to be as flexible as possible, and the Recommendation had not been opposed by any delegations. It was not necessary to resolve all outstanding issues before the diplomatic conference, because in that case the conference would not be necessary. The time was now ripe to proceed to a conference, and therefore the Delegation supported the recommendation of the SCCR and the decision proposed by the Secretariat.

98. The Delegation of Algeria welcomed the work of the SCCR which had resulted in a very useful document. It fully endorsed the statement made by the Delegation of Nigeria on behalf of the African Group. It was not opposed to a diplomatic conference in 2007 the exact dates of which might be decided later, if that could enable the Assembly to make progress. As pointed out by several delegations, there were issues that needed to be discussed further, such as access to knowledge, safeguarding the public interest, definitions of certain concepts, such as that of "broadcast", and a legal framework should be decided upon which would enable the move towards a diplomatic conference. The Delegation was in favor of a diplomatic conference, but it had to be successful and therefore all the issues mentioned had to be dealt with.

99. The Delegation of Croatia, speaking on its own behalf and not on behalf of a group, stated that even if it had sympathy for some of the concerns that had been expressed, it considered them more political than technical. They were therefore well suited to be solved at a diplomatic conference, rather than in the SCCR.

100. The Delegation of the former Yugoslav Republic of Macedonia supported the convening of a diplomatic conference as soon as possible.

101. The Delegation of Kenya associated itself with the statement of the Delegation of Morocco. The last session of the General Assembly had mandated the SCCR to accelerate its work, which it had done, and by now all building blocks were in place. There was more work to be done, but the problems could be solved. The treaty was very important and the outstanding problems could be thrashed out during the proposed special meeting. The diplomatic conference should therefore be organized on dates to be agreed on.

102. The Delegation of South Africa supported the work of the SCCR on the draft basic proposal and maintained its positions from the fifteenth session of the Committee. It referred to the undertakings made at the Tunis Summit on the Information Society. The proposed treaty had to be clear as to what it intended to protect, and it should be shaped in accordance with the thoughts expressed in the development agenda. Therefore, further work was needed before proceeding to a diplomatic conference.

103. The Delegation of Venezuela shared the concern of several delegations that the fifteenth session of the SCCR had not reached a true consensus. The draft basic proposal contained inconsistencies and the NGOs had not been given the floor at the session. Under such conditions, there was a high risk that a diplomatic conference would fail, and it was therefore necessary that the continued work be undertaken in a democratic manner.

104. The Delegation of Honduras was in favor of organizing a diplomatic conference in 2007, but it was necessary to take into account the preoccupation of several delegations, including the safeguarding of the public interest, and to reduce the number of alternatives. The treaty should also be retained as one dealing only with signal protection. In order to solve those problems, the Delegation was in favor of appropriate meeting activity before the holding of a diplomatic conference.

105. A Representative from the League of Arab States stated that the League as an intergovernmental organization was coordinating intellectual property matters among the Arab States. The issue of protecting the rights of broadcasting organizations had been discussed at the regional consultation meeting in Morocco in 2005. The basic proposal should appropriately balance the interests of the various stakeholders. The organization did not oppose the organization of a diplomatic conference. The recommendation of the SCCR had been discussed at a coordination meeting of Arab States in Cairo, which had recommended that it be examined at the 2007 meeting of the League of Arab States.

106. The Chair recognized the importance of the issue and the broad participation in the debate. The General Assembly was asked to approve the recommendation, but at present he was not in a position to state that there was a consensus. A large number of delegations were in favor of approving the recommendation, but some had doubts. Nobody had pronounced themselves against the treaty as such, but there had been calls for more time to iron out the differences and decrease the number of alternatives. He would not close the item, but suspend it in hopes of reaching a compromise through informal consultations. The aim should be to maintain the basic structure of the Recommendation of the SCCR, while adding such elements which could accommodate the concerns of those delegation that had reservations. He proposed that the Chair of the SCCR, who was present in the room, discuss the matter with the interested delegations on his behalf, in order to reach a compromise. Noting that the

General Assembly agreed with his proposal, he suspended the discussions of the Agenda item.

107. The Chair stated that after three days of informal consultations among delegations, the following decision had been reached:

(i) The General Assembly approves the convening of the Diplomatic Conference on the Protection of the Rights of Broadcasting Organizations under the conditions set out in paragraph (iv) below from November 19 to December 7, 2007, in Geneva. The objective of this Conference is to negotiate and conclude a WIPO Treaty on the protection of broadcasting organizations, including cablecasting organizations. The scope of the Treaty will be confined to the protection of broadcasting and cablecasting organizations in the traditional sense.

(ii) The Revised Draft Basic Proposal (document SCCR/15/2) will constitute the Basic Proposal with the understanding that all Member States may make proposals at the Diplomatic Conference.

(iii) The meeting of a preparatory committee will be convened for June 2007 to prepare the necessary modalities of the Diplomatic Conference. The preparatory committee will consider the draft rules of procedure to be presented for adoption to the Diplomatic Conference, the lists of States, as well as intergovernmental and non-governmental organizations to be invited to participate in the conference, as well as other necessary organizational matters.

(iv) Two special sessions of the Standing Committee on Copyright and Related Rights to clarify the outstanding issues will be convened, the first one in January 2007, and the second one in June 2007 in conjunction with the meeting of the preparatory committee. It is understood that the sessions of the SCCR should aim to agree and finalize, on a signal-based approach, the objectives, specific scope and object of protection with a view to submitting to the Diplomatic Conference a revised basic proposal, which will amend the agreed relevant parts of the Revised Draft Basic Proposal referred to in paragraph (ii). The Diplomatic Conference will be convened if such agreement is achieved. If no such agreement is achieved, all further discussions will be based on document SCCR/15/2.

(v) The WIPO Secretariat will organize, in cooperation with the Member States concerned, and at the request of Member States, consultations and information meetings on the matters of the Diplomatic Conference. The meetings will be hosted by the inviting Member States.

108. The Delegation of El Salvador welcomed the draft text and the flexibility shown by all delegations on the issue. It had no problem in joining the consensus on that draft, provided that the necessary correction of the text of paragraph (iii) in Spanish be made.

109. The Delegation of Mexico supported the comments made by the Delegation of El Salvador. It accepted the draft decision, but pointed out that it was not the best way to organize a Diplomatic Conference. It expressed its disappointment at the result of the consultations.

110. The Delegation of India expressed its appreciation for the proposals as contained within the draft decision. It was willing to go along with the consensus and hoped that the decision would help to move forward that agenda item. It pointed out that the draft decision had only included two scenarios regarding either agreement or disagreement at the SCCR on the relevant parts of the Revised Draft Basic Proposal. The Delegation drew the attention of the Assembly to a third scenario which could occur if the SCCR achieved just a partial agreement on those relevant parts. In that case, all further discussions should also be based on document SCCR/15/2 and the end of paragraph (iv) of the draft decision would read as follows: "In case such agreement is partial, all further deliberations will be based on document SCCR/15/2 as amended to the extent agreed to." However, the Delegation did not want to block consensus and asked that its statement be included in the official proceedings of the Assembly.

111. The Delegation of the Russian Federation expressed its support for the draft decision presented by the President. It would go along with the consensus achieved by all delegations. It requested that the text be prepared also in Russian language.

