

**COMMENTS MADE BY MEMBERS AND OBSERVERS OF THE SCP
ON DOCUMENTS SCP/13/5 (DISSEMINATION OF PATENT INFORMATION)
SCP/14/3 (TECHNICAL SOLUTIONS TO IMPROVE ACCESS TO,
AND DISSEMINATION OF, PATENT INFORMATION)**

**I. 15th session of the SCP, October 11-15, 2010
[Excerpts from the Report (document SCP/15/6)]**

1. Discussions were based on documents SCP/13/5 and SCP/14/3.

2. The Delegation of Brazil, speaking on behalf of the DAG, stated that merely facilitating the access to the available patent information did not guarantee the transfer and the dissemination of technology. It noted that making effective use of the information was difficult in both developing and developed countries. Those difficulties related not only to the technology gap, but also to the insufficient description of the inventions in the patent applications. The Delegation was of the view that, if on the one hand the existence of a “global one-stop-shop” mechanism to access patent information was a desirable step in order to improve the processing of patent applications in a timely matter, on the other, such mechanism would not be suitable unless the quality of the information provided was useful and of a high standard. Therefore, the Delegation considered that the creation of any multilateral database must be preceded by a thorough study on sufficient disclosure, which must include, among other aspects, the disclosure requirement and “know how” and the use of database by developing countries. In its opinion, the exchange of search and examination reports would not, by itself, reduce the problem of backlogs, which needed to be assessed in a broader perspective, considering that the number of patent applications had considerably increased in the last two decades, while the quality of the granted patents was increasingly subject to criticism in terms of lack of novelty and inventive step. It welcomed the “Access to Specialized Patent Information” (ASPI), despite the clear need of training patent office employees and academics in order to put the available information into good use to reach economic development. In its view, special focus should be made on the costs of such a tool. Nonetheless, the Delegation pointed out that those initiatives such as ASPI did not implement by itself Recommendations 8 and 9 of the Development Agenda. In addition, recalling those recommendations, the Delegation stated that databases that were not freely accessible constituted an obstacle to the international cooperation and a risk to the equilibrium of the system.

3. The Delegation of Belgium, speaking on behalf of the European Union and its 27 Member States, noted that patent documents constituted a valuable source of information from technical, business and legal perspectives. The technological data contained in such documents allowed innovators to learn from existing solutions to specific technical problems. The Delegation considered that such a rich body of technical information constituted the technical tool in research planning and management, contributing to a more efficient allocation of human and material resources. It noted that patent documents accumulated technical information that translated into innovation and progress for the benefit of the society as a whole. The Delegation stressed the importance of the dissemination and accessibility of patent documents as a source of technological, business and also legally relevant information. It considered that patent documents needed to be accessible to the greatest possible number of users in order to maximize the role in scientific and technical development. In its view, the harmonization of the international system for the dissemination of patent information should be guided by the objective of benefit to the users. Therefore, it was of the opinion that the system should aim at offering structured data that safeguarded consistency and operability of systems, and avoid duplication of work between institutions publishing patent information. The Delegation stated that the future work to be carried out by the Secretariat in that field should focus on access to patent information in digital format, particularly accessibility of full text data along with the availability of the information on the legal status of patents with a standard presentation of legal information for better comprehension. The Delegation acknowledged the great efforts carried out by WIPO concerning the standardization of norms of bibliographic data in patent documents, and the development of electronic documents in the user-friendly format, enabling the easy recovery of documents by users. In addition, the Delegation stated that the use of a classification system had a particular impact on the

accessibility and dissemination of patent information. It stressed the need to join efforts for the improvement and harmonization of the different patent classification systems. The Delegation made a call to strengthen international cooperation in order to make the information contained in national and regional patent documents accessible in an easy and centralized way.

4. The Delegation of India stated that, since patent information was a unique source of technological business and legal information, access to such information became more important and relevant to developing countries, not only in improving the quality of examination of patent applications, but also in certain development activities. The Delegation, however, considered that due to limited resources, developing countries were unable to have any access to patent databases which were very expensive and beyond their reach, which led sometimes to defective grant of patents due to incomplete search facilities. It noted that, due to the lack of resources, developing countries were unable to digitize their own patent records. The Delegation therefore suggested that, in addition to the information relating to PCT applications currently available, PATENTSCOPE[®] be expanded to include non-PCT published applications as well as other non-patent literature. In its view, that would gradually help developing countries' patent system and research activities, and also help developing countries to manage their resources for other purposes.

5. The Delegation of Venezuela recalled its statement at the 14th session of the SCP, and supported the statement made by the Delegation of Brazil on behalf of the DAG.

6. The Delegation of Spain expressed its support for the statement made by the Delegation of Belgium on behalf of the European Union and its 27 Member States. The Delegation expressed its appreciation for WIPO's efforts to harmonize the current technical context and to provide worldwide access to information on patents, with specific mention of the recent launch of WIPOLEX, which provided access to all national and international legislation in the field of intellectual property, the new database called IP ADVANTAGE in which the experiences of inventors, creators, business professionals and researchers working in the field of intellectual property were presented, the new tool in PATENTSCOPE[®] which simplified searching for patents relating to clean technologies and the recent inclusion in PATENTSCOPE[®] of all the bibliographic data in the collection of Spanish patent documents and the full text of a majority of such documents. The Delegation further stated that the Spanish Patent and Trademark Office (OEPM) had never spared any effort in providing access to the contents of all the information disclosed in the patents granted in Spain, and provided access to the full text and bibliographic data via the database INVENES (Accessible on the Office Internet portal). It further noted that OEPM had not only sought the disclosure of Spanish patent documents but also of patent documents in Spanish, such as the LATIPAT project on which OEPM had been working since 2003 with WIPO and the European Patent Office to compile and keep up to date a database with bibliographic information from the patents published in Ibero-American countries. The Delegation reiterated its request that the Committee continue to translate all the documents prepared into Spanish, given the large number of States which participated in the Committee and which had Spanish as their official language as well as the hundreds of millions of Spanish speakers. The Delegation stated that disclosure of the information contained in patent documents was vital if one of the main objectives of the patent system was to be met, i.e., that the information available in patent documents should contribute to the technological progress of society. It considered that the use of the International Patent Classification played a vital role in providing access to the technological information disclosed in the millions of patent documents published. Therefore, in its view, greater harmonization of the classification systems used by the large patent offices would be useful. In the majority of currently available free access patent databases, the Delegation considered that there was a lack of information on the legal status of patents or rather such information was hard to access. It would be useful to improve access to such information by providing a link included with the rest of the bibliographic information. In this regard, the Delegation noted that knowledge of which rights were in force was essential in order to avoid infringing patent rights and to find out which technological information was already in the public domain. The Delegation observed that, although it would still be possible to improve significantly the disclosure of technological information published in patent documents, the last 15 years had nevertheless seen exponential progress in that field. Currently, the world's entire population and of course all the patent offices, as long as they have an Internet

connection, have access to millions of patent documents. For example, the ESPACENET database, developed by the European Patent Office, gives free access to 60 million patent documents including their bibliographic data, legal status and the full text, with the possibility of translation into other languages and few should envy the search tools deployed in large patent offices. With a view to better employing the Organization's resources, the Delegation stated that, if the subject would be further studied, for example, under the topic "quality of patents", the efforts in relation to the provision of access to patent information by the Committee on Development and Intellectual Property (CDIP) should be taken into account, with the aim of avoiding an overlap in the work.

7. The Representative of TWN stated that, regarding the accessibility of the databases, they should go beyond patent documents and should be available free of charge.

8. The Representative of ALIFAR underscored the important contribution that patent information had been making to society. She noted that activities carried out by WIPO to facilitate access to such information, including information relating to national patent proceedings, should be best used particularly by developing countries. In that regard, the Representative stressed the importance of the quality of information made available to users, as in her view, many patents did not comply with the disclosure requirement and those patented inventions could not be reproduced by a person skilled in the art. With regard to the creation of a database of multilateral nature suggested by some delegations, the Representative supported those delegations which considered that it should be followed by a study regarding the sufficiency of disclosure. In her opinion, the disclosure requirement had a close link with the patentability requirements of each country. Therefore, she considered that it should be thoroughly evaluated, while remembering the autonomy of each country in that area.

