

WIPO General Assembly

Forty-Sixth (25th Extraordinary) Session Geneva, September 22 to 30, 2014

REPORT

adopted by the General Assembly

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/54/1): 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 23, 26 and 27.
2. The report on the said items, with the exception of items 9, 11, 13, 14, 15, 16, 17 and 23, is contained in the General Report (document A/54/13).
3. The reports on items 9, 11, 13, 14, 15, 16, 17 and 23 are contained in the present document.
4. Ambassador Päivi Kairamo (Ms.) (Finland), Chair of the General Assembly, and, in her absence one morning, Mr. Mikhail Khvostov (Belarus), Vice-Chair, presided over the meeting.

ITEM 9 OF THE CONSOLIDATED AGENDA

REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)

5. Discussions were based on documents WO/GA/46/1 and A/54/5.
6. The Chair invited the Chair of the WIPO Independent Advisory Oversight Committee (IAOC) to introduce document WO/GA/46/1.
7. The Chair of the IAOC, Mr. Fernando Nikitin, introduced himself and the two other members of the IAOC present at the General Assembly, namely Ms. Mary Ncube, Vice-Chair, and Mr. Gábor Ámon, Member. The Chair of the IAOC made the following statement:

“I am very pleased and honored to be before the General Assembly plenary today to introduce to you, in my capacity as Chair of the IAOC, the IAOC’s annual report which is contained in the document WO/GA/46/1. This annual report covers our activities from September last year to August 2014.

“At the outset, let me recall that the IAOC is an external expert advisory body with no executive or operational responsibilities other than the ability and the authority to make recommendations to Member States of the General Assembly, to other governance bodies, and also to the Secretariat. We are basically seven expert members who operate in our personal and professional capacity. We do not operate in the name of any country or Group. Our work is on a voluntary *pro bono* basis. It is important to mention this to clarify our *modus operandi*. Our main objective, as mandated by the General Assembly, is to assist Member States in the oversight of this Organization.

“Madam Chair, following the General Assembly’s appointment last year, the IAOC welcomed three new members, namely Mr. Gábor Ámon, who is with us today, and Mr. Egbert Kaltenbach and Mr. Zhang Guangliang. I take this opportunity to thank once again the three departing members from last year, who were Ms. Beatriz Sanz-Redrado, who was a former Chair of the Committee, and Mr. Kjell Larson and Mr. Ma Fang, for their service.

“I would like to mention that you have before you one particular topic, which is the improvement to the Internal Oversight Charter, which is a separate document, and I would like to recognize that the reforms reflected in that document were initiated at the time of the former membership, particularly with the contributions of Mr. Kjell Larson and Ms. Beatriz Sanz Redrado. It has been a long-standing effort of the Committee, and not just of the current membership but also the previous membership, and I would like to pay tribute to that.

“As of today, I am already very pleased to report to you the overall comfort with the induction process that took place at the beginning of the year for the new IAOC members, and, more importantly, to emphasize that the Committee continues to retain, and has even strengthened, the necessary collective skills, expertise and collegiality expected by Member States.

“On a personal note, and also on behalf of the IAOC’s Vice-Chair, Ms. Mary Ncube, I would like to thank the IAOC members for their confidence in re-electing both of us to serve as Chair and Vice-Chair for a second year and, in particular, during this period of time.

“On substantive matters in the report, I will turn first to the IAOC’s proposed revisions to the Internal Oversight Charter that I mentioned before. At its last session, the Program and Budget Committee (PBC) approved those revisions with some amendments

suggested by Member States. The IAOC welcomes the PBC's proposal, which is now before you, the General Assembly. We look forward to the General Assembly's proper consideration of the revisions and stand ready to provide our expert advice to Member States to aid in their consultations as requested by the PBC in its resolution.

"I turn now to a second substantive matter in our report, which is external audit, and I recognize the External Auditor who is with us today in the plenary, and I would like to thank the External Auditor for that.

"Here, I would begin by recalling that, under its mandate, the IAOC usually exchanges views with the External Auditor and provides comments to the PBC on the External Auditor's report to facilitate the PBC's report to the General Assembly. To fulfil that mandate, we actually met with the External Auditor twice during this reporting period: once early in the year to discuss the 2014/15 work plan of the External Auditor and again we met with them at our last session, which was in August just before the PBC, to review the external audit report at that time.