112. The Delegation of Uruguay stated that it would not block consensus. It supported the caveat expressed by the Delegation of El Salvador.

113. The General Assembly unanimously agreed to the above draft decision.

114. The Chair thanked Mr. Jukka Liedes for his tireless efforts and dedication in achieving an agreement on the draft decision.

#### ITEM 11 OF THE CONSOLIDATED AGENDA:

##### MATTERS CONCERNING THE ADVISORY COMMITTEE ON ENFORCEMENT

115. The Secretariat introduced document WO/GA/33/5 containing information on the third session of the ACE, which was held in Geneva from May 15 to 17, 2006, and its Annex containing the Conclusions by the Chair thereof.

116. The General Assembly took note of the contents of document WO/GA/33/5 and its Annex.

#### ITEM 12 OF THE CONSOLIDATED AGENDA:

##### REPORT ON THE PROGRESS OF THE STANDING COMMITTEE ON THE LAW OF PATENTS IN RESPECT OF THE DRAFT SUBSTANTIVE PATENT LAW TREATY (SPLT) AND CONSIDERATION OF A NEW WORKPLAN FOR 2007

117. Discussions were based on document WO/GA/33/6.

118. The Delegation of Switzerland, speaking on behalf of Group B, expressed its deep dissatisfaction with the lack of results at the last informal session of the Standing Committee on the Law of Patents (SCP), which had not been able to establish a work plan for the SCP in order to bring patent discussions back on track. Nevertheless, Group B continued to believe that a limited work plan for the SCP was the best way forward to achieve results. The Delegation expressed its conviction that the quality of patents, reducing the duplication of work done by patent offices to make the patent system more accessible, and to establish more consistent examination standards were in the best interest of all stakeholders. The Delegation therefore stated that patent issues had to remain a top priority for WIPO and its member States, and further expressed Group B's appreciation for the practical measures that might be implemented in the future, such as the establishment of a digital access service for priority documents, expressing its support for further exploration of that proposal, taking into account its financial implications.

119. The Delegation of the United Kingdom, having chaired the informal session of the SCP, recalled that the informal session of the SCP had dealt with two positions, namely, the package of four issues, the so-called reduced package, proposed by Group B and the package of nine other items that had been proposed during that meeting. The Delegation further explained that there had been an agreement that those 13 items, and no more, were on the table. While an attempt had been made to agree on whether these items could be prioritized, different approaches had led to two positions: one on the part of those who were prepared to accept some form of grouping in priorities, and another on the part of those who felt that all 13 issues should be discussed on an equal footing. The Delegation further noted that, on the question as to whether there were other proposals that would help the discussion moving forward, there were none at the time. Therefore, the delegations at the informal session of the SCP had decided that no formal session of the SCP, as originally planned, should be held.

120. The Delegation of Croatia, speaking on behalf of the Group of Central European and Baltic States, expressed its concern with the state of play in the negotiations on the work program for the SCP. It stated that it was frustrating to observe that, despite the useful discussions held during the Open Forum on the draft Substantive Patent Law Treaty (SPLT) in March, and the frank exchange of views during the informal meeting of the SCP in April, virtually no progress had been made since the last meeting of the General Assembly and consequently the mandate of that Assembly had not been fulfilled. The Delegation stressed the utmost importance the Regional Group it represented placed in the work of the SCP as one of the key bodies in charge of improving vital areas of WIPO's work. Patent harmonization discussions carried extreme importance, as its results should include improving present patent quality, simplifying procedures, reducing costs for users, reducing the duplication of work by patent offices and establishing more consistent and common examination among WIPO members. The Delegation stated that, while acknowledging the arguments of all members involved, linkages that would have a negative impact on the SPLT process should be avoided. With this in mind, the meeting should try to move on the process in such a way that standstills in the negotiations would be avoided in the future. The Delegation stated that it was ready to consider any initiative, approach and constructive ideas that would contribute to break the current deadlock and help members to advance the work. The Delegation urged Members to approach the discussions both in the General Assembly and later within the SCP in a focused and constructive manner, in order to help shaping a balanced work plan for the SCP. This should be the first step towards a patent harmonization that would reduce burden on IP offices and applicants and bring benefits to the patent system both in developed and developing countries.



121. The Delegation of Morocco stated that it knew that there were differences and recognized that its country had always expressed its interest, in particular, in the harmonization of the substantive law of patents which aimed at improving the quality of patents, reducing the workload for patent offices and making the system more accessible and less costly for applicants. The Delegation expressed its belief that the harmonization of the patent system should be achieved under more equitable conditions for users, particularly in developing countries. The Delegation stressed that Morocco had always expressed itself in favor of the harmonization of patent law and that the economic and social development of all countries should be encouraged so that peoples of the world would see their living conditions improved. The Delegation recalled that Morocco had always considered that member States should continue to work ceaselessly with a view to finding well balanced answers representing a compromise acceptable to all. The work plan was thus an important issue to be addressed.

122. The Delegation of Finland, speaking on behalf of the European Community (EC), its twenty-five Member States and the Acceding States Bulgaria and Romania, expressed appreciation for the work done by WIPO on the basis of the General Assembly's decision last year, as well as for the efforts by WIPO member States to make progress on the new work plan for the SCP. The Delegation further expressed thanks to the WIPO Secretariat for organizing the Open Forum in March 2006. The great number of participants as well as the range of issues raised at the Open Forum demonstrated the great interest of all delegations for those issues. The EC and its Member States believed that the discussions at the Open Forum had facilitated the understanding of various issues and raised the awareness in this regard. The Delegation recalled that, despite the success of the Open Forum, it had to be acknowledged that the SCP had not been able to agree on a new work program in April, notwithstanding the various compromise proposals that had been made by member States at the informal session of the SCP. The Delegation stated that the EC and its Member States nonetheless remained committed to move forward on the basis of a mutually agreeable, focused and defined work program. In this regard, the Delegation also noted the proposal relating to the exchange of priority documents in the area of patents and welcomed the Secretariat's parallel efforts to continue valuable work in this field. According to the Delegation, the significance of IPRs had increased due to technological advancements and globalization, and that required improving the current IPR system accordingly, a process in which the SCP had an essential role to play. It was indeed of utmost importance to harmonize substantive patent law to develop a more cost-effective, more accessible and balanced patent system at the international level, which would contribute to inventiveness and competitiveness in all countries and also improve patent quality and the efficiency of patent offices throughout the world. The Delegation urged all member States to show both willingness to resolve the existing differences and readiness to compromise.

123. The Delegation of Algeria shared the interest of other delegations for the work of the SCP. It considered that the work carried out by the Committee was of utmost importance, particularly in light of the developments in international economic relations, and that it should lead up to an instrument which would facilitate such relations. The Delegation stated that, even if the informal session and the Open Forum which had taken place at the beginning of 2006 had not enabled the SCP to achieve a specific work program, it would have at least contributed to establishing fruitful exchanges which had facilitated a better understanding of the concerns of each of the parties. In that way, the Committee had gone from a priority four-point program to a possibility of adding four or five points to it. And this was why the Delegation pleaded for the pursuance of discussions in any appropriate format so as to be able

to achieve a result which should take due account of the interests of all the parties concerned and to review all the issues submitted by the different groups.