II. 14th session of the SCP, January 25-29, 2010 [Excerpts from the Report (document SCP/14/10)]

9. Discussions were based on documents SCP/13/5 and SCP/14/3.

10. The Delegation of Spain, speaking on behalf of the European Union and its 27 Member States, stated that patent documents constituted a valuable source of information from a technical, commercial and legal perspective. The technological data contained in such documents allowed innovators to learn about existing solutions to specific technical problems. This rich body of technical information constituted a strategic tool in research planning and management, contributing to a more efficient allocation of human and material resources. Patent documents accumulated technical information that translated into innovation and progress for the benefit of society as a whole. The Delegation stressed the importance of the dissemination and accessibility of patent documents as a source of relevant technological, commercial and legal information. Patent documents needed to be accessible to the greatest number of possible users in order to maximize their role in scientific and technical development. The Delegation was of the opinion that the international system for the dissemination of patent information should be guided by the objective of its benefit to the users. The system should therefore aim to offer structured data, safeguard consistency and operability of systems and avoid duplication of work between institutions publishing patent information. In its view, the future work to be carried out by the Secretariat in that field should focus on access to patent information in digital format, particularly accessibility of full-text data, along with the availability of the information on the legal status of patents. The improvement would offer a standard presentation of legal information for better comprehension. In this regard, the Delegation stated that the European Union and its 27 Member States acknowledged the great effort carried out by WIPO concerning the standardization of norms of bibliographic data in patent documents and the development of electronic documents in a user-friendly format enabling the easy recovery of documents by users. The use of classification systems had a particular impact on the accessibility to and dissemination of patent information. Therefore, the Delegation recalled the need to join efforts for the improvement and harmonization of the different patent classification systems. In conclusion, the Delegation made a call to strengthen international cooperation in order to make the information included in national and regional patent documents accessible in an easy and centralized way.

11. The Delegation of France supported the statement made by the Delegation of Spain on behalf of the European Union and its 27 Member States. The Delegation wished to stress the importance of dissemination of information on patents, as it was an important part in determining policies and strategies in industry. In its view, the technical solutions indicated in the document prepared by the Secretariat on standardizing patent information and making legal information available, as well as extending cooperation between member countries and WIPO to centralize patent information, had to be supported, because it would make it possible to have better legal and technical information on patents. The Delegation also supported the idea of making available to the public search and examination reports. In this connection, the Delegation informed the Committee that, as of October 1, 2009, France made available its patent information on-line. The Delegation underlined the need to consider working on harmonizing documents, as it would allow the dissemination of patent information on a broad scale.

12. The Delegation of Mexico joined the statements made by the Delegations of France and Spain as to the importance of the dissemination of patent information for the patent system. The Delegation informed the members of the Committee that Mexico had created a mechanism for the exchange of patent information which had been created in cooperation with WIPO, the EPO and with the support of the Spanish Patent and Trademarks Office. The Delegation explained that the project aimed at exchanging certain search and examination reports, and that it allowed Central American and other countries to review them.

13. The Delegation of Bulgaria noted that document SCP/14/3 showed the different facets and problems relating to patent information, and focused on several technical issues which constituted obstacles to the dissemination of patent information. It also answered some questions on the exchange of information among patent offices for improving their work. However, the Delegation's concern was mainly how to bring the patent information to the users and those who would benefit from it. The Delegation stated that patent information was an underused information resource and, unfortunately, the patent offices worldwide had not managed to bring the information to the actual users. The Delegation expressed the opinion that one of the tasks of patent offices was to make the information attractive and bring it to the users. The Delegation reiterated its suggestion made at the previous session of the SCP that WIPO could be the host of an IP information portal where all the patent offices could have a link to their patent information, which would provide users a one-stop entry into the world of patent information. It also suggested that such kind of portal contain information on different databases, such as the one in the Annex of document SCP/14/3, which could be useful for inexperienced users. The Delegation further suggested that such type of portal also provide some educational tools on databases for easy access to their content. The Delegation was of the view that WIPO should encourage, through that portal, the exchange of experiences of Member States as regards dissemination of patent information. In addition, the Delegation stated that the library system which existed in many countries was also an underused resource, and therefore, patent offices could use the network of libraries to bring out information to the users. In its view, all those tasks were suitable for WIPO, namely, to focus and combine efforts on the dissemination of information and positive experience on how national patent offices and patent information providers could better reach the community of those who would be benefiting from the use of patent information. While noting that users, such as research and university communities, relied on traditional information sources, such as scientific publications, the Delegation urged the international community to promote patent information for the benefit of all users and advancement of innovation in all countries.

14. The Delegation of Guatemala supported the views of other delegations on the subject matter. The Delegation noted that the dissemination of information was an element which was essential to the patent system, and was one of the most important resources as regards technical knowledge. The Delegation stated that Guatemala was making great efforts to have more access to patent information through services provided by the Internet. The Delegation expressed its appreciation to WIPO for providing free public access to patent information through the PATENTSCOPE[®] Search Service, and for starting the aRDⁱ system at the service of the Member States, the objective of which was to increase the availability of non-patent literature in favor of developing countries. In relation to its experience,

the Delegation stated that, with the support of WIPO, Guatemala had undertaken specific activities to cooperate with other patent offices. The Delegation took the opportunity to mention that they were cooperating with LATIPAT. In addition, the Delegation informed the SCP that Guatemala had requested WIPO's support in the optimization of its procedures and that it was also on its way to develop a project to assist small- and medium-sized enterprises (SMEs).

15. The Delegation of Chile considered that the dissemination of patent information was of a paramount importance, because it clearly defined what the subject of protection was and identified what was in the public domain. The Delegation noted that that was in line with its proposals submitted in the framework of the Development Agenda. The Delegation stated that the issue was of great practical importance in two ways: on the one hand, for national offices and examiners, it aimed at avoiding duplication of work in the different offices, thereby making the examination work more efficient. On the other hand, it brought relevant information to various users, such as the academic world, students, and specifically to the SMEs, enabling them to have a better analysis of their investments. The Delegation stated that that should lead to better examination standards which would improve the quality of patents. Therefore, the Delegation considered that the preliminary study carried out by the Secretariat was an important basis in making headway in the improvement of the patent system and accessing patent information, which was an important public interest aspect.

16. The Delegation of El Salvador stated that its national office was benefiting from patent databases and appreciated WIPO for making them available in traditional format and through the Internet. The Delegation informed the Committee about the cooperation of its national office with other offices, such as the EPO, the Spanish Patent and Trademark Office and the Mexican Institute of Industrial Property, which facilitated the work carried out by its national office. The Delegation stated that it would continue working on that topic with the government authorities and the Secretariat. Further, in relation to paragraph 25 of document SCP/14/3, the Delegation sought clarification on the role of the Committee on WIPO Standards in increasing the accessibility of patent information.

17. The Delegation of Uruguay stated that the preliminary study was a pioneering work which dealt generally with the issue and suggested that WIPO continue making progress in that area. The Delegation stated that it was necessary to assess the capacity of developing countries in meeting the objective of generating the patent information. The Delegation also believed that the work of WIPO should include an analysis and an evaluation of important experiences carried out at the regional level, such as the LATIPAT project and other projects with the participation of WIPO, the EPO, the Spanish Patent Office and of the Iberian-American offices. In its view, since the final objective was shared by the Committee, it would be necessary to work on the need to design strategies to achieve that objective. In that regard, the Delegation was of the opinion that the preliminary study contained a new feature, because it was not only dedicated to describing the importance of sharing patent information, but it also looked into other issues. The Delegation underlined that the topic had a direct impact on the work of the Development Agenda, and that therefore, WIPO should deliver specific results where it was possible. In relation to the idea of transforming PATENTSCOPE[®] into a portal for patents, the Delegation thought it might represent an important challenge for WIPO. The Delegation noted the leading role that WIPO should take in that issue, since it was a multilateral body of the UN system which had the necessary means to advance that topic.

18. The Delegation of India stated that patent information constituted a unique source of technological, business and legal information. The Delegation noted that the access to patent information of various countries was very important in improving the quality of examination. Many of the developing countries, in its view, did not have access to various patent databases, in particular, to databases which were not free of charge. Observing that the PATENTSCOPE[®] Search Service of WIPO was limited to PCT applications, the Delegation suggested that it be expanded to non-patent literature and other patents, which were beyond the PCT applications.