"At that time, we noted that the External Auditor had issued an unqualified audit opinion on the Financial Statements, which is a positive outcome, and we also suggested to the External Auditor some possible enhancements to the external audit report. We also discussed with management certain recommendations at length, including topics such as the reserves, the accounting of PCT fees, formulation of WIPO country assistance plans and cost-benefit analysis for future construction projects. With regard to the reserves, we welcome management's initiative to clarify their use through a review of the WIPO reserves policy, as it was presented to the last PBC.

"Madam Chair, the IAOC also welcomes the improved quality of information in the 2013 Financial Statements and in the Program Performance Report for the 2012/13 biennium. At the same time, we have expressed our concern with respect to the number, the volume and some redundancies in the content of the reports submitted to Member States in the area of finance and program performance. In this context, the IAOC fully supports the Secretariat's efforts and its proposal for a process of reform and enhancement of program performance and financial reporting, as it was presented to the last PBC.

"I turn now to internal oversight and the work of the Internal Audit and Oversight Division (IAOD), directed by our colleague the Director, IAOD, who is with us today in the plenary, and including the different functions under his responsibility, which include internal audit, evaluations and investigation.

"During the period, we noted with satisfaction that IAOD's 2013 work plan was fully implemented and that the current 2014 work plan was on target as expected. We also welcomed a fraud risk assessment, in particular, carried out by IAOD, which we expect will lead WIPO to increase its efforts to enhance the prevention, deterrence and detection of fraud and corruption incidents.

"The IAOC also welcomed the positive results of external quality assessments of the internal audit and the evaluation functions, respectively, that were conducted this year. This is certainly a very positive outcome for these two particular oversight functions and the Committee will continue to follow up on implementation of recommendations issued as part of those reports.

"Continuing with the follow-up of oversight recommendations during the period that we are discussing, the IAOC made a number of suggestions to improve even further the follow-up process and to integrate this process into the overall risk management approach

of this Organization. As regards Joint Inspection Unit (JIU) recommendations specifically, we have noted the early preparation by management of the respective action plans and the progress that has been made in addressing some of the older JIU recommendations. The IAOC will continue working on this topic, as it was mandated to by the General Assembly last year.

“I turn now to the New Construction Projects. At the outset, I cannot, of course, let this moment pass without adding our sincere congratulations on the inauguration of the New Conference Hall. The IAOC has been involved in both this Project and the New Administrative Building Project from their inception, as mandated by the General Assembly, and through our review of different management progress reports and the reports of the internal audit function and the External Auditor.

“Madam Chair, the IAOC has witnessed the level of dedication, commitment and hard work that it has taken to turn ideas from the abstract into a concrete reality, and here I should say also into a ‘wood’ reality. We sincerely commend the Secretariat on the completion of this technically complex building, and look forward to continuing our engagement with management as we continue to follow-up on related recommendations.

“Speaking about capital projects in general, I would also like to highlight the IAOC’s review during this period of the WIPO Capital Master Plan, which was actually approved by the PBC in the year before but, after the fact, the IAOC felt that there was a need to refine some aspects of that Plan. We made a number of suggestions to enhance the information that this document was providing to Member States, which actually were very well-received by Management and which were already incorporated in the current process and will be, for sure, presented to Member States in future submissions of the Capital Master Plan. I think there was a substantial improvement in the quality of the information that was discussed in that document.

“Turning now to the ethics topic, I would like to make a pause here and to pay tribute to Mr. Avard Bishop, who was the Chief Ethics Officer of this Organization and who passed away during the year. We pay our respects to him today.

“Speaking about ethics, and as noted in our annual report, the IAOC stands ready to review and provide its advice on a proposed new WIPO financial disclosure policy. We also feel that the annual work plan of the Ethics Office could benefit from our review and advice prior to its approval. A final point relates to the independence of the ethics function. After certain discussions among members of the Committee in our session, we arrived at the conclusion that we would like to suggest that the Annual Report of the Ethics Office could be issued as a stand-alone report rather than as an annex to the Report on Human Resources. This is just to increase its relevance and importance.