124. The Delegation of China stated that it always attended the SCP meetings in an active and responsible way willing to promote in a constructive manner, and together with other member States, the elaboration of the draft SPLT. As issues proposed by member States covered a very wide scope, and some provoked serious disagreement, it would be necessary to proceed step by step on the basis of full consensus among member States and to discuss different issues phase by phase when conditions were mature. The Delegation agreed in principle that discussions in the current phase should focus on selected items, but in selecting and adopting such items, concerns of different groups of interest, namely, those of developed countries and developing countries, should be very fairly considered and accommodated, such as the question of genetic resources. The Delegation proposed that at least the discussion on genetic resources should be included in the work program 2007 of the SCP, and it added that China attached great importance to the issue of disclosure of the origin of genetic resources in patent filing documents. The Delegation informed that in the preparation for the third revision of the Chinese Patent Law, China had already included the relevant clauses relating to disclosure of the origin of genetic resources. That draft was currently in the commentary process, and would subsequently be submitted to China's National People's Congress.

125. The Delegation of Malaysia stated that it recognized the benefit of harmonization of patent law to all stakeholders, including the general public, right holders and IP offices. The Delegation noted that, to achieve harmonization of substantive patent law, the interests and concerns of all member States should be taken into account and that the issues should be discussed on an equal footing. The Delegation stressed the importance of the continuation of the future work of the SCP in respect of the draft SPLT to arrive at a balanced and equitable international patent system.

126. The Delegation of Kenya welcomed the ongoing discussions on the draft SPLT. As many other African countries, the Delegation was against prioritizing a few substantive issues for deliberations such as novelty, prior art, grace period and inventive step, as crucial for fast-tracking the SPLT decision. The Delegation was of the view that the scope of the work program should be expanded to cover other issues, and that international norms on patent protection ought to be geared to the overall and ultimate objective of development for all. The impact of harmonization on patent laws in terms of economic growth, employment, investment in research and development, access to technology and domestic innovation, including public health, nutrition and environment, were key concerns of the Delegation. The Delegation further stated that the issues of disclosure of origin of genetic resources and associated traditional knowledge, access and benefit sharing and prior informed consent should all be part of the work program of the SCP. The Delegation reaffirmed its support and cooperation in this endeavor and expressed the hope that the work plan of the SCP would be extended so as to incorporate those other issues.

127. The Delegation of Bolivia stated that it was unfortunate that no progress in this process could be achieved. The Delegation, however, felt that this demonstrated the existing need of taking into account the legitimate interest of all the members. The Delegation, as one of the sponsors of proposals which would lead to the eradication of undue use or misappropriation of genetic resources, traditional knowledge and folklore through international instruments for the preservation and conservation of those invaluable riches, considered that the disclosure of the source and country of origin, prior and informed consent and equitable sharing of benefits, should be the focus of any harmonization of patent law so as to combat biopiracy. The

Delegation was of the view that topics such as flexibilities, public policy spaces, exceptions, anti-competitive practices, transfer of technology and alternative models of promoting innovation, should be considered as essential elements for any agreement. Therefore, considering a work plan that would enable to achieve an agreement on substantive patent rights as had been suggested by the Delegation of Finland, the Delegation stressed the importance of taking into account the interests of all developing countries as a first step to achieve a consensus on the right direction this project should take. The Delegation further noted that experiences that were important for all could be replicated, such as the Open Forum, which may be an alternative to consider.

128. The Delegation of Japan shared disappointment that a work plan could not be agreed upon at the informal session of the SCP in April. Endorsing the Delegation of Switzerland speaking on behalf of Group B, the Delegation was of the view that the SCP should focus on priority issues which would produce concrete and tangible results that benefited not only developed countries, but also developing countries. Recalling that around 90% of WIPO's budget was financed by users' fees under the PCT and the Madrid System, the Delegation urged that this body should also respond to the needs of users. In that context, the Delegation considered that it was the responsibility of delegations to address priority issues related to workload, cost reduction, examination quality and others, which were urgent and day-to-day operational issues. The Delegation noted that, although discussions on practical, non-controversial and non-political issues might be continued in the SCP, it was of the view that such issues might be difficult to identify.

129. The Delegation of the United States of America expressed its full support for the statements made on behalf of Group B and by the Delegation of Japan. It observed that there was an urgent need for the adoption of a sensible and pragmatic work plan for the SCP. Limiting the scope of the SPLT to a number of issues provided the best opportunity for achieving near-term agreement on core principles of patent law that affected the overwhelming majority of applications filed throughout the world and were fundamental to improving patent examination and patent quality in the interest of all WIPO members. The Delegation recalled that the importance of patent quality had been raised by many participants at the Open Forum held in March of this year, in particular, by SMEs, which were essential to the economic growth in both developing and developed countries. The Delegation stated that the work plan that it had advocated in the past was not only in the interest of some, but rather of all WIPO members, and it expressed its sincere hope that a work plan for the SCP providing direction toward a meaningful and achievable SPLT at this session of the General Assembly could be achieved. This did not imply that other, more controversial issues could not be discussed in the future, but that it was important for the SCP to achieve harmonization on a reasonable and pragmatic package in the near term.

130. The Delegation of Indonesia reiterated that discussions in the SCP should be carried out in a balanced and inclusive manner, and, taking into account the possible adverse consequences of global harmonization of patent laws, address the interests and concerns of all member States. While the Delegation acknowledged the concerns relating to cost and efficiency in the processing of patent applications, it was of the view that the work plan of the SCP should not be confined to address technical concerns only, but should properly address concerns and issues related to the development dimension of patent law. In this regard, the Delegation maintained that the following fundamental needs should be clearly reflected in the discussion on the draft SPLT: firstly, flexibilities on substantive aspects of patent law necessary to allow countries to adopt measures to promote technological innovation as well as transfer and dissemination of technology needed to be preserved. Secondly, competition

needed to be promoted and the abuse of patent rights prevented. Thirdly, a disclosure requirement with respect to genetic resources and associate traditional knowledge used in inventions had to be introduced in the patent system. Finally, patent quality had to be improved by taking measures to reinforce examination standards.

131. The Delegation of Argentina agreed that the topics of patents and harmonization were key topics. In view of what had been decided at the past General Assembly, the Delegation was of the view that no progress had been made because not all delegations were ready to take into account the interests of all members, and particularly the interests of the majority, which consisted of developing countries. The Delegation stated that policy impacts of harmonization for developing countries beyond its advantages, that were the reduction of office hours, office work and costs, as well as any impact on the flexibility of the national legislation to respond to industrial development policy of the countries concerned, should be assessed objectively before engaging in any harmonization exercise. The Delegation, expressing its openness to consider an SCP work plan, noted that if the road to harmonization was not the road that could be agreed upon, there might be other topics that the SCP could discuss in the future. In addition, the Delegation sought more information from the Secretariat about a number of conferences that would be organized as of October on certain patent-related topics. The Delegation stressed the importance of holding an open and informal forum and of ensuring the representation of all the viewpoints in any seminars, lectures and conferences.