19. The Delegation of China stated that the dissemination of patent information was very important for stimulating innovation, reducing redundant work and promoting technological and social progress. Therefore, the provisions on the publication and release of patent information of the Chinese Patent

Law had been amended recently. In order to improve the dissemination of patent information, the Delegation considered that increasing the digitization level, improving the extent of services and intensifying the international cooperation were all concrete, practical and pragmatic measures. The Delegation expressed its readiness to work actively and share its experiences with other countries in that area.

20. The Delegation of Cambodia stated that patent offices of all Member States should work together to improve the quality of patent information. The Delegation requested the assistance of WIPO in building the infrastructure for improving access to, and dissemination of, patent information in Cambodia by setting up an Innovation Center and providing the necessary equipment. The Delegation informed the Committee about the difficulties Cambodia faced on that matter, in particular, its limited resources to facilitate the dissemination of patent information. Further, the Delegation stated that another challenge in the process of dissemination of patent information was the language barrier, as most people in Cambodia had poor command of the English language. In concluding, the Delegation expressed its willingness to cooperate with all Member States on the issue at stake for the technological development of all countries.

21. The Delegation of the Russian Federation stated that patent information was a big collection of technical information and was one of the most reliable types of information, and that it was easily accessible on the Internet due to harmonized classification. The Delegation noted that the issue of improvement of the access to patent information for all users was one of the main tasks on the agenda. In that regard, the Delegation supported the proposal made by the Delegation of Bulgaria concerning the creation of a global portal under the auspices of WIPO, and requested further study on that issue. The Delegation was of the view that such a global database of patent information should be free of charge, and reiterated that the issue deserved the full attention of the SCP and the Secretariat.

22. The Representative of the EPO stated that dissemination of information on published patent applications and patent documents was an important source of technical and legal knowledge for the public in general and the users of the patent system. She further stated that the timely and comprehensive dissemination of patent information was a catalyst for filing high-quality patent applications. Furthermore, the Representative welcomed the exploration of avenues towards the alignment and simplification of the existing technical environment and tools of the patent offices. Such technical harmonization would be a key step towards further cooperation between patent offices. While reiterating the commitment of the EPO towards the dissemination of patent information, the Representative drew the attention of the Committee to the continued efforts of the EPO in improving worldwide accessibility to patent information through its esp@cenet® search service and the EPO Global Patent Index. The Representative also stated that the EPO had submitted a number of technical contributions to the Secretariat for consideration on possible integration into the final version of the document.

23. In response to the question posed by the Delegation of El Salvador with regard to paragraph 25 of document SCP/14/3, the Secretariat stated that that paragraph referred to the work of the newly established Committee on WIPO Standards (CWS), which was a body specifically dealing with the standards associated with patent information and other forms of intellectual property information. While noting that some of the relevant standards were listed in paragraph 14 of the document, the Secretariat clarified that those were just the foundations on which the technical work for digitization and dissemination of patent information could take place. Therefore, in its view, there was no duplication of work between the different Committees of WIPO in that respect. The reference to various WIPO Committees was intended to be a reference to other Committees which could be established in the future, such as the Committee on Global Infrastructure that had been discussed at the previous General Assembly, but had not been actually established.

24. The Delegation of Brazil stressed that facilitating access to available patent information did not necessarily guarantee the transfer and the dissemination of technology. The Delegation noted that a challenge in making effective use of the information, posed to both developing and developed

countries, was related not only to the technological capacities and gaps, but also to insufficient disclosure of information in patent applications. The Delegation was of the view that, on the one hand, the existence of a global one-stop shop mechanism to access patent information might be a valid step in order to improve the processing of patent applications in a timely manner. On the other hand, such mechanisms would not be useful unless the quality of the information provided was good and useful. The Delegation, therefore, expressed the view that the creation of any multilateral database must be preceded by a follow-up study on sufficiency of disclosure, which must include, among other aspects, (i) the refusal to grant, or the revocation of, patents on the grounds of insufficient disclosure; (ii) the disclosure requirements themselves; and (iii) the use of databases by developing countries. With regard to the use of databases by developing countries, the Delegation was of the view that, if they were not freely accessible, that might be an obstacle to the international cooperation and a risk to the balance of the system, and recalled Recommendations 8 and 9 of the Development Agenda. The Delegation stated that the exchange of search and examination reports *per se* would not reduce the problem of backlogs, which needed to be assessed with a broader perspective, considering that the number of patent applications had considerably increased over the past two decades, while at the same time, the quality of granted patents was increasingly subject to criticism in terms of both novelty and inventive step. The Delegation further noted that the exchange of search and examination reports must be considered with a note of caution, as it might result in either the export of patents of questionable quality or in an indirect and undesirable harmonization of patent rights. The Delegation, therefore, was of the view that the exchange of search and examination reports must comply with a minimum set of rules, be on a voluntary basis, and should be organized under a common standard for the presentation of information. The Delegation emphasized that any work on the unification of search and examination systems should be carried out within the SCP, rather than within the PCT.

25. The Delegation of Argentina stated that the subject of dissemination of patent information, which was also part of the Development Agenda, was very important. The Delegation was interested in the proposal on the WIPO portal, and requested additional information concerning the status of granted patents.

26. The Delegation of Angola, speaking on behalf of the African Group, acknowledged statistics indicating that 30% of patent offices did not have digitized information. The Delegation considered that technical assistance and capacity building for patent offices were necessary in order to facilitate access and dissemination of patent information and to make that available to the public. The African Group stated that capacity building, especially in the area of human resources, was needed in order to be able to make patent information available. The Delegation also referred to the need to carry out further analysis on this topic.

27. The Delegation of Morocco, supporting the statement made by the Delegation of Angola on behalf of the African Group, noted that regular consultation of patent information resources would allow the promotion of research and development in businesses and increase awareness of the technological environment at the global level by following its trends and evolution. The Delegation stated that, as the published patent documents were a key source of information on recent technological developments, access to such information could also help stimulating national inventions, which could be transposed into increased investment in technology. The Delegation noted that Morocco had been trying to improve the quality of issued patents by amending its law to provide opinions on patentability. The Delegation further stated that, in cooperation with WIPO, Morocco had been digitalizing its patent information in the PATENTSCOPE[®] portal. The Delegation, therefore, proposed improving the dissemination of patent information and the creation of a search and examination reports' database, which would play a key role in the internationalization of patents.

28. The Delegation of the Bolivarian Republic of Venezuela supported the statement made by the Delegation of Brazil that the transmission of information was not just a requirement for meeting national legislation, such as a form to be filled in when a patent was registered. The Delegation pointed out that mere dissemination of low quality patent information would not ensure transfer of technology.

29. The Delegation of the Republic of Korea noted that it would submit corrections to document SCP/14/3 concerning the dissemination of Korean patent information.

I. 13th session of the SCP, March 23-27, 2009
[Excerpts from the Report (document SCP/13/8)]

30. The Secretariat introduced document SCP/13/5.

31. The Delegation of Bulgaria stated that patent information was a tool that was widely underused not only in developing countries but also in industrialized countries, and that every effort to improve dissemination of patent information was most welcome. The Delegation observed that patent offices should be proactive in spreading patent information if they wished to sell their products to the market, in particular to research organizations. It noted that, when patent information had been still distributed on paper, several patent offices had had special publications directed to specific users in industry or in research. Another example was private and commercial IP information providers who managed to work in such a way that they could make profits from patent information, although the original data, the whole material, was possessed by patent offices. In its view, patent offices and all those working in the public sectors should learn how to better shape the patent information for the users. In that regard, the Delegation observed that the preliminary study would be better completed by additional information about private information providers who were working in the commercial market. He also considered that a number of private information providers would be ready to cooperate in providing free services, as that could be considered as a promotion to users who were not ready to pay expensive fees. The Delegation was of the opinion that it would be useful if the document would have had a summary of WIPO's activities in the field of patent information. The Delegation was of the view that WIPO would be an ideal place to develop a portal or one entry point for accessing patent information on its web site. Referring to the proposal made by the Delegation of Japan at the General Assembly in 2008 regarding an establishment of Wikipedia for patent information, the Delegation stated that such a collective effort by those who were ready and willing to contribute and to share information was an excellent way to disseminate patent information.