“On the topic of human resources in general, we also noted with comfort the Annual Report on Human Resources by the Director of the Human Resources Management Department. In particular, we noted the efforts proposed to address the concerns of Member States with regard to equitable geographical representation at WIPO.

“The last point completes my presentation on our annual report, and it only remains for me to express our thanks. We would first like to thank the Director General and WIPO staff with whom we have interacted, in particular for their availability, openness and timely provision of information, that enabled us to fulfil our mandate as expected. We also thank Member States for their interest in our work and the questions and the information and the comments that they have raised during different IAOC quarterly information sessions and, in particular, during the last session of the PBC.

“Madam Chair, I would like to conclude this statement with a final recollection, which is related to the meeting that took place between you, in your capacity as Chair of the General Assembly, at the beginning of the year, when the new membership of the IAOC was in place, which was in March this year, and which served to emphasize the Member States’ highest expectations for this Committee as regards its professionalism, independence and expert advice.

“The IAOC greatly valued the time that you took to meet with us, and the exchange of views that took place, including on the IAOC’s role in promoting transparency and openness in the Organization.

“Madam Chair, it is a privilege and an honor to serve on this Committee, and as the Organization continues to move forward towards ever greater openness and transparency, you may rest assured that the IAOC remains ready to play this important role in this Organization.”

8. The Delegation of the United States of America thanked the IAOC for its informative report and the attention that the Committee had given to revisions to the Internal Oversight Charter. It believed that the foundation documents for all aspects of WIPO’s accountability and oversight framework should be reviewed regularly to ensure that they were relevant and comprehensive. It, therefore, appreciated the effort that had gone into this exercise. It was particularly supportive of the proposed revision that called for public access to IAOD audit and evaluation reports. Organizations across the United Nations (UN) System had been taking similar steps towards greater transparency. For example, in 2012, the Executive Boards of several UN Funds and Programs – the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Office for Project Services (UNOPS), UN Women, the World Food Programme (WFP) and the United Nations Children’s Fund (UNICEF) – had adopted decisions to disclose their internal audit reports by the end of 2012. In April 2013, the UN General Assembly had followed suit with a decision by Member States to authorize public disclosure of reports of the Office of Internal Oversight Services on a trial basis through December 2014. This action had extended to the United Nations Environmental Programme (UNEP), the United Nations Office on Drugs and Crime (UNODC) and UN Habitat. The United Nations Educational, Scientific and Cultural Organization (UNESCO) posted final evaluation reports dating back to 2002 as well as their annual evaluation plans. During the PBC session two weeks ago, the Delegation had recommended several additional revisions that it felt would clarify the functions of the Oversight Charter, as well as some new provisions that it believed were necessary to fully achieve a level of transparency and accountability necessary for Member States to accomplish their obligation for oversight of this Organization. One of the Delegation’s recommendations had been to extend the policy of increased transparency to final investigation reports as well. Regarding ethics, it agreed with the IAOC’s suggestion that future reports of the Ethics Office should be presented to the PBC as a stand-alone report rather than as an Annex to the report on human resources. The Ethics Office was an important element of the accountability framework of any organization and there should be sufficient time allocated to discussing the work of the Office, particularly related to outreach and training efforts and the types of inquiries received. The Delegation believed that the position of WIPO Chief Ethics Officer was a vitally important position and that it hoped to see it permanently filled by a highly qualified individual as soon as possible. It also encouraged the Ethics Office to share its annual work plan with the IAOC prior to finalization, as the IAOC could provide insight into potential weaknesses in the internal control framework and could add a different perspective for the direction of the work of the Ethics Office. The Delegation said that Member States were ultimately responsible for effective oversight of WIPO. The United States of America took that responsibility seriously and it believed that fellow WIPO Member States shared its commitment to making the Organization more accountable to its Member States. It hoped that suggestions for improving transparency could be reflected in the final oversight product.

