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ASSEMBLIES OF THE MEMBER STATES OF WIPO

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AGENDA FOR DEVELOPMENT OF THE INTERNATIONAL PATENT SYSTEM: STUDIES ON THE IMPACT OF THE SYSTEM ON DEVELOPING COUNTRIES

Memorandum of the Director General

1. At their thirty-sixth series of meetings, the Assemblies considered a memorandum of the Director General that identified pertinent issues relating to the future development of the international patent system (document A/36/14). The Director General's objective in putting the "WIPO Patent Agenda" forward for discussion was to prepare a coherent orientation for the future evolution of the international patent system designed to ensure that the work undertaken by the International Bureau and by Member States in their cooperation with the Organization was directed towards achieving a common goal.
2. A particular aim was for the international patent system to become more user-friendly and accessible to a wide variety of innovators, including small and medium-sized enterprises and inventors in developing countries. Another key element was the achievement of a balance between the rights of inventors, researchers, consumers and other groups affected by the patent system, to achieve a greater overall benefit from the system, noting that developing countries may have different needs to industrialized countries.
3. The WIPO General Assembly, the Paris Union Assembly and the PCT Assembly noted the contents of document A/36/14 and approved the proposals contained in paragraph 42 thereof for further work, which would take into account the views expressed by the Member States, including the request for a study by the Secretariat of possible implications of the proposal on developing countries (see document A/36/15, paragraphs 194 to 222).
4. The Director General then invited written comments from governments, organizations and users of the system and, in March 2002, convened a Conference on the International

Patent System to discuss the main issues and challenges. The main issues and conclusions of that exercise, together with certain options which might be adopted from it, were presented to the thirty-seventh series of meetings of the Assemblies in document A/37/6, which was discussed and noted by the WIPO General Assembly, the Paris Union Assembly and the PCT Assembly (see document A/37/14, paragraphs 320 to 375).

5. During the discussion of the matter at the thirty-seventh series of meetings, the Director General reiterated his commitment to the undertaking of a study on the impact of the patent system on developing countries. The Director General subsequently commissioned the undertaking of studies by four independent experts from different regions and backgrounds. Following consultation between the Secretariat and the regional groups on the scope of the studies, the terms of reference set out in the Annex were formulated.

6. The following experts were commissioned to prepare studies:

– from Africa:

Mr. Getachew Mengiste, Acting Director General, Ethiopian Intellectual Property Office;

– from the Arab region:

Mr. Aziz Bouazzaoui, Director, Moroccan Industrial and Commercial Property Office;

– from Asia:

Ms. Ng Siew Kuan, Elizabeth, Associate Professor, Faculty of Law, National University of Singapore;

– from Latin America:

Ms. Deborah Lazard, an independent scientific researcher, formerly Divisional Director of Patents, Mexican Institute of Industrial Property.

7. The studies, in which the views expressed are those of the authors and not necessarily of the Secretariat, are being made available as addenda to the present document (that is, as documents A/39/13 Add. 1 to Add. 4). They should, as the work of experts from different regions and backgrounds, with a variety of disciplinary points of view, together provide a more global perspective on the issues involved, and they represent a valuable contribution to ongoing discussions relating to the WIPO Patent Agenda.

8. The WIPO General Assembly and the Assemblies of the Paris and PCT Unions are invited to take note of, and express their views on, this document and the studies published in documents A/39/13 Add. 1 to Add. 4.

[Annex follows]

STUDIES ON THE IMPACT OF THE
INTERNATIONAL PATENT SYSTEM ON DEVELOPING COUNTRIES:

TERMS OF REFERENCE

I. *Scope of the Study*

The study should assess the main implications on developing countries of the international patent system (IPS) and of the various options for its future development. It should explore the alternatives that developing countries might take advantage of in order to ensure that future developments in the IPS will address their needs. It should also analyze the links to other negotiation processes related to this topic that are taking place in other forums, especially the World Trade Organization (WTO). It should refer to documents considered so far by member States of the World Intellectual Property Organization (WIPO) and to the discussions by those States (see documents A/36/14 and 15 and A/37/6 and 14). Finally, it should include a brief analysis of other studies on the topic, particularly the report released in September 2002 by the UK Government's Commission on Intellectual Property Rights (CIPR) and the working paper published in November 2002 by the South Centre.

II. *Features and Methodology*

The study should be an original work that will contribute to a better understanding of the impact of the IPS on developing countries. It should be based on a solid analysis canvassing the main issues surrounding the subject from a global perspective, but reference to regional cases or examples is encouraged. An interdisciplinary approach should be followed, to the extent possible, in order to keep a broad perspective on the issues. Statements and positions should be evaluated and expressed objectively in terms of their basis on the available facts; the study should not be, and not be seen as, a vehicle for the expression of subjective points of view.

[End of Annex and of document]