32. The Delegation of Germany, speaking on behalf of Group B, observed that dissemination of patent information is one of the cornerstones of the international patent system. In its view, publication of innovations fostered technical advancement and thus was complementary to the grant of an exclusive right to the invention. Group B considered the publication of granted patents and patent applications to be an important source of valuable legal and technical information. The Delegation observed that the benefits of transparency were multiple. It might be rather obvious that inventors, patent examiners, researchers, business managers, economists and policy makers could draw from the information published. It however believed that far-reaching effects of patent information for public welfare and economic advancement was especially important for developing and emerging countries, which could not only benefit from the available knowledge derived from prior art but also identify potential licensing and technology transfer partners. Against that backdrop, Group B welcomed WIPO's activities to improve the availability of information on international applications and patents. In its view, the proposed web-based search service, the development of a cross language tool and the establishment of Technology Information Centers could improve the dissemination of patent information. The Delegation considered that such projects were good examples that reaffirm WIPO's leading role in the IP world by strengthening its core competencies as an international service agency for intellectual property matters.

33. The Delegation of the Czech Republic, speaking on behalf of the European Community and its 27 Member States, considered published patent applications to be an important source of valuable legal and technical information. Furthermore, in its view, patent information was essential for ensuring the quality of granted patents, for example, by searching the relevant state of the art prior to filing a patent application. The Delegation supported the view that the use of patent information by businesses was also essential for formulating their IP policies or making important business decisions. The Delegation noted that patent information within the patent procedure before and after granting,

namely, the standardized format of international applications, public availability of the contents of a patent application, access to the information about the changes in ownership, name, address or registered licenses, was an important element of the global patent environment. Moreover, the Delegation considered that the public availability and accessibility of a final court decision was also important for understanding the current legal status of a relevant patent application or patent. The Delegation welcomed the WIPO's activities relating to the centralized provision of information on international applications and patents. The Delegation was of the view that the establishment of a web-based service which would allow search and access to scientific and technical journals, development of a cross-language tool to provide the translation as well as synonyms or the establishment of Technology Information Centers could improve the dissemination of patent information. The Delegation reiterated its support to a WIPO digital access service to facilitate the exchange of patent priority documents. In its view, the study indicated certain possible directions for further development, such as establishing a one-stop portal for access to search and examination reports, to handle the increasing number of patent applications in a timely manner and to improve the quality of granted patents, or a reflection on the role of patent information for development in several recommendations of the WIPO Development Agenda. In conclusion, the Delegation expressed its support for any effort contributing to timely and as complete as possible dissemination of patent information. The Delegation observed that the EPO Register Plus on the epoline[®] web site is one of the several good models in disseminating patent information.

34. The Delegation of India observed that, especially from the small-scale industries' point of view, pieces of patent information scattered in different places were problematic. The Delegation, therefore, suggested that different patent Offices come together to create a win-win situation, which would help the small-scale industries especially in developing countries.

35. The Delegation of the United Kingdom associated itself with the statements made by the Delegation of Germany on behalf of Group B and the Delegation of the Czech Republic on behalf of the European Community and its 27 Member States. The Delegation highlighted the use of patent information as a tool for identifying inventions and technologies which might be of interest for licensing. In its view, such use should provide an avenue for facilitating technology transfer. The Delegation believed that that was particularly relevant in addressing current challenges such as the issue of climate change. With the aim to make it easier to identify relevant patent publications for those interested in that area. The United Kingdom had presented a classification proposal on environmentally sensitive technologies to the IPC meeting, on which a number of delegations expressed their willingness to give further consideration. Secondly, the Delegation strongly supported the suggestion to establish a portal for access to search and examination reports. That would greatly facilitate the efficient and timely processing of patent applications, as well as the improvement of quality. In particular, it would help make the global patent system more effective by avoiding duplication of efforts on equivalent applications and reducing backlogs.

36. The Delegation of Sri Lanka, speaking on behalf of the Asian Group, stressed the importance of the preliminary study on dissemination of patent information, as the issues had a direct link to the Development Agenda. In that regard, the Asian Group urged WIPO to explore the possibility of enhancing and expanding PATENTSCOPE[®] to create a global database of complete patent information that was free, easily accessible and user-friendly for LDCs and developing countries.

37. The Delegation of Serbia, speaking on behalf of the Group of Central Europe and Baltic States, stated that the issue of the dissemination of patent information was of special importance for the countries in the region. In the countries where economies were founded on the development of SMEs, the availability of technical information was of exceptional importance. The Delegation considered that the improvement of the digitalization of patent information to complete the electronic databases of patent information and granted patents enabled the easy accessibility to patent information which was of great importance for the development and improvement of SMEs.

38. The Delegation of Morocco stated that patent information was a source of technical information that could be regularly and continuously consulted, and enabled the promotion of research and

development (R&D) in business. It also assisted in knowing the international environment to follow-up of the trend and development of R&D. It was a precious source of information concerning the most recent technical progress. Easy access to such information could also contribute to stimulate national inventiveness, and that could be translated into an increase in investment and transfer of technology. The Delegation observed that, in that connection, its country was about to enhance the level of patents issued with an amendment to the relevant law. More specifically, a search report with an opinion on patentability which would help to get a better patent was proposed. The Delegation supported the proposal to disseminate patent information, in particular the databases with regard to search and examination. In its view, the dissemination of information played an important role in the innovation process, because it made it possible to generate new ideas and inventions, to use patents and to analyze freedom to operate. It supported also the creation of a database of patents which had fallen into the public domain.

39. The Delegation of South Africa stated that the only viable option to digitalize the country's patent documents was to become part of PATENTSCOPE®, and thanked the valuable assistance of WIPO. The Delegation suggested that Annex II to document SCP/12/3 Rev.2 be made available on the CLEA website which could possibly give rise to a new Comparative Law Section service within CLEA.

40. The Delegation of Algeria believed that WIPO should enhance its role concerning the assistance to the offices of developing countries for digitalization and registration of the patented information. The Delegation was concerned about the operation of the database, in particular, information included in the database. As indicated in paragraph 77 of document SCP/13/5, PATENTSCOPE® enabled free access to information contained in over 1.5 million applications for patents. Even if there were simple and advanced search functions, in its view, it was still difficult, in particular, for individual researchers and some businesses to retrieve relevant information. At the same time, with respect to business databases, the Delegation observed a cost problem. Questions such as how far international cooperation could advance and what the role of WIPO was to enable the offices of developing countries, the SMEs and the researchers from developing countries to access such database, were food for thought. The Delegation suggested that the diversity of languages used be also discussed given a shortcoming with automatic software translation. With respect to the Technological Information Center, the Delegation welcomed the pilot project and requested more information on that subject, such as how far the Technological Information Center could assist in promoting the transfer of technology and innovation. In closing, the Delegation observed that 15 offices responsible for PCT international preliminary examination could form a network so as to enable access to patent information.

41. The Delegation of Pakistan noted that according to the preliminary study, patent information could be useful for formulating an industrial policy as well as other policy areas in several ways, such as monitoring national technology performances, as an input into R&D policy, for encouraging efficient dissemination of technology and facilitating public-private partnerships. The Delegation, however, was of the view that even if patent information was sufficiently accessible for firms in developing countries, that assumed that developing countries had the necessary technological capacity to use the patent information for formulating their industrial and technology policies. The Delegation observed that, with regard to the patent information dissemination policy, the study stated that the wider national and international dissemination of patent information could result in a loss of control over the information by the authority that had created it. Therefore, the study suggested in paragraph 71 that patent information dissemination policies should take into account the right of patent offices to maintain rights on the use and re-distribution of their data, in particular to the right to receive income from the commercial use of the information. The Delegation stated that there was a need to clarify whether in relation to the use of patent information for conducting R&D work in accordance with research exemptions available under Article 30 of the TRIPS Agreement, that suggestion in the preliminary study implied that patent offices should restrain the use of information for R&D for commercial purposes. The Delegation observed that the preliminary study also stated that the invalidity of a patent should not be confused with the freedom to exploit the invention, since exploitation of the invention might not be possible without exploiting or infringing other valid patents. That meant that for

downstream innovation that might involve the use of multiple upstream technologies, some of which might be protected by patents. Consequently, the user must have information on the multiple patents involved. In its view, that could create a never-ending maze of patent information through which the user might have to go. In the opinion of the Delegation, such possibilities arose particularly due to the existence of patent thickets and patent trolls, making it particularly difficult, time-consuming and expensive for innovators in developing countries, in particular SMEs.