9. The Delegation of Mexico thanked the Chair of the IAOC for his very substantive report. Member States had had long and constructive discussions on this during the PBC. It did not wish to go back over the details but did wish to thank all the members of the IAOC for the excellent work done over the past few years. It hoped that the IAOC would continue to provide such results to the GA. The Delegation wished to support the decisions proposed by the PBC and to urge the Secretariat to continue to take all possible and necessary measures to respond to the suggestions of the Committee.
10. The Delegation of Iran (Islamic Republic of) said that the issue of audit, oversight and governance in WIPO were of the utmost importance to its Delegation. It was crucial that WIPO, as a UN specialized agency, maintained an efficient, credible and fully empowered system of audit and oversight to ensure governance, accountability and transparency in the Organization, as well as to safeguard effective and efficient management to fulfill its mission as agreed upon by Member States. In this regard, the Delegation wished to emphasize the importance and relevance of the recommendations made in the report of the External Auditor for mainstreaming the Development Agenda (DA) in the work of WIPO. For instance, the External Auditor had recommended to the Organization to clearly define development expenditure and formulate a method for determining development share under each Program and activity so that the effectiveness of the development mainstreaming exercise could be assessed objectively. Having a clear and precise definition of development expenditure would certainly assist the allocation of budget resources among the regional bureaus and other substantive Program sectors to be more balanced and more in line with implementation of the DA. Against this background, the Delegation strongly supported the implementation of those recommendations. It also deemed it extremely useful that the Secretariat implement the IAOC and the IAOD recommendations, taking into account the comments made by Member States in the PBC report.
11. The Delegation of India thanked the Chair and the other members of the IAOC for their written as well as their oral report. It noted with interest the IAOC's proposed revisions to the Internal Oversight Charter which had been approved during the PBC meeting. It believed that this would promote greater transparency and accountability in the Organization leading to better governance. The Delegation of India was interested in receiving more detailed comments from the IAOC on the implementation of the JIU recommendations for review by WIPO legislative bodies, as well as the JIU's Review of Management and Administration in WIPO, and also those in the report of the External Auditor, in their future presentations. It also appreciated the WIPO Secretariat agreeing to issue a separate annual report on the Ethics Office, as a stand-alone report for submission to the PBC in the future, which was one of the recommendations of the IAOC.
12. The Delegation of the Republic of Korea wished to take this opportunity to thank the Secretariat, the Member States and especially the IAOC for all their valuable and professional efforts regarding the revisions of the Internal Oversight Charter. It believed that the revisions of the Internal Oversight Charter served to enhance the transparency and clarity of oversight activities and procedures.
13. The Delegation of Estonia thanked the IAOC, both those members present and those not present today. Having read the IAOC report to the General Assembly, the Delegation had a question. It asked whether the IAOC had discussed, at its last meeting in August i.e., at its 34th session, the reports prepared by the IAOD on the ongoing investigations that were initiated as a result of reports by Deputy Director General Mr. Pooley, which had been discussed and mandated by the Committee at its 33rd session in May. If yes, the Delegation asked what conclusions had been reached and why they had not been reflected in the report contained in document WO/GA/46/1. If not, the Delegation wished to hear a clarification as to why no follow-up was requested as sufficient time had been available. It had also heard that the reports had been ready in August.

14. The Delegation of Belarus thanked the Chair of the IAOC for his detailed report and congratulated him on his work. It said that the report itself did not give rise to any issues for the Delegation. It wished to make a comment with regard to the questions raised by the Delegation of Estonia. As a Regional Group, the Group of Caucasian, Central Asian and Eastern European Countries (CACEEC) was not convinced that the General Assembly should actually consider this sort of issue. It was rather persuaded that an effective, transparent system was needed, which had rules that ensured the proper balance between transparency with respect to Member States and confidentiality for those involved in the process. It was known that Member States were able to receive any necessary information through briefings and other existing mechanisms. It did not really think that the General Assembly should be involved in these sorts of questions because an internal investigation might lead to politicization of an issue. It would, perhaps, not be expressing trust in the Director General. It, therefore, thought that this did not belong to the functions of the General Assembly. The Group believed that the current procedures gave the necessary transparency. On the basis of the various briefings in the course of the PBC, sufficient information was provided so as to ensure that the process was conducted in the proper manner and gave sufficient basis for expressing trust in the Director General. The Delegation, therefore, thought that this was not the right place to raise this also given the heavy agenda of the General Assembly.