132. The Delegation of India noted that, given the lack of any movement forward in the recent past, the consideration of a new work plan for the SCP was a daunting task. The Delegation observed that, although the decision of the General Assembly last year to approach this issue through a three step process, that was, the Open Forum, an informal session of the SCP and an ordinary session of the SCP, to agree on a work plan was indicative of a genuine desire to move forward, what followed belied those expectations. The Delegation stated that, although harmonization of patent laws was a matter of significance, while attempting to achieve harmonization, the weight of the impact of such a process on economic growth and development, access to technology, public health issues and others could not be lost. Within those broad parameters, the Delegation suggested an approach which was holistic and inclusive, that was, one which attempted to take on board the concerns of all member States. The Delegation was of the view that, to take this process forward, a totally new and innovative approach, an approach which would steer the deliberations on work plan away from the repeated positions, thereby infusing a breath of fresh air in the work, would be needed. The Delegation, which was of the view that the dialogue must go on, expressed its willingness to associate itself with any such initiative.

133. The Delegation of the Islamic Republic of Iran stated that the subject under negotiation on the draft SPLT was a very sensitive area of intellectual property law, which had significant cross-cutting implications on public policy objectives of member States. The implications of patent law on public health, the concerns of developing countries on the need for policy space and for safeguarding public interest flexibilities in the existing international treaties in that regard, required member States to seek a comprehensive, inclusive and transparent basis for negotiations. Although the developing countries had not been “*demandeurs*” in respect of the negotiations on the SPLT, they had shown flexibility in engaging themselves in the process of negotiations. The Delegation stated that that process and the reflection of member States on the SPLT had shown that the reduced package did not effectively address the priority concerns of developing countries and that, in spite of the triple rejection of the reduced package, in a spirit of cooperation, member States in the 2005 General Assembly had agreed

on the establishment of a new work plan for the continuation of the SCP. The Delegation believed that the informal Open Forum which had taken place in the first quarter of 2006 had been useful and productive, taking into account the sophisticated dimensions of the work. A constructive discussion had taken place during the three-day informal session of the SCP, to form a framework for the continuation of a comprehensive negotiation in the SCP. The Delegation recalled that ignoring the inclusive approach in the informal session had given rise to the view that it was premature to establish a work program for the SCP.

134. The Delegation of Ecuador expressed its appreciation for the efforts made towards finalizing an SPLT, for example at the Open Forum where the need for a broad discussion had become apparent. It also noted the hard work of the SCP where unfortunately no agreement had been reached on the subjects for discussion. In that regard, the Delegation particularly welcomed the statements made in the General Assembly by various delegations showing their willingness to be flexible in their proposals. In the Delegation's view, although the four topics contained in the 'reduced package' were important, they were not sufficient and would have to be extended to include the very important proposals made by the Friends of Development.

135. The Delegation of Cuba considered that the future work of the SCP should aim at establishing a working agenda which would include, with the same degree of priority, the interests of developing countries. In particular, objectives and principles should be included which would safeguard flexibilities in international agreements, taking into account the level of development of the countries as well as health, education and food policies. The future work should also include, *inter alia*, the following issues: exceptions and limitations of patent rights, the requirement of prior informed consent to obtain access to genetic resources, and the country of origin and the source of genetic resources. Equally, transfer of technology to developing countries, applying fair and equitable conditions, should become operational. As the Delegation had said in its general statement, a greater harmonization of substantive patent law was not in the developing countries' interest, as it was necessary to maintain the existing flexibilities and safeguards.

136. The Delegation of Pakistan stated that the lack of a work program or work plan for the SCP was a matter of concern for everyone and that the continuation of the effectiveness of the international patent system in promoting innovation was dependent on addressing two broad sets of issues: one relating to public policy as part of the patent system and the other to the quality of patents being granted. The Delegation believed that the Assembly should mandate the SCP to consider the elements of a balanced work program and to present its recommendation on such a program to the 2007 Assemblies.

137. The Delegation of Brazil expressed its understanding that WIPO was not a multilateral patent office, but a specialized agency of the United Nations and therefore had to act accordingly. Development should be a core objective of the organization. Harmonization of patent law, though it could be a legitimate objective in theory, could not take place at the expense of the interest of a majority of the membership and especially of developing countries. The Delegation stated that, in the Open Forum on the SPLT, many issues had been raised that would have to be mainstreamed into the SCP work plan for 2007 and that Members should strive to arrive at a common understanding of those very relevant issues. No reduced package of issues could provide a way forward for the work on harmonization in the SCP. The Delegation observed that there was a growing critique of the patent system worldwide in academic and government bodies, by think tanks and in international intergovernmental organizations and non-governmental organizations and all those entities

that dealt with the substantive issues that were of concern to WIPO and its membership. Even institutions that were integrated by developed countries, such as the OECD, were producing relevant work in that area and were coming to a mixed conclusion regarding the impact of the patent system on economic growth and development and on social issues in general. That reality should not be ignored by the SCP. A way of including this critique into the SCP would have to be found so that a more profound debate on the patent issues in general could be held in that body. The Delegation pointed out that the Agenda for Development contained a whole chapter on norm-setting that was very relevant for the SCP work plan on patents, and it stated that there was a series of issues that the Friends of Development had put forward for a work plan of the SCP that were not limited to the question of genetic resources alone. Document WO/GA/33/6 in paragraph 3 contained the list of nine issues that it considered important in any harmonization exercise that might be held in the organization. Those issues would have to be dealt with on an equal footing and under the principle of inclusiveness. The Delegation expressed its understanding that there was an issue of development impact assessment that needed to be provided to member countries in any harmonization process and that it was not possible to proceed blindly without relying on credible studies and evaluation material of the impact of the patent system on development in general. While one member had raised the issue of patent quality for developing countries, issues such as the quality of life of inhabitants and the public interest were important, and the patent system must take account of that and not erode the quality of life of people throughout the world.

138. The Delegation of Tanzania recognized that it was clear that there were problems in terms of which way to move forward. Referring to paragraph 6 of document WO/GA/33/6 which called for the establishment of a work plan for the SCP in 2007, the Delegation observed that a group of countries that had made proposals in a series of meetings in the context of the SCP and the Open Forum believed that a diplomatic conference might go ahead on the basis of a reduced package, whereas there were those who believed that the reduced package did not provide a way forward without the inclusion of other remaining issues. The actual dilemma on that particular issue was how to establish a work plan for the Standing Committee for 2007 given the polarization of positions. Should the Standing Committee continue on the basis of the proposals that were on the table, the Delegation believed that a further hardening of positions on that matter would be witnessed, which would not be useful for the work of the SCP. Therefore, the Delegation proposed that what the Standing Committee could do would have to be different from what was actually on the table and to think of something new, but somehow related to the issue of patents. The Delegation recalled that the Delegation of the United States of America had spoken about the issue of patent quality and the Delegation of Brazil had expressed a different position, but certainly that was one area that could be considered in terms of the work of the Committee. The Delegation proposed that, to keep the process going on in respect of the nine issues that had been advanced or advocated by some, and the reduced package of four issues that had been advocated by others, the Chair could be given the task of having a series of meetings and consultations in the course of the year and to come and report back on whether a way forward and a striking of balance could be achieved. The Delegation reiterated that while all issues were important from its point of view, a new way and new areas where the Standing Committee could address new issues to keep on going, could be considered. But at the same time the Chair could hold consultations on the issues that were on the table and report back to the General Assembly.