42. The Delegation of Canada fully associated itself with the statement made by the Delegation of Germany on behalf of Group B. The Delegation considered the timely dissemination of patent information that was comprehensive and readily accessible to be an important tool, supporting the promotion of social and technical advancement. As stated in the preliminary study, the technical and legal information that could be derived from patent information served a variety of function to a variety of users. The Delegation recognized the relationship between certain recommendations under the WIPO Development Agenda and the widespread access to patent-related information that would strengthen national capacities for analysis of said information and ultimately improve the quality of granted patents. The Delegation believed that improved access to information that led to a better quality product was a benefit to developed and developing countries alike. Consequently, it considered that the preliminary study and any subsequent work flowing from the associated discussion could result in a positive contribution for all Member States. In that light, the Delegation supported the current work undertaken by WIPO concerning the establishment of a web-based service which would allow search and access to scientific and technical journals with complete access being permitted to users from eligible developing and least-developed countries. It also supported the pilot project to establish Technology Information Centers to provide a diverse range of innovative support services, including increased accessibility of patent information. Additionally, the Delegation noted that the Canadian Intellectual Property Office had traditionally supported the greater dissemination of patent information by providing its expertise to WIPO in carrying out its patent information services program and the international cooperation for search and examination of inventions program. Furthermore, it stated that Canada was an active contributor to the enhancement of the international patent classification system in English and French languages which facilitated the efficient retrieval of patent information for both the examining offices and the general public. The Delegation believed that the dissemination of patent information, and particularly the establishment of a one-stop portal for national and regional search and examination reports, was an initiative that could provide the SCP with positive, tangible and practical results within a relatively short period of time. WIPO was set to launch on April 1, 2009, a digital access to a list of priority documents, which was essentially a database of patent documents to which applicants could request offices to upload priority documents and then permitted offices of subsequent filings to retrieve those documents with the applicant's authorization. WIPO's experience in the development of the digital access service and the utilization of the existing PATENTSCOPE® infrastructure could help to limit development cost associated with the establishment of a database of search and examination reports. The Delegation considered the issue of increased access and availability of patent information to be fundamental for the efficient functioning of the patent system. In its view, the timely and comprehensive dissemination of search and examination reports in foreign jurisdictions provided patent examination staff with an effective work-sharing tool to reduce unnecessary duplication of work and led to the timely granting of quality patent right, a result that had benefits for all involved.

43. The Delegation of Indonesia stated that the preliminary study addressed part of the essence of patent systems, i.e., the dissemination of information and, at the same time, revealed a gap in information dissemination which contradicted the essence of patent systems. The Delegation appreciated the activities and projects carried out by WIPO in the area of patent information, particularly of the so-called PATENTSCOPE®. To that end, Indonesia associated itself with the statement of the Asian Group made by the Delegation of Sri Lanka. In paragraph 26 of document SCP/13/5, it was mentioned that patent information could only be one factor in contributing to innovation with other pre-requisite factors, such as sufficiently effective technological base with an adequate transfer of skills and sharing of know-how playing an important role in the innovation process. The Delegation requested further studies elaborating that subject. The Delegation observed that, another area that needed further clarification concerned the public domain and data exclusivity,

particularly in pharmaceutical industries, since its IP Office, and possibly other IP offices, sometimes faced such issue.

44. The Delegation of Germany associated itself with the statement made by the Delegation of the Czech Republic on behalf of the European Community and its 27 Member States and the statement it had made on behalf of Group B. Supporting statement made by the Delegations of Canada and the United Kingdom, the Delegation supported a WIPO activity in establishing a one-stop portal for access to search and examination reports. Establishing a common database containing all office actions and search reports of national and regional patent offices would have the advantage of decreasing the applicants' burden and of allowing the utilization of previous work conducted by other offices without being compelled to do so.

45. The Delegation of France associated itself with the statements made by the Delegations of Germany on behalf of Group B and in its national capacity and the Czech Republic on behalf of the European Union and its 27 Member States. It observed that the dissemination of patent information was important in innovation and creating business strategies and industrial policies. The Delegation therefore expressed its willingness to facilitate dissemination of patent information by the French Industrial Property Office. The Delegation supported the incorporation of the national phase data concerning PCT international applications, particularly their search and examination reports, in the PATENTSCOPE®. It noted that digitalization of patent information allowed for priority documents to be easily exchanged between WIPO and national offices, and could be useful in consulting and exchanging search and examination reports at the international level.

46. The Delegation of Ecuador stated that the Secretariat's preliminary study would allow analyzing and reflecting on patent databases which it considered to be of great interest for its country. The Delegation noted that patent databases were used as part of technology dissemination even though in a somewhat limited way given the economic conditions of its country. While the PATENTSCOPE® initiative was important, the Delegation observed that other databases should also be taken into account, for example the Iberoamerican database by the Spanish Patent Office that included Latin American patents. The Delegation further noted that patent examination could be extended to search traditional knowledge databases that the countries had been or were enriching. The Delegation observed that there should be more information about the technology under patents, for example, a sort of Wikipedia could enable higher quality of examination when patent applications were considered. The Delegation observed that the quality of patents were equally important in developing countries where patents needed to have even more validity.

47. The Delegation of the Islamic Republic of Iran associated itself with the statement made by the Delegation of Sri Lanka on behalf of the Asian Group. It observed that the information contained in the document was useful and needed to be supplemented by more comments by Member States, elaborated and updated with regard to the efficient use of dissemination of information in the patent system. The Delegation considered that the technical information and different projects underway by WIPO described in the document were in line with the direction of providing technical infrastructure for dissemination of information in the patent system. In its view, achievement of the aim of dissemination of patent information, i.e., the improved innovation and the improvement of public welfare, by different Member States could depend upon the industrial basis and level of development of each country and its ability to absorb the information. The Delegation noted that the effective use of patent information could be achieved through the disclosure of patents, and that could be used by technical possibilities and abilities of the offices or relevant bodies of the government to arrange the information for economic use and for the ultimate aim of transfer of technology. Taking into account the very low share of developing countries in global patent registration, the Delegation found that it was notable that the rate of registration of international applications, in particular, in the field of new and emerging technologies that contained a shareable amount of information, was increasing. In that regard, referring to paragraph 31 of the document that described the importance of the use of such information in business, the Delegation considered it necessary to add more analytical information on the use of such information for developing countries. Regarding the patent information dissemination policy by patent offices for commercial use of information, the Delegation noted that, in many

occasions, a majority of natural persons or SMEs were not in a position to pay for the information. Thus charging for the information by the office might discourage the innovation in such circumstances in developing countries. Concerning the work undertaken by WIPO with regard to the Development Agenda, as well as the measures currently underway on the technical infrastructure, the Delegation welcomed those efforts and supported the engagement in and inclusion of developing countries, in particular, in the countries that acceded to the PCT. The Delegation further noted that the expenses of information in non-patent databases for developing countries were also one of the issues that needed to be taken into account. The Delegation noted that transfer of know-how or disclosure of full information by the patent holder might burden developing countries which might be required to pay high royalties that resulted in discouraging the innovation. The Delegation stated that WIPO could play an efficient role in organizing and providing the possibility of free access to databases and advise and assist developing countries in that field. The Delegation was of the view that the preliminary study should remain open for further inputs from Member States, IGOs and NGOs and other relevant circles to elaborate on the best mode to use patent information.

48. The Delegation of El Salvador considered that patent information should offer benefits not just to innovators and not just for motives of protection, but also to the society to promote development and innovation. In its country's particular case, through national initiatives, it had worked on dissemination of patent information for some time, particularly in cooperation with WIPO. It had participated in the university initiative which had great results, the SMEs initiative, and carried out, in its national office, a series of initiatives dealing with inventors, universities and SMEs. The Delegation appreciated the creation of the Technological Center, and expressed its wish to learning more about, and to participate in, that project. The Delegation was convinced that the Technology Center would go hand-in-hand with the above national activities. The Delegation affirmed that the university project, the dissemination of patent information and others had had wonderful results within the framework of cooperation with the European Patent Office, the Spanish Patent Office, the American Institute of Intellectual Property and WIPO.