15. The Chair of the IAOC said that he had taken note of all the comments and he thanked Member States for their expressions of appreciation for the IAOC's work. He had taken particular note of one request concerning the desire for more detailed information about the JIU recommendations and he would try to put this on the agenda of the Committee in the future. The other question he wished to mention was the one about investigation. He said that he would refrain from speaking about any particular investigation and wished to explain that the IAOC was not an on-call Committee. It was a Committee that met from time to time, and its particular recurring dynamic was to meet every quarter. Every quarter, as a regular item of the Agenda, there was a discussion of many oversight functions, in particular the investigation function. As part of that analysis, it reviewed the portfolio of open and relevant investigations at any point in time. Basically, the IAOC's role was to act as an active observer of the quality of the process. It tried to make sure that the regular investigation function in the Organization was working properly, either internally or externally, depending on the different circumstances. The IAOC's role was not to participate in the process of providing justice but just to make sure that the quality of the investigative process was adequate, integral and appropriate. With that information, the Chair said that it was clear that he could only provide Member States with information that the Committee had discussed and no more than that. In that sense, the information that he could give now was the information that he already shared with Member States in the previous IAOC Information Session, which was just before the PBC. At this time, he was not entitled to provide more information than this and could not until the next time he met with his Committee. Depending on the IAOC's internal discussions, and on the professional and expert advice of the members of the Committee, he might be able, or not, to provide more information, but he could not provide any information that was not validated by his Committee. He said that he would, therefore, refrain from providing anything more than had already been said in the previous IAOC Information Session, which was, basically, that yes, there were two evaluations of two particular cases at the moment. At this time, he said that he could not provide any more information than this.

16. The Director General stated that he wished to clarify the terminology used by the Delegation of Estonia and the Chair of the IAOC in the first half of his intervention. He said that law governing WIPO foresaw that, when a complaint was lodged, what occurred first was a preliminary evaluation. The preliminary evaluation did exactly that: it evaluated whether there was a basis on which to proceed to open an investigation. The question that had been raised by the Delegation of Estonia and at least half of the response given by the Chair of the IAOC referred to investigation. An investigation could not take place without the subject being informed. The Director General said that he had not been informed of any such investigation. His understanding was that preliminary evaluations had been done. However, the subject was

not informed when a preliminary evaluation was conducted. The Director General said that he had no official information whatsoever, but that he did think that it was very necessary to clarify terminology so that everyone was talking about the right thing.

17. In the absence of further comments, the Chair read out the decision paragraph, which was adopted.

18. The WIPO General Assembly:

(a) took note of the Report by the WIPO Independent Advisory Oversight Committee (IAOC) (document WO/GA/46/1); and

(b) requested the Secretariat to continue to take appropriate action in response to the IAOC recommendations.

ITEM 11 OF THE CONSOLIDATED AGENDA

SUMMARY ANNUAL REPORT OF THE DIRECTOR OF THE INTERNAL AUDIT AND OVERSIGHT DIVISION

19. Discussions were based on documents WO/GA/46/2 and A/54/5.

20. Pursuant to paragraph 26 of WIPO's Internal Oversight Charter, the Director of the Internal Audit and Oversight Division (IAOD) presented a report on internal audit and oversight activities, in particular with regard to their scope and orientation, the schedule of work and the progress made in the implementation of recommendations contained in the IAOD's reports. The Director, IAOD noted that internal audit and evaluation functions had been externally and independently assessed, with highly positive results which certified their conformity with the Internal Oversight Charter and with internationally applicable professional standards. These results enabled Member States to secure independent assurances that the internal audit and evaluation was of good quality and conducted in complete independence. As regards procedure, the Director, IAOD announced that after extensive consultation with Member States, the IAOC, colleagues of the Secretariat and staff representatives, the policy for investigations, which had been in abeyance since 2010, had been published. Relying on the Uniform Guidelines for Investigators adopted by the Conference of International Investigators, the Investigation Policy and the revised Investigation Procedures Manual provided clarification on the following points: the duty of staff members to report possible misconduct; the confidentiality of investigations; the role of investigations in the internal justice system; the two stages of investigation activities (a preliminary assessment which may or may not be followed by a full investigation); strengthening the rules of adversariality, in that persons being investigated may be assisted by observers and may submit observations on the report of the investigation before it is finalized; and the fixing of time-limits for various stages of the investigation. Another important procedural change involved the proposed amendments to the Internal Oversight Charter. The IAOD was preparing for the important changes that the decision would entail if approved by the Assembly, in particular with regard to communication to the public of audit and evaluation reports. As regards the results of audits, evaluations and investigations, the Director noted that the IAOD had produced its findings in the following major areas: management of programs and projects from the perspective of the various audits and evaluations; income from the Madrid and Hague Systems; human resource management; management of official events; and knowledge-sharing and computer security. These were issued in eight audit reports, five evaluation reports, one validation report and various investigation reports. As regards the monitoring of IAOD recommendations, the Director emphasized a point that might not be widely known: no audit or evaluation report could be considered complete without an action plan for the implementation of recommendations. Put differently, immediately upon publication of a recommendation, work began on its implementation. No recommendation was