139. The Delegation of Switzerland supported the statement of Group B and indicated its disappointment with the fact that the process developed at the Assembly last year to define a work program for the SCP had not, despite the flexibility shown by quite a few delegations,

found a compromise solution that would enable organization of the future work of the Committee. The Delegation stated that Switzerland continued to attach considerable importance to the harmonization of patent law and hoped to see progress in the near future in WIPO. It was very important for her country to establish a work program that would make it possible to move forward in the discussion on patents in the organization, because there were many other important issues that deserved consideration. The Delegation observed that it did not see any usefulness in repeating discussions that had taken place in past years on suggested issues in terms of developing the work program for the SCP and that it was important to find a new way forward. It noted that there were technical discussions that could usefully be held in the context of the SCP, for example, quality of patents. But there were other topics as well of interest not just to the patent offices and users of the system, but also to the general public. The Delegation therefore hoped that it would be possible for the Assembly to design a work program that would allow continuation of a structured discussion in the context of the SCP on patents.

140. The Delegation of Chile considered that the conditions for accepting the reduced package approach, being put forward more than once, were not correct. It would, however, support an approach which encompassed all issues, including those which had been mentioned by the Delegation of Brazil and which were of public interest. If what the Committee was trying to do was to harmonize, then obviously the harmonization of those issues which were of interest to developing countries was required as well.

141. The Delegation of the United States of America strongly felt that all member States should recognize the important role that the IP system played in development. The Delegation observed that WIPO, as a specialized UN agency, had been mandated to improve the IP system and to streamline and simplify the IP system so that it could be used effectively to promote development throughout the world. The Delegation, while recognizing the importance of the issues raised by many delegations, considered that many of the alternative topics mentioned, such as anti-competitive practices, alternative models to innovation and other such issues, raised matters that went well beyond the expertise of the SCP and, to some extent, appeared to go beyond the mandate of WIPO. The Delegation stated that it could not support a work program that would facilitate consensus, but would provide for long discussions on a wide variety of politically sensitive and highly contentious matters without any prioritization of goals. The Delegation expressed its belief that the proposal for a limited package represented the best opportunity for a near term agreement on core issues that were in the interest of all WIPO member States. The Delegation considered it essential that any work plan for the SCP be a sensible work plan that prioritized those items sufficiently matured and capable of achieving near term agreement with meaningful results. The Delegation was of the view that, if the work in the SCP was not prioritized, delegations would simply talk without results and hold meetings for the sake of meetings, which would be a waste of WIPO's limited resources as well as of the time and money of all delegates attending the meetings. The Delegation stated that, if a work plan could not be agreed by this Assembly, it might be more prudent to revert to this item at next year's Assemblies meeting in the hope that delegations might hold informal consultations in the interval.

142. In response to a question raised by the Delegation of Argentina, the Secretariat explained that a series of colloquia as informal information meetings were planned to take place between October 2006 and September 2007 at WIPO in Geneva, and that a general circular had been sent to all member States, informing them of the proposed schedule of dates and the proposed topics, that were: research exemption; standards and patents; flexibilities in the patent system; technology and policy information available in the patent system;

national strategies for innovation; and patents and transfer of technology. The Secretariat added that those were informal, open meetings that would take no decisions, and that all members of the public were invited, free of charge.

143. The Delegation of the Russian Federation stated that member States were faced with serious challenges thrown down by society and by the outside world. The Delegation stressed the importance of finding an appropriate and acceptable solution as professionals to those challenges, and noted that, depending on the decision, it would either contribute to the progress of the world or work against it. After carrying out a careful and thorough analysis on the issues, the Delegation was of the view that, if the delegations were to continue to adhere to the principle of consensus, they would not be able to find consensus because the proposals on the table were mutually exclusive. The Delegation reminded that the intellectual property system was a combination of three features. Firstly, a system of protection of inventions, on which the SCP had been working over the years. Secondly, there was the aspect of enforcement of rights: without it, the world would be surrounded by piracy and counterfeiting, which would considerably threaten quality of life, safety and security. Thirdly, there was an aspect of transfer of technology and knowledge, which needed to be taken into account when taking any decision. The Delegation therefore suggested that those three aspects which made up the patent system in its entirety be taken up in parallel: for example, the protection aspects, *inter alia*, motivating and promoting creativity and innovation, and the enforcement of rights to avoid piracy and counterfeiting; abusive use of knowledge, for example, traditional knowledge, for commercial purposes should not be permitted. The Delegation was of the view that it was necessary to have a clear understanding on how to make use of the patent system, and of the achievements which arose from the joint combined efforts put into innovation, for the general good of countries and humanity in a broader sense. The Delegation wondered whether sometimes, delegations were talking more about the interest of their own country without looking at the broader issues beyond their border. The Delegation emphasized that careful, thorough and professional research into the obstacles which stood in the way of mutual understanding should be carried out in order to reach any consensual decision. The Delegation felt that, although the member States might not be mature enough to draw a work plan, they were mature enough to ensure that the discussion be based on a clear understanding of patent law. As it appeared to the Delegation that there were at least ten different definitions of patent law in the room, the Delegation considered that, at the very least, a consensus on what we understood by those words should be found before moving forward. The Delegation further stated that a “win-win strategy”, which meant looking at the situation not only through its own eyes, but through the eyes of other member States, might be a key for building a consensus. Finally, the Delegation summarized its suggestion of considering the three aspects of patent system at the same time, and added that the General Assembly next year should review whether consensus had been found on all three aspects taken together, using the above “win-win strategy”.

144. Following informal consultations conducted by the Chair, The General Assembly decided that:

(i) delegations may submit, by December 2006, proposals for the work program of the Standing Committee on the Law of Patents (SCP) including proposals on ways forward or approaches. Proposals will be circulated in consolidated form to all member States;

(ii) the Chair of the General Assembly will conduct informal consultations in the first half of 2007 for the purpose of discussing the proposals



and recommending a work plan for the SCP to the General Assembly in September 2007. In this regard, the Chair will decide the form of the consultations, which shall be inclusive, and whether it is desirable to hold informal consultations in a meeting of all member States; and

(iii) the General Assembly in September 2007 will consider the results of the consultations with a view to establishing a work plan for the SCP for 2008 and 2009.

#### ITEM 13 OF THE CONSOLIDATED AGENDA:

##### REPORT ON THE WORK OF THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC)

145. The Secretariat introduced document WO/GA/33/7, a report of the work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore ('IGC'). At its previous session, the General Assembly had taken two decisions with respect to the IGC. First, it had established a Voluntary Contribution Fund to finance the participation of accredited observers representing indigenous or local communities in the meetings of the IGC. The administrative structure for the fund had been established and it had received a favorable response. The Director General had written to the Member States and to a range of organizations to encourage contributions to the fund. Contributions had been pledged by SwedBIO, and the Governments of France and South Africa. The Advisory Board set up under the rules governing the Fund had met on the margins of the last session of the IGC, and had recommended eight representatives of accredited indigenous and local communities to be financed at the next session of the IGC. The recommended beneficiaries would be financed for participation for the next IGC provided that the arrangements for the transfer of the funds from the donors could be put in place by that time. The General Assembly had also decided at its previous session to extend the IGC mandate for the current budgetary biennium. The IGC had met under its new mandate in April 2006, when it elected Ambassador I Gusti Agung Wesaka Puja of Indonesia as Chair. Following a wide-ranging discussion, the IGC called for written comments on the two main documents under discussion, concerning revised objectives and principles respectively for the protection of traditional knowledge (TK) and for the protection of traditional cultural expressions (TCEs). Comments had been made by a number of delegations and were being posted on the WIPO website and circulated. Two further IGC sessions were scheduled in the current biennium, the tenth session from November 30 to December 8, 2006 and a second would take place in the middle of 2007.