49. The Delegation of the Russian Federation stated that document SCP/13/5 would be even more informative had it included issues concerning the specificities of patent applications at the national/regional level. It therefore suggested that, to achieve that end, the Secretariat develop a questionnaire to supplement the preliminary study. The questionnaire could include the following issues: what kind of information in applications was accessible to third parties and under which conditions, prior to the publication of applications, after the publication until the issue of patents, and after the issue of patents; can third parties access to correspondences submitted by applicants and what are the conditions for providing such information; what kinds of forms are being used by patent offices in their correspondence with applicants; how do patent offices handle personal data of the applicants when making the information accessible to third parties. The Delegation observed that such information would be useful for patent offices to ensure transparency for third parties, attorneys and other interested parties. The Delegation further noted its support to the creation of a portal for search and examination reports.

50. The Delegation of Japan associated itself with the statement made by the Delegation of Germany on behalf of Group B as well as those made by the Delegations of Canada, France, Germany in its national capacity, and the United Kingdom. The Delegation stated that the element of dissemination of patent information, which served various stakeholders including the patent offices and user groups, such as applicants or rightholders as well as the general public, was crucial for the global IP infrastructure. The Delegation welcomed WIPO's effort to offer PATENTSCOPE® search service on its website. It noted that the database did not only provide the contents of various international patent applications under the PCT, but also search reports prepared during the international phase. As was stated in the document, it was considered within WIPO that the PATENTSCOPE® be enriched by incorporating national phase entry data, especially search and examination reports drawn up during the national phase with regard to each PCT international application. The Delegation was of the view that, given the economic downturn on the one hand and enormous amount of duplicated patent applications around the world on the other, timeliness and high quality in patent prosecution had become an important issue more than ever. Therefore, the

Delegation welcomed WIPO's endeavor to further improve its PATENTSCOPE® database by adding relevant information during the national phase such as search and examination reports at each designated national office. In its view, such an endeavor would surely assist the practical cooperation mechanism through work-sharing among IP offices. The Delegation noted that, in its country, the National Center for Industrial Property Information and Training (INPIT), had been offering intellectual property information, including the prosecution history, through the website called "industrial property digital library" or IPDL since March 1999. That website was open to the public free of charge. The Delegation noted that the Japan Patent Office also provided other patent offices with information concerning its search and examination results which were machine-translated into English through its advanced industrial property network (AIPN) since October 2004. The information was at present used in 32 IP offices around the world. It hoped that its initiative, coupled with the efforts by other IP offices and WIPO would appropriately address the issue of improving the timeliness and quality in patent examination thereby contributing to the reduction of the backlog at many patent offices. Although document SCP/13/5 contained a lot of fundamental useful information, the Delegation observed that the environment surrounding the dissemination of patent information was changing rapidly. It therefore requested the Secretariat to keep the document updated and open for further comments and suggestions. The Delegation suggested that the Secretariat prepare, as an Annex to the document, for example, a catalogue or a table of various available databases or websites classified in categories, such as work-sharing etc. Referring to the intervention made by the Delegation of Bulgaria, the Delegation confirmed its suggestion made at the last General Assembly concerning a web-based one-stop service to share best practices regarding the successful linkage of business activities and IP with particular emphasis on those cases associated with developing countries, but failed to see how such suggestion would best fit into the working document at hand. While the current economic situation might affect the activity of the Secretariat, the Delegation assumed that the Secretariat would provide Member States with relevant information as appropriate in due course.

51. The Director General of WIPO thanked all delegations who had intervened and appreciated the convergence of interest that existed in that area, without prejudice to those delegations which had not yet spoken. He noted that the Organization had been carrying out a rich array of projects that related to patent information. For example, WIPO had digitalization and distribution projects with a number of countries, notably South Africa, Mexico with LATIPAT (the system for patent information for Latin American countries) Israel, the Philippines, the Republic of Korea, Singapore and Viet Nam, among others. With respect to those countries he had mentioned, the collections would become visible on the PATENTSCOPE® service in the middle of 2009, which would become a rich and important dimension to be added to PATENTSCOPE®. The Director General observed that WIPO had a number of projects in the context of the Development Agenda that related to patent information, or scientific information, for example, activities that had been proposed or projects with respect to patent landscaping, digitalization, databases on the public domain both in technology area and in the creative works area, and other projects for more specialized databases, particular scientific information. Another set of projects were the Technology Information Centers, the central idea of which was that they should seek to overcome the difficulties of access and utilization. The Director General noted that such difficulties could be overcome through the training of personnel and the setting up of a Center, which could be realized with a relatively small infrastructure and expenditure. He emphasized that all of those projects were compatible even though they were done across a range of fora within WIPO. In that respect, he welcomed the suggestion made by the Delegation of Sri Lanka on behalf of the Asian Group that WIPO should be aiming towards the establishment of a complete global database that would provide free public access. The Director General confirmed that WIPO was heading to that ultimate direction. Looking at the various projects that were underway within the Organization, he explained that the fundamental infrastructure would be provided, and the different databases mentioned earlier were accessed to the same database in different ways and for different purposes. Since data were not collected multiple times, there was no duplication. The Director General noted that one of the questions that should be reflected upon was the roles of various Committees with respect to many projects underway, for example, the CDIP, the SCP and the Program and Budget Committee in setting the Organization's overall direction, while all would ultimately fit under the strategic objective of global infrastructure. And one of the things to think about was the specificity of

addition of the Committee in that context. As the role specific to the SCP, he suggested, in a non-exhaustive manner, a project concerning a database or portal of search and examination reports, the role of general oversight of the patent information activities, such as a questionnaire regarding various office practices suggested by the Delegation of the Russian Federation. On the point raised by the Delegation of South Africa concerning CLEA service, the Director General explained that a project was underway within WIPO to improve that particular service. Regarding the best practices example given by the Delegation of Japan, he expressed his willingness to work together with the Delegation, and agreed that it was possibly a general question of communicating the utilization of intellectual property.

52. The Delegation of the Republic of Korea noted the importance of issues being discussed at the SCP. Among those issues, the Delegation believed that the dissemination of patent information had a particular meaning. This was because the patent system was designed to promote innovation and economic development, and especially at the time of economic downturn and the impact of climate change were becoming greater, the importance and the role of innovation for the economic development was increasing. The Delegation believed that the technology database could be a tangible basis of innovation in the sense that innovation mostly occurred upon the cumulated knowledge and that patent information was one of the systematically cumulated technological knowledge. In its view, the efforts to build a technology database in a global scale as well as in a national scale in developed countries were already on the right track. The Delegation noted that WIPO was on its way to collect patent information and to provide them in a global scale. It further observed that the IP Offices and private companies of developed countries had also achieved many improvements in this direction. As an example, the Delegation referred to the Korean Intellectual Property Office which had developed a machine-translation system to provide Korean patent information in English, enabling other patent offices to access the Korean patent information through that service. However, the Delegation was concerned by the fact that in developing countries and in the infant economies, there was significant lack of compiled data, and in many cases, the patent information stemming from the developed world did not meet the needs for the sustainable development of developing countries and the LDCs. The Delegation further stated that the level of patented technologies from the developed world did not respond to the needs of developing countries to build a systematically accumulated technological knowledge base for development. Therefore, the Delegation invited Member States of the SCP to expand the discussions to the area of intermediate technologies and to the technologies for development and for the basic needs of developing world such as, food security, water purification and energy matters in the further discussions. While noting that there was no doubt that the dissemination of patent information was a useful instrument for the innovation in a global and national level, the Delegation observed that that was not enough. The Delegation was of the view that coupling the patent information with the information of intermediate technologies would create the union of innovation and sustainable development and that union would accelerate the innovative activities in the local and village levels. The Delegation expressed its strong support of WIPO's initiative to establish technology information centers which was described in paragraph 94 of the study. As described in that paragraph, the Delegation continued, the strengthening the local technology base by building of local know-how and assisting the local users to create, protect, own and manage their intellectual property rights, as well as the inclusion of intermediate technology in the future work of the SCP would bring a concrete and tangible output in building a sustainable innovation base for the sustainable development.

53. The Delegation of Australia associated itself with the statement made by the Delegation of Germany speaking on behalf of Group B. In particular, the Delegation of Australia supported activities in technical assistance programs to assist in dissemination of patent information by electronic means. The Delegation noted that having electronically searchable databases assisted in increasing the use, value and availability of patent information for the benefit of nationals of each Member State. The Delegation encouraged efforts in finding solutions to access to databases for developing countries of patent and non-patent literature, as well as providing search services, developing capacity of offices to conduct searches, and the establishment of technology information centers. The Delegation supported the expansion of the WIPO PATENTSCOPE® database to include fully searchable national patent collections and for WIPO to be a central repository for PCT national phase entry information, in

particular national phase search and examination results, allowing all Offices access to that facility and the benefits provided. The Delegation supported the statements made by other delegations, in particular, by the Delegation of Bulgaria on the promotion of the use of patent information which warranted further investigation.