set aside without further action; the deadlines for their implementation was merely variable. With regard to the number of recommendations whose implementation was pending, the Director explained that it might appear that the number of recommendations had significantly increased, from 100 in the previous year through nearly 150 in this year's report to 195 to date. However, it should be understood that this number of open recommendations reflected a flow rather than a stock of recommendations and a large number of these recommendations had been processed. Thus, between last year's report and this year's, nearly 100 recommendations were closed, being taken as having been implemented. Put differently, an equivalent number of recommendations to those which were open at the beginning of the period under review (that is, nearly 100) had been closed. Lastly, regarding resources, regarding the IAOD's ability to fulfill its mandate, it was worth noting that the resource level (0.75 percent of WIPO's budget and 0.88 per cent of the Organization's staff) was lower than certain standards, in light of the recommendation of the JIU for various oversight functions. The Director, IAOD added that the resource level had nonetheless allowed the IAOD to cover those areas identified as priorities for its work: the audits covered high-risk areas; the independent evaluation reports of the IAOD were produced during the 2012-2013 biennium; and cases referred to the Investigations Section were still being monitored. The resource level appeared appropriate in the current climate, at a time when the Organization had made significant progress in internal control and risk management and had not, for the time being, significantly altered either its strategic objectives or its activity model. The Director, IAOD added that the situation was also improved by the experience acquired by the IAOD and the quality and skills of its staff.

21. The Delegation of the United States of America expressed its appreciation for the hard work of IAOD, and encouraged the Director General to implement the IAOD's recommendations in a timely manner. The Delegation was pleased to read that the Voluntary Separation Program between October 2009 and June 2010 had resulted in cost savings, helped to close skills gaps and contributed to realigning WIPO's staffing with organizational needs. The Delegation of the United States of America encouraged the Director General to continue pursuing opportunities for savings. The Delegation encouraged WIPO to follow IAOD's suggestion to prioritize the development and implementation of a formal accountability framework to consolidate the current structure and improve overall organizational governance. The Delegation expressed its concern regarding IAOD's comments on the lack of effective information- and knowledge-sharing across sectors. The Delegation encouraged the Secretariat to take steps to develop organization-wide tools and processes to facilitate content management and clarify roles and responsibilities with regard to record keeping. Lastly, the Delegation stated that regular training on ethics was vital for maintaining a culture of integrity. The Delegation noted in the report that 69 per cent of complaints received during the reporting period pertained to harassment, discrimination, breach of international civil servants obligations and irrelevant HR practices. While the Delegation was aware that WIPO required mandatory ethics training for all staff in 2012/2013, the Delegation encouraged the Organization to further this practice by requiring regular follow-up training and refresher courses.

22. The Delegation of Spain started by thanking IAOD for its excellent work and the quality of the reports, which had been confirmed by the external assessments done. With regard to follow-up activities that had been carried out, the Delegation considered it essential to implement the recommendations that had been made. The Delegation commented on the positive attitude of the Secretariat in having constant dialogue which was positive for implementing recommendations as soon as possible. By way of an example, the Delegation mentioned the importance of the reports on the assessment of technical assistance and of human resources, where the Delegation noted that some recommendations from the said reports were still pending. The Delegation trusted that the recommendations would be implemented as soon as possible. The Delegation considered the revised Internal Oversight Charter (contained in document A/54/5) to be a reference point for other international organizations here in Geneva and saw the new set of rules as very positive for the Organization and others. The Delegation considered the publication of internal audit and evaluation reports, which would be available for all those who were interested, to be good news. It drew the

attention of Member States to the fact that now that the system would be simpler, they would be able to consult reports that would allow a very clear and detailed view of the Organization. The Delegation asked that, once the revision of the Internal Oversight Charter had been adopted and the reports became available, whether reports issued prior to the revision would also be made available. The Delegation thought it would be very interesting to have this type of easy access to prior reports and not just to future ones.