146. The Delegation of Bolivia stated that, as a megadiverse country, it attached great importance to the work of the IGC. It recognized and supported that work and paid tribute to the progress made to date. The Delegation favored increasing participation of representatives of indigenous and local communities through the Voluntary Fund. It inquired as to what extent the ordinary WIPO budget could be used for that purpose to avoid fluctuations in contributions from one year to the next. Progress had been made since the last session of the IGC, but substantive progress had not been particularly tangible. It would be useful to see certain work speeded up. It was important for the IGC to carry out a proper evaluation of

achievements made to date to establish whether it was the appropriate forum for that kind of work for the developing countries to progress their interests or whether the Assembly should take further steps once the IGC's current mandate had been concluded.

147. The Delegation of Indonesia expressed its appreciation for the work accomplished by the IGC in addressing the protection and recognition of genetic resources (GR), TK and TCEs. It took note of the decision of the Ninth Session of the IGC to continue its work until 2007 as mandated by the Assembly. Although during that Session recent versions of the draft objectives and principles on protection of TK and on folklore were reproduced without any updates, the Delegation welcomed the IGC's decision to extend its next session to seven working days in order to continue its work in accordance with its renewed mandate. While the Assembly was only required to take note of the report, the Delegation expressed hope that the progress achieved in the IGC could be further discussed with a view to exploring possible ways to facilitate the work of the forthcoming IGC session. The current session of the Assembly may provide additional guidance or ideas on how the work of the IGC could be further accelerated. Such guidance would enable the IGC to undertake its work in a timely fashion so as to advance desired outcomes and would encourage delegations to settle the differences on the way to move forward, particularly toward any possible outcome, including the possibility of an international, legally binding instrument. The Assembly should recommend the IGC to do its utmost to speed up its work, and could also request the IGC, upon the completion of its mandate in 2007, to agree on the substance and legal status, or format of the desired outcome, as well as procedural steps required to work forward the outcome.

148. The Delegation of India stated that the IGC was looking into the various concerns quite competently. The process for arriving at a legally binding international instrument on the protection of TK and TCEs of traditional communities required to be approached with the same sense of urgency as efforts in the protection of other IPRs. There were valid concerns on all sides, however what could perhaps not be disputed was that if the Member States of WIPO were convinced of the contribution that protection of IP made towards development then they had to be equally concerned with the possibility of the counter-factual – namely, that the absence of and delay in finalizing a regime for protection of the IP collectively held by traditional communities were indeed responsible for their lagging behind in development in many ways.

149. The Delegation of Malaysia reiterated its support for the work of the IGC to prevent misappropriation of GR and to provide an equitable protection system for TK and TCEs. The establishment of the IGC marked an important step in that direction and was the right forum to discuss this pertinent issue. As a megadiverse country which was concerned with the phenomenon of biopiracy as well as misappropriation of TK, it recalled that the renewed mandate for the IGC was to focus in particular on the consideration of the international dimension where no outcome was excluded, including a possible development of an international instrument. The IGC should continue its work with a view to reaching consensus on a possible outcome by the end of the current biennium in order to establish an effective protection system for TK and TCEs. The IGC should adopt a comprehensive and holistic approach to facilitate discussion in order to make progress on issues related to GR. In addition, the IGC should advance in parallel and without prejudice to the work being pursued in other fora. The Delegation took note of the extensive discussions at the ninth session of the IGC and welcomed proposals as well as written comments submitted by members. Malaysia would continue to engage constructively in discussions in future sessions towards a desired outcome.

150. The Delegation of China recalled that the IGC had held nine sessions so far. Since the first session in April 2001, WIPO, with the active participation of and the hard work by Member States, had made unremitting efforts and achieved initial results on the IP protection of GR, TK and folklore. These achievements were helpful for better understanding the tasks and objectives of the IGC and were a good basis for deeper discussions on the subject of the Member States. The Delegation highly appreciated the efforts made by WIPO and the international community and the achievements made by WIPO listed in the Performance Report for 2004 and 2005. It was regrettable, however, that progress was slow, showing a less optimistic prospect. On the basis of the results already achieved, the IGC could accelerate its work so as to conclude a binding international instrument on this matter as soon as possible. The conclusion of such an instrument was not so far from reality. Many countries had already enacted legislation or had already made corresponding additions in their existing legislation, including China. These initiatives could offer a very good basis for deeper discussions in the IGC towards a possible conclusion of such a binding international instrument.

151. The Delegation of Finland, on behalf of the European Community and its Member States and the acceding States Bulgaria and Romania, appreciated the progress made by the IGC during the first years of its work, especially in the areas of TK and TCEs, where the Committee had conducted extensive technical work on complex questions which would serve as a good basis for the future work. It underlined the importance of further discussions in these areas as well as in the field of GR. The Delegation continued to support and welcome the participation of indigenous and local communities and appreciated the establishment of a voluntary fund for this purpose. The European Community and its Member States recognized the importance of ensuring appropriate protection of TK and therefore supported the work of the IGC on draft objectives and principles for the protection of TK. The Delegation reiterated the support for further work towards the development of international *sui generis* models or other non-binding options for the legal protection of TK. In line with its preference for internationally agreed *sui generis* models, the final decision on the protection of TK should be left to the individual contracting party. The TCEs of all communities, whatever size and wherever situated in the world, played an important role not only for communal and personal identity and well-being, but also for the safeguarding of the world's cultural diversity. The work of the IGC over the past four years had demonstrated this precious variety and exposed both the differences and similarities. It had become evident that time was ripe to build on the work already achieved. The differences deserved respect and the similarities should be openly acknowledged. As indicated in its submissions, the European Community believed that a constructive way forward would be possible on those parts of the discussions which had so far demonstrated a certain consensus. The objectives and general guiding principles appeared to distil much of what was sought after and the European Community would therefore propose that the future work of the IGC concentrated on these two texts. Besides the finalization of outcomes on TK and TCEs, which would be grounded in the extensive technical work already been done by the Committee, it would also like to see the IGC make equal progress in the field of GR. The European Community had already tabled several proposals on GR and disclosure requirement which were contained in document WIPO/GRTKF/IC/8/11. It continued to believe that consideration of this issue would be an important task for the IGC and that such a serious proposal would be entitled to proper discussion within the body where the proposal was made.