54. The Delegation of Mexico pointed out that the idea of a website to look for search and examination reports was very important. It informed that Mexico also had a project called LATIPAT which was supported by the Spanish Patent and Trademark Office, the European Patent Office and WIPO to create a service to access to search and examination reports. The project enabled the exchange of search and examination reports with the rest of the countries in Latin America. The Delegation stated that that type of projects on a wider scale would be very useful. The Delegation further observed that according to the experience of the Mexican Patent Office, people did not seek answers to the basic questions, but they posed specific questions, for example, on the feasibility of the use of the certain technology or how to avoid infringing somebody's rights. That was reported to be the direct results of the information services provided by the Patent Office.

55. The Delegation of Guatemala appreciated that the preliminary study on patent information, which was free and available for the use of patent Offices in various countries. The Delegation noted that, in Guatemala, PATENTSCOPE® was used extensively for search and examination purposes as well as for purposes of providing information to lawyers and examiners. Moreover, the WPIS system of WIPO was used in addition to what was mentioned in paragraph 11 of the preliminary study. The Delegation stated that in order to contribute to patent information availability through LATIPAT, the information was being digitalized; however, it was only available in Spanish. The Delegation further informed the SCP that, in April, they started a project of cooperation with universities, aimed at enabling them to use patent information, including basic information about patents, the international classification for patents and information on public databases such as PATENTSCOPE® and esp@cenet®. In conclusion, the Delegation stated that it was trying to promote innovation and development in order to increase national patent registration by its nationals, which at that time were less than 10%.

56. The Delegation of Chile noted the availability and usefulness of the patent information. In the view of the Delegation, the analysis of the subject required a serious consideration, in particular, supporting the dissemination of patent information in order to promote innovative capacity of various countries. The Delegation further observed that the issue was very important for developing countries and was considered under the WIPO Development Agenda. In its view, the capacity building was a great challenge for the establishment of technological infrastructures allowing more patent information dissemination. The Delegation considered that the coordination between the Secretariat and the national offices should be improved to support the work undertaken by the Offices for the better implementation of the system. Furthermore, it noted that the information systems should be inter-operable and search and examination for patents should be based on user-based technology. The Delegation stated that the benefits of a website with information about patents were obvious, particularly, for small and medium-sized enterprises. The Delegation, however, observed that the fact that patent information facilitated the analysis of examiners should not shadow the fact that examination has to take place in compliance with national laws. The Delegation suggested that, in addition to the six recommendations of the Development Agenda referred to in paragraph 40, recommendation No. 20 regarding public domain be also included. The Delegation stated that the issue of patent information could be studied in more detail so that accessibility and transparency of the patent information would be improved. It further noted that there was no legal status information such as which national patent applications had been successfully registered and in which stage those patent applications were. According to the Delegation, that type of information would be important for those who wished to use inventions which had not be under patent protection.

57. The Delegation of Brazil stated that it favored discussions on dissemination of patent information, which was a subject in line with the WIPO Development Agenda recommendation Nos. 8 and 9. The Delegation observed that the message of the Development Agenda was that dissemination of patent information must be addressed through the development perspective, i.e.,

dissemination of patent information must be pursued in a way supportive of development and transfer of technology. In that regard, the Delegation highlighted two aspects related to patent information to which it attached the utmost importance. First one, with regard to sufficiency of disclosure, the Delegation recalled that the patent system was designed to promote social welfare and technological advancement by encouraging innovation and the disclosure of information to the public. The patent system laid on a trade-off: the inventor was granted a market monopoly to exclusively exploit the invention; he had however to reveal the contents of the invention in a manner sufficient to allow a person skilled in the art to replicate it. The Delegation observed that, nevertheless, there were many situations in which inventors tended to disclose the invention in an insufficient way so that a person skilled in the art was unable to replicate the invention. In its view, many patent offices accepted insufficient patent claims, which led to the grant of monopoly rights to inventors without effective and diligent disclosure of the details of patented technology. The Delegation stated that the discussion about dissemination of patent information must be carried out in conjunction with the discussion about sufficiency of disclosure. It believed that any decision by the SCP to enhance the dissemination of patent information must be preceded by an in-depth analysis of the problem of sufficiency of disclosure. Second, with respect to accessibility, the Delegation considered that there were many projects that the WIPO Secretariat should carry out in order to promote access by developing countries to patent databases: digitalization, compilation of national legislations, extending PATENTSCOPE® services, patent landscaping, increase in access to public domains technology and many others as mentioned earlier by the Director General. When carrying out any of those projects, the Delegation believed that WIPO must take into account the problem of accessibility which had three main aspects. They are: access must be free of charge; IT tools must be user friendly; and the available information must be complete.

58. The Delegation of Colombia stated that it was difficult to find reliable information about the geographic scope and the legal situation of patents in the different parts of the world. Further, the Delegation raised its concerns about the diversity of languages in the prior art which resulted in a big volume of technical information available only in some of the languages of other continents. The Delegation observed that such a situation made access to the information more difficult for the private sector and made the search of prior art more complex. Regarding the functions of the public and the private sector, the Delegation noted that it was mentioned in the document that the private sector should encourage the dissemination and use of patent information, while the patent offices should have the prerogative to maintain rights about the use and the re-distribution of those data. Referring to the efficient use of patent information, the Delegation observed that patent information was not used in the way it should be used in developing countries. The Delegation noted that document SCP/13/5 took the characteristics of such issue into account, and the possible weakness of the system given the different types of users and their different spheres. Furthermore, the Delegation expressed its satisfaction with the reference to recommendation No. 8 of the WIPO Development Agenda in paragraph 83 of the document.

59. The Delegation of the United States of America supported the statement made by the Delegation of Germany on behalf of Group B as well as the statements made by the Delegations of Canada, France, Germany in its national capacity, and the United Kingdom. The Delegation believed that, in addition to stimulate innovation, investment and technology transfer, one of the most important benefits of the patent system was the dissemination of technological information for the benefit of all countries regardless of the level of development. In its view, the patent system delivered to society a wealth of knowledge in every patent upon publication, which promoted the development and improvement of technology and discouraged the duplication of unnecessary research. It observed that WIPO already played a critical role in patent information dissemination through its PATENTSCOPE® search service for PCT applications. However, for applications that were filed via the Paris Convention route rather than the PCT, there appeared to be a room for improvement in the dissemination of information. Welcoming the WIPO digital access service which would help IP offices and applicants obtain patent information for PCT and Paris route filings, the Delegation stated that further study on, and development of, a similar mechanism for the access and exchange of search and examination reports were warranted. Referring to the efforts by the trilateral and IP5 in undertaking work on a project entitled “Common Access to Search and Examination Results”, the

Delegation believed that the project held great promise in helping patent applicants, small and large IP offices and the general public by streamlining patent examination and grant, and facilitating work sharing among IP offices and looked forward to continued study and work on those issues with other IP office partners and within WIPO.

60. The Delegation of Paraguay stated that it fully recognized that published patents were an important source of valuable technical information which did contain legal information as well. The Delegation explained that, while many efforts had been made in its country to disseminate patent information, it was still widely unknown and was not used as much as it should. The Delegation associated itself with the Delegation of Algeria, appreciated WIPO's support in digitalization of documents, and supported fully the creation of a free and easily accessible global database.

61. The Delegation of Sri Lanka, speaking in its national capacity, requested WIPO to develop a study containing information about royalty data of patent holders. Complete data on royalty extended to companies and business ventures would particularly enhance information and capacities of the governments on business transactions. It would also assist small-scaled business in developing countries to use as a tool in the decision making process. It observed that WIPO, working closely with the industry, was the best place to carry out such service as the dissemination of information.

62. The Delegation of Cuba stated that dissemination of patent information was particularly relevant for developing countries and for LDCs. The Delegation supported the continuation of the work to facilitate access to such information, which could be the creation of a database, accessible free of charge. It shared the concerns about the obstacles in connection with the cost and infrastructure, which often made access to patent information difficult or sometimes prevented it. It believed that WIPO could play an important role in the search for a solution. The Delegation noted that the first symposium for IP authorities to be held in September 2009 would deal with the development of the infrastructure of industrial property.