23. The Delegation of Estonia thanked the Director, IAOD. The Delegation indicated that the European Union was aware that two preliminary evaluation reports had been examined by IAOD after being submitted in August. The Delegation added that it had written to the Chair of the General Assembly on the same subject. The Delegation asked if the Director, IAOD could confirm if these reports had been submitted. The Delegation asked if the Director could update Member States on the status of these investigations. The Delegation also asked for a reply to their request from the Chair. Finally, the Delegation asked how Member States would be involved in that investigation, as there seemed to be no other competent authority to look at these issues.

24. With regard to the question from the Delegation of Spain on the publication of reports, the Director, IAOD indicated that the change that was proposed in the revised Charter did not include a provision on prior reports. The Director, IAOD understood that the Charter would apply to future reports but that the Legal Counsel could give a more in-depth response. With regard to investigation reports, the Director, IAOD stated that, according to the Charter, there were several stages in investigations. One principle was that the preliminary evaluation was separate from the complete investigation, and then, of course, there was the confidentiality aspect. The Director, IAOD indicated that the revised Oversight Charter did not change in that regard. The whole investigative procedure, at least as far as it pertained to the Director, IAOD, was confidential from the moment a complaint was filed until the report was made, and even after, as investigation reports, if they were made, were covered by the confidentiality provision of the Oversight Charter. The Director, IAOD said that he abided by the Charter.

25. In response to the Delegation of Estonia, the Chair stated she had nothing to add. According to WIPO rules and provisions, the Chair stated that she had had very good cooperation with the IAOD as required under the provisions, and the information that the Director, IAOD had provided was all that the Chair had.

26. The WIPO General Assembly:

- (a) took note of the content of document WO/GA/46/2 (Summary Annual Report by the Director of the Internal Audit and Oversight Division (IAOD)); and
- (b) requested the Secretariat to continue to take appropriate action in response to the IAOD recommendations.

27. The Delegation of Spain said that it had heard the reply of the Director, IAOD on past reports and asked if it could have confirmation as to whether the reports would be published and that, if that was not the case, the Delegation would propose that in the decision there should be specific mention of the fact that prior reports, before the entry into force of the revised Internal Oversight Charter, should be made available. The Delegation considered that it would seem strange for the General Assembly to change the mechanism for access to the reports, and that the provision would not apply to former reports.

28. The Director, IAOD thought the text applied to the future; for existing reports there was a mechanism allowing Member States to have access to them, simply by making a request. According to the Director, IAOD, the Charter as modified would pertain to future reports and past reports would still be governed by the mechanism that prevailed today. If the Charter were

to state that past reports were to be published, then that would be the case, but obviously this would also be governed by the availability of the technical possibilities for doing this.

29. The Delegation of the United States of America expressed its support for the suggestion by the Delegation of Spain that past reports be included under the new rules.

30. The Delegation of Spain recommended that past reports be made available, and that was their proposal. While the mechanism of requesting them was still available, apart from being rather complex, the reports that delegations received had a watermark which said who had requested them. The Delegation considered it a bit strange that the current mechanism produced documents with certain safety and security measures, while newly issued reports would be freely available. The Delegation requested an addition to the General Assembly decision that internal audit and evaluation reports from before would also be made available to the public. The idea was very clear that the measure that was to be implemented would also apply to reports that existed before this change in the Charter.

31. The Chair invited the Delegation of Spain to approach the Secretariat and the Legal Counsel in order to find a solution to its concern.