152. The Delegation of Kenya stated that it was fully committed to the ongoing discussions in the IGC. It called for the implementation of the progress made so far with a view to

moving it forward, and supported the proposal for developing a legally binding instrument that would guarantee effective protection against bio-piracy and misappropriation of TK and folklore. It looked forward to such an instrument or instruments that would enable *inter alia* the implementation of measures such as disclosure of origin of GR and associated TK and prior informed consent in the patent application so as to curb the increasing misappropriation of TK through the existing IP regimes. The delegation took note of the progress so far made in the IGC with respect to establishment of a voluntary fund to facilitate the participation of indigenous and local communities in the work of the committee. It continued to support the idea of creating the voluntary contribution fund as it believed the contribution of the indigenous and local communities to the IGC process would be fundamental in orientating the ongoing deliberations. The Government of Kenya had established a task force on the protection of TK, GR and folklore. The terms of reference of this task force among other things was to develop policy and legal framework for the protection of TK and TCEs/expressions of folklore pertaining to conservation, access and equitable sharing of benefits accruing from exploitation of these resources. Issues under the IGC had been taken long and the delegation hoped that the IGC would graduate to action plan on establishing an international legally binding instrument during the forthcoming eleventh session.

153. The Delegation of South Africa stated that, in its engagement with the IGC, it had supported the IGC's work and participated with the dual objective of highlighting concerns about intellectual property relating to indigenous knowledge and obtaining information and experiences which had been discussed domestically through an inter departmental committee on IKS. South Africa supported the General Assembly's previous decision to extend the mandate of the Committee to the next budgetary biennium to continue its accelerated work on traditional knowledge traditional cultural expressions and genetic resources. South Africa, together with other Member States, called the IGC to present to the next General Assembly substantive outcomes on any discussions on a further extension of the mandate. The Delegation appreciated the progress made during the last session of the IGC when Member States had offered constructive comments on certain aspects of substantive provisions on the IGC documents. The challenge was now to include comments and update the documents accordingly in order to make further progress towards the ultimate aim of developing and internationally legally binding instrument. Domestic legislation needed to be complemented by such an instrument in order to create a comprehensive and effective solution to combat biopiracy and misappropriation of indigenous knowledge and cultural expressions. An international legal binding instrument constituted the sole alternative, an effective and comprehensive solution to the misappropriation of indigenous knowledge within the intellectual property rights context. The Delegation supported the African position taken in the ninth session of the IGC for the development of an international binding instrument. South Africa believed that the Indian and the African Group position would help to recognize and enforce the amendments to the South African Patent Regulations of 2005 and make contractual provision more coherent. The current focus on the declaration of origin requirements discussed at WIPO and at the CBD should not detract from some of the wider issues to be addressed to comprehensively deal with the problems in the relationship between the IP and GR, TK and TCEs. South Africa protected its history and cultural traditions as part of its programs through the archives' repository services, the national libraries and declared cultural institutions. Any international instrument on all its history and cultural traditions needed to be aligned to the Convention on the Protection of Intangible Heritage and all other relevant international instruments. With regard to the work of the IGC on the protection and the promotion of the diversity on cultural expressions, it was important that the work were complemented by the current undertakings in international forums and other organizations. The Delegation supported the decision taken at the previous Assembly to establish a

Voluntary Fund for indigenous and local communities to directly support the participation of representatives of these communities and the work of the IGC. South Africa believed that the voice and experience of indigenous and local communities had been a vital contribution to the IGC's work. The latest initiative to promote the participation of indigenous and local communities in WIPO was expected to further strengthen their role. To this end, South Africa had committed to make a contribution to the fund. The Delegation thanked the Director General for affording the opportunity to showcase the South African IKS policy through its circulation as a WIPO working document at the ninth session of the IGC. The Delegation drew attention to South Africa's revised patent regulations of 2005.

154. The Delegation of Colombia, taking due note of document WIPO/GA/33/6, reiterated its support for the creation of the Voluntary Fund for accredited indigenous and local communities with a view that it would be implemented in conformity with the criteria of transparency and in accordance with selection criteria that allowed the wide and equal participation of the holders of TK or of an accredited observer who represented the indigenous and local communities. The Delegation underlined the necessity to exchange information between States with the Secretariat about the national, regional and local organizations representing indigenous people and communities. For Colombia, the Ethnic Directorate of the Ministry held a database with a registry of these organizations which could be exchanged to support the selection procedure for the participants financed by the fund. The Fund permitted the funding of representatives of indigenous and local communities designated by observers accredited at WIPO, but these accredited observers could be NGOs that might suggest to fund an indigenous or other candidate without the knowledge of the Member State and without acknowledgement as a member of a community that really represented the indigenous and local communities. As an example, document WIPO/GRTKF/IC/9/INF/8 included a list of candidates for funding and participation in the tenth session of the IGC in November 2006. According to this list, candidates from Latin America would not reside in their countries of origin but in developed countries and may have been proposed by NGOs of those countries, and the Delegation drew attention to a particular example of a joint national of New Zealand and Panama, living in New Zealand, who had been proposed for funding by the International Indian Treaty Council with its seat in the United States. It would be important ensure that the funded persons were legitimate representatives of indigenous or local communities having direct and daily communication with their communities, being able to give feedback and being direct spokespersons for them. In fact, the fund should implement the principle upon which it is based: the geographical distribution of the seven geo cultural regions recognized by the Permanent Indigenous Forum of the United Nations, in particular those of developing countries and small developing islands. Not only a broad geographical distribution would count, but also a balance in the distribution giving special treatment to those from developing countries or small developing islands. Regarding TK and folklore, and in line with the position of Colombia in the ninth session of the IGC, the Delegation supported progress on model provisions of IP applicable to the protection of TK and GR. The preparation of an international instrument for the protection of expressions of folklore should be progressed. Without forgetting the progress achieved in the CBD, in the negotiation of an international regime on access and benefit sharing and the necessity to strengthen the cooperation with the CBD in respect of the IP aspects to be incorporated in that regime.

155. The Delegation of the Russian Federation underlined the importance of the results of the IGC and expressed its support for the upcoming IGC, for the documents WIPO/GRTKF/IC/9/4 and WIPO/GRTKF/IC/9/5, as well as for the voluntary fund, which was set up in accordance with decisions taken at previous sessions. It hoped that its extended

comments on the IGC, as well as other comments to the secretary be taken into account and full use of all that be made in the next IGC.

156. The Delegation of Algeria stressed the importance of the Voluntary Fund and thanked the countries which had provided the necessary resources. Traditional knowledge, traditional cultural expressions and genetic resources were an important topic and the best means of guaranteeing their protection was to bring an international treaty into force. The Delegation hoped that the procedures could be accelerated in order to achieve results in the near future.

157. The Delegation of Brazil stressed that a legally binding instrument was the most appropriate response to the protection of TK, TCEs and GR. Brazil had an important number of local communities and recognized the importance of TK, TCEs and GR in that context. The IGC needed to speed up and deepen the discussion of issues reflected in documents WIPO/GRTKF/IC/9/4 and WIPO/GRTKF/IC/9/5. In the WTO, Brazil had negotiated jointly with other developing countries amendments to the TRIPS Agreement and hoped that the work of the IGC would be taken ahead in that spirit. It had submitted its proposals for both documents and intended to keep on working with WIPO on a response to the misappropriation of TK, TCEs and GR. A legally binding treaty was the only adequate response to that phenomenon.