63. The Delegation of Denmark associated itself with the statements made by the Delegations of Germany on behalf of Group B and the Czech Republic on behalf of the European Community and its 27 Member States. The Delegation stated that it recognized the importance of access to patent information for both private companies and patent offices. It therefore supported the various initiatives that WIPO had already taken to improve access to patent information. It also supported the new initiatives proposed in document SCP/13/5, for example, to create an extended portal with patent information, and the development of a cross-language tool. The Delegation believed that such tools could benefit both large and small patent offices and that they could contribute to promote work sharing, which was important in order to deal with the work load and challenges faced by patent offices around the world.

64. The Delegation of Pakistan raised a concern regarding the utility of information disclosed in patent applications. The Delegation was of the view that for developing countries which were at a different stage of development from the developed countries, such information might not be enough for an effective replication of inventions or the effective utilization of the information disclosed in the patent applications. The Delegation therefore suggested that the Secretariat look into that aspect in its further studies.

65. The Delegation of Uruguay stated that in view of the complexity and the importance of the problems that had impacted on the patent system, it was necessary to continue and widen the work. The Delegation also observed that the extent of openness that had been shown by offering access to different visions enriched the task and reinforced the position of WIPO in advancing the patent system. The Delegation recognized the importance of the dissemination of patent information, specifically for developing countries, and stressed that access to such information was a problem in developing countries. In its view, not only the access to patent documents but also to the added value of extra information, which often was in private databases, was problematic due to their exorbitant cost for developing countries. The Delegation observed that WIPO's projects in creating databases contributed to an effort to closing the gap and to make access to information more democratic, which

had a fundamental value *per se*. Noting the importance of non-patent information to understand the prior art in certain areas, the Delegation informed the Committee an initiative of the recently created Agency of Investigation and Innovation of Uruguay, which had been spending two million dollars per year to create a website which contained a series of databases freely available to national researchers, offices, development sectors and research sectors. The Delegation observed that such a national example could be borne in mind, along with other initiatives, in designing a WIPO project of the same kind. Regarding the databases and websites which would be of common access, the Delegation considered that not only the creation of databases but also easy access interfaces were extremely important, especially for developing countries. If information was available on the web, it had to be accessible to obtain the relevant information. Referring to the initiative to create a website with different databases for search and examination reports, the Delegation stated that such fundamental technology evaluation information would be extremely valuable for those who sought information about the value of the technologies contained in the different patent documents. The Delegation further stressed the importance of ensuring access to such information by many offices with a view to finding a solution to the backlog problems and to avoid overlap of efforts and a long pendency period to grant a patent.

66. The Delegation of the Dominican Republic appreciated WIPO's cooperation regarding the dissemination of patent information and the capacity building in the area of patents. It recommended the strengthening of logistics of those programs in order to step up as quick as possible the cooperation projects on digitalizing patents and published applications, the installation of Technological Information Centers in IP offices in developing countries and LDCs as well as the training of the personnel who would administrate those Centers. The Delegation supported the creation of an easy, accessible, complete and free web portal which would contain all of the information about patents and results of patentability examinations done by different IP offices. Further, the Delegation stated that a non-patent database was useful information for industrial property offices as well as for inventors and SMEs.

67. The Representative of the EPO noted that document SCP/13/5 cast sample light on the various aspects of dissemination of patent information, the value of patent information as such and its significance for many stakeholders within a knowledge based society, including the general public and the offices. The Representative associated itself with the statements made by the Delegations of the Czech Republic on behalf of the European Community and its 27 Member States, Germany on behalf of Group B and in its national capacity, the United Kingdom and the United States of America. The Representative welcomed the initiative to address issues relating to dissemination of patent information with a view to promoting a common understanding regarding its potential uses, for example, in the context of research and development, market analysis, patenting strategies and technology transactions. The statistical analysis of patent data could allow conclusions to be drawn about the economic significance of patent application and patents. The Representative stressed the importance of the potential use of patent information in the context of enhanced cooperation among offices by means of utilizing each others' work results. Particularly, the Representative encouraged the Committee to constructively explore avenues towards the alignment and the simplification of the existing technical environments and tools in order to facilitate a wide dissemination of patent information. With reference to the preliminary study, the Representative welcomed the consideration of measures towards enhancing the accessibility of available work results and, in addition thereto, the building of confidence in the use of each others work. The Representative explained that the EPO, as a major data producer itself, was continuously trying to improve and simplify access to raw data. Consequently, the EPO patent information policy had recently been modernized and patent information was now being made available either at a very marginal cost or even free of charge, for example, by web services such as esp@cenet@ or the publication server.

68. The Representative of ARIPO stated that ARIPO had signed a series of agreements with other patent offices of the Member States of WIPO for the cooperation and support in the field of patent information. As a result, the Representative explained that ARIPO had already started setting up IP units in institutions and universities in its Member States. In order to facilitate access to patent information in those institutions, he hoped that WIPO and other offices would fully support the efforts

by ARIPO and other developing countries in making patent information available. Further, ARIPO used search and examination reports, particularly those of the EPO, in its examination process. Therefore, the Representative considered that access to search and examination reports of other offices would be helpful to ARIPO and small patent offices, and hoped that the proposal would lead to tangible results.

69. The Representative of the GCC sought information about patent applications, at the regional and national levels, which had not been published 12 months after the filing of the applications or any information about offices which did not publish applications.

70. In response, the Secretariat noted that it could provide lists of offices which did not publish or lay open patent applications at 12 or 18 months. Regarding the second part of the question on unpublished patent applications, the practices of different offices were documented in different resources made available by WIPO.

71. The Representative of KEI stated that he concurred with document SCP/13/5 on the point that the difficulties in accessing patent status information increased legal uncertainty and hindered an efficient decision making by companies and policy makers, since the validity of patents had consequences with regard to negotiations and decisions on the possibility of concluding voluntary licensing agreements, granting compulsory license or manufacturing or importing of patent products. For detailed written comments on that issue, he referred to pages 14 and 15 of Annex III of document SCP12/3 Rev.2. The Representative observed that the SCP could explore the creation of a multilateral mechanism administered by WIPO to share information on disputes over patent quality. That could include the creation of a database possibly associated with the PCT or through a separate instrument. The database could include information about administrative actions such as patent re-examinations as well as private litigation between parties including both cases decided by the courts and those privately settled. The Representative further suggested that the SCP consider minimum standards for transparency of such disputes and placing the burden of disclosing information on patent challenges on patent holders. The sanction for non-disclosure could be the non-enforcement of patent rights. The Representative explained that that was an approach used in the United States of America when patent holders failed to disclose the US government rights in the patent database upon government funded research.

72. The Representative of ALIFAR observed that, unfortunately not all patents were published in a sufficiently clear and comprehensive way, that not all offices were as vigorous as one should be, and that the patents were not necessarily a very reliable source of technological information. The technological value disseminated depended on the technological maturity of the various countries, and that in turn had certain consequences regarding the use of the available information. The Representative noted that evaluation of patent information did not always make sure that the technology was not the subject of an application for a patent under way. In her view, there was a legal uncertainty. As regards the question of the interpretation of the scope of claims, the Representative noted that a broad claim could raise doubts in the mind of third parties on the subject of protection, which was an added difficulty for the operation of the system. The Representative stated that that question had to be linked with the increasing number of patents applications regarding the same subject or in the same patent families. The Representative observed that, in the pharmaceutical sector in Latin America, it could not be said that the information conveyed in the patents was a tool enabling the national industry to get in touch with the patent holder to negotiate a license or an agreement on the transfer of technology.

73. The Representative of FICPI noted that the dissemination of patent information was very important, particularly in view of transfer of technology to the countries concerned, but also to IP national offices and, within the framework of the PCT, on establishment of common search files for international searching authorities. The Representative drew the Committee's attention to the important issue of quality of patents, which was important for patentees and third parties. In his view, prior art search by inventors before filing a new application was one of the measures for reducing the total number of backlog. The Representative supported the pilot project on establishment of

Technology Information Centers furnishing patent information services, as well as a wide range of innovations and invention support services. With the view to avoiding duplication of work, he considered that data stored should cover all prosecution history of examination procedures before IP offices, which was useful for patent attorneys from their users' point of view. In addition, the Representative noted that the international patent classification (IPC) was an important searching tool.

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