ITEM 13 OF THE CONSOLIDATED AGENDA

REPORT OF THE COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY (CDIP) AND REVIEW OF THE IMPLEMENTATION OF THE DEVELOPMENT AGENDA RECOMMENDATIONS

32. Discussions were based on documents WO/GA/46/3, WO/GA/46/4 and WO/GA/46/10.

33. The Secretariat noted that the CDIP had met twice since the 43rd session of the General Assembly, held in September-October 2013, namely, the twelfth session held from November 18 to 21, 2013 and the thirteenth session held from May 19 to 23, 2014. As agreed by the Committee, the report contained in document WO/GA/46/3 incorporated the Summary by the Chair from those two sessions. The report also contained the Director General's Report on implementation of the DA, discussed by the Committee at its thirteenth session. Document WO/GA/46/4 pertained to the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations. In accordance with the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities, the relevant WIPO bodies were required to include in their annual reports to the Assemblies a description of their contribution to the implementation of the respective DA recommendations. The General Assembly was then required to forward that description to the CDIP. Document WO/GA/46/4 referred to the relevant paragraph numbers in their respective reports to the General Assembly. Document WO/GA/46/10 contained a decision by the CDIP resulting from its discussion, at its twelfth and thirteenth sessions, of the General Assembly decision on CDIP related matters (document CDIP/12/5), adopted by the Assembly at its 43rd session in 2013. The Committee was requested to discuss "the implementation of the CDIP mandate and the implementation of the Coordination Mechanisms" and to "report back and make recommendations on the two matters to the General Assembly in 2014".

34. The Delegation of Italy, speaking on behalf of the European Union (EU) and its member states, stated that robust and balanced intellectual property (IP) structures and their adequate capacity-building measures, coupled with a development oriented IP culture could contribute significantly to the attainment of development goals. The EU and its member states were committed to further progress in the DA in a consensus driven manner. The Delegation thanked the WIPO Secretariat for its contribution to the work of the Committee. It welcomed WIPO's extensive technical assistance and capacity building programs and hoped that they would be evaluated so that lessons could be learned and programs scaled up, as appropriate. The EU

and its member states had been very active in promoting IP an effective tool in support of development. WIPO's programs could operate in synergy with the very significant EU resources dedicated to technical assistance programs in the field of IP. The Delegation recalled that EU and its member states had provided considerable assistance through technical cooperation activities in the field of IP, and in favor of developing and least developed countries (LDCs), notably in the context of Article 67 of the Trade-Related Aspects of Intellectual Property (TRIPS) Agreement. It hoped that collective efforts of WIPO's membership would ensure that WIPO's development activities would be conducted on the basis of transparency, good governance and best practice, thereby creating the conditions for an effective and consensual implementation of the CDIP mandate.

35. The Delegation of the Czech Republic, speaking on behalf of the Group of Central European and Baltic States (CEBS), recognized the importance of the work carried out by the CDIP for the implementation of the DA in accordance with WIPO's strategic goals. The Group continued to see the CDIP as a valuable WIPO forum for the Member States to share their expertise in the cross-cutting field of IP and development. It remained vigilant of the DA implementation review process, which should be conducted in a cost effective manner, based on evaluation principles and provide fact and evidence-based outcomes. The Group welcomed some progress concerning the respective development project discussed within the Committee during the period under review. It highly appreciated WIPO activities, in particular in the field of technical assistance and capacity-building, and in the field of building respect for IP. It considered very important that technical assistance projects were demand driven, specifically tailored to the conditions in the recipient countries and practically assessed. The Group also considered that the work of the Committee could be enhanced by more frequent inputs of experts from national IP offices, presentations of best practices and experiences of countries and other beneficiary organizations acquired from the implementation of the projects delivered in the area of IP and development. It called for the CDIP to refocus its work towards more substantive deliberations, with a view to becoming results oriented. The Group believed that an effective implementation of the development activities of WIPO and the Committee's mandate must be based on further common efforts, confidence, best practice and transparency.

36. The Delegation of Japan, speaking on behalf of Group B, stated that it had always viewed development related work as a necessary component of a vibrant and evolving international IP system, and that IP was an important tool for development. The Group believed that the DA recommendations had been implemented successfully so far, in a manner which supported the goals of the WIPO Convention, and the DA had already achieved its aim to ensure that development considerations form an integral part of WIPO's work. The CDIP had played an important and crucial role in this process. It stated that the point was reached to carefully consider what the DA had brought to the Organization. Development considerations formed an integral part of WIPO's work; however, the DA had to contribute to the objective of WIPO but should not change the nature of the Organization. Development should be rethought as to what it meant, taking into account the service objectives of