158. The Delegation of Honduras attached great importance of the work of the IGC and welcomed the extension of the mandate of the IGC to the current budgetary biennium. It encouraged the IGC to continue its work on TK, TCEs and GR. The tenth session of the IGC should be extended to seven working days so to advance its work and accelerate discussions on the useful subjects it addressed. It requested the Secretariat to carry out a summary that reflected and identified clearly the findings of preceding discussions in the IGC. This would allow an impact assessment of the work of the Committee, which again may be used to understand better, how to reach agreement in the IGC.

159. The Delegation of Switzerland also considered the work of the IGC to be of prime importance, as reflected in the extension of the Committee's mandate at the 2005 General Assembly for 2006 and 2007. It approved and appreciated the progress made in this Committee. The work of the IGC was extremely useful and essential for traditional knowledge, traditional cultural expressions and genetic resources. The work of the Committee was a priority in Switzerland for defining the conditions and objectives for the protection of traditional knowledge, traditional cultural expressions and genetic resources. It stressed the importance of defining the terms "traditional knowledge" and "folklore" in order to determine the objectives for their protection. The Delegation expressed satisfaction with the progress made by the Committee in its work on these two subjects during the previous session. That work had not yet been completed, and the Delegation hoped that significant progress would be made at the Tenth Session of the IGC. It welcomed the Voluntary Fund made available for the IGC and the other related WIPO activities for representatives from indigenous or local communities.

160. The Delegation of Kyrgyzstan said that its Government had sought to reflect the discussions of the IGC in a bill on traditional knowledge that was to be approved by parliament in the near future. The basic principles of protection adopted were those similar to the principles for protection of appellations of origin, where the essential features of the subject matter of protection were tied to a specific geographical locality. In addition, a decision had been taken in Kyrgyzstan to establish local community funds which aimed at the equitable sharing of benefits from the use of traditional knowledge. Equally, another bill on

the protection of folklore was in preparation. With regard to the protection of GR, Kyrgyzstan was still at the research phase. An international treaty on the protection of TK, TCEs and GR should be adopted. The Delegation congratulated the IGC on the work done so far and hoped that the IGC would continue its work so as to adopt a consensus decision on that important matter. It hoped to participate in the tenth session of the IGC and expressed its gratitude to the founders of the voluntary fund placed at the disposal of accredited indigenous and local communities.

161. The Delegation of the United States of America thanked the WIPO Secretariat for the preparation of documents WIPO/GRTKF/IC/9/4 and WIPO/GRTKF/IC/9/5 and said it looked forward to continue discussions in the tenth session of the IGC so as to exchange views and comments in respect of TK, TCEs and GR and to create a further climate of mutual understanding on those topics.

162. The Delegation of Sudan welcomed the continuation of the work of the IGC in order to protect the topics it had addressed, and called for the IGC to come up with a unified document. It expressed appreciation for the role played by ARIPO and OAPI in collaboration with WIPO in the preparation of a legal document to protect TK, folklore and genetic resources within States Parties in these organizations and for the benefit of all African countries. Sudan supported the Committee's work in this regard and the strengthening of its resources because the work of this Committee helped to protect the range of this subject matter at the local and international levels. In turn, this helped to prevent biopiracy.

163. The Delegation of Morocco invested much hope in the work of the IGC concerning the traditional knowledge, folklore and genetic resources. Morocco, as in the case of other countries, particularly African countries, was very rich culturally and with regards to TK. The Delegation therefore gave priority and special importance to the work of the IGC. It had participated actively throughout the nine previous sessions and looked forward to further work of the Committee, in view of the work concerning preventing misuse, misappropriation and piracy. The Delegation was very satisfied with the efforts undertaken throughout the past years. For this reason it supported the extension of the IGC's work and called for it to be accelerated so as to achieve its objectives, particularly in the form of a legally binding instrument to protect the folklore, genetic resources and TK from misappropriation and illegal use. The Delegation therefore supported the IGC's work and requested once again for it to accelerate its work and to carry out regional consultations in order to lessen the gap between positions on the topics before the Committee. The Committee was requested to finish its work before the next session of the Assemblies, and to evaluate what had been accomplished. It was a very good mechanism for achieving its objectives. Morocco was proud to chair the Advisory Board that advised on the operation of the Voluntary Contribution Fund for the benefit of indigenous people.

164. The Delegation of Japan recalled that it had been engaged in IGC since its first session. Its basic thinking regarding the IGC was that further in-depth, technical and professional and empirical discussion was needed to deepen understanding. Japan would like to participate in the IGC from that perspective in the future.

165. The Secretariat, at the request of the Chair, confirmed that the next session of the IGC would be held over seven working days and that the comments made by various delegations would be transmitted to the Advisory Board of the Voluntary Fund which makes the recommendations to the Director General concerning the selection of beneficiaries.

166. The Delegation of Indonesia indicated it had no problem with the proposal, but recalled that it was quite clear that many delegations would like to see the General Assembly to provide a clear directions to the next IGC by requesting the IGC to speed up its work and to finalize in its work in order to enable it to present a substantive outcome to the next session of the General Assembly.

167. The Chair commented that this general sentiment led to the expectation that the tenth session of the IGC would be productive and fruitful, and that on that basis the Assembly could take note of the document.

168. The General Assembly took note of the contents of document WO/GA/33/7.

#### ITEM 14 OF THE CONSOLIDATED AGENDA:

##### MATTERS CONCERNING INTERNET DOMAIN NAMES

169. Discussions were based on document WO/GA/33/8.

170. The Secretariat recalled that WIPO conducted two Internet Domain Name Processes. The First Process, which concerned the relationship between domain names and trademarks, resulted in the adoption of the Uniform Domain Name Dispute Resolution Policy (UDRP). Since December 1999, the WIPO Arbitration and Mediation Center had administered over 9,000 UDRP cases covering more than 17,000 domain names. The current average filing rate was 4.5 new cases per calendar day, with the general trend moving upward. In order to contribute to fair and transparent UDRP procedures, WIPO had made available a number of user tools which include an online searchable Legal Index of all WIPO UDRP Decisions and an Overview of WIPO Panel Views on Selected UDRP Questions. In addition to the administration of disputes relating to domain names registered in generic Top-Level Domains (gTLDs), the Center also provided domain name dispute resolution services to a growing number of country code Top-Level Domain (ccTLD) registries, the current number of such ccTLDs being 47.

171. The Second Internet Domain Name Process examined the relationship between domain names and certain identifiers other than trademarks. Based on the findings of this Process, the WIPO General Assembly recommended in September 2002 that the UDRP be amended to provide protection also for (1) the names and acronyms of international intergovernmental organizations and (2) country names against their abusive registration as domain names (WIPO-2 Recommendations). These Recommendations were transmitted by the Secretariat to the Board of the Internet Corporation for Assigned Names and Numbers (ICANN).

172. The Secretariat reported that recent reactions on the part of ICANN, including statements by ICANN's Intellectual Property Constituency, indicated that it was unlikely that ICANN would move to implement the part of the WIPO-2 Recommendations that concerned the protection of country names. However, there were indications that implementation of the



WIPO-2 Recommendations on the names and acronyms of international intergovernmental organizations was now under active consideration on the part of ICANN. The Secretariat would continue to monitor developments in this regard.

173. The General Assembly took note of the contents of document WO/GA/33/8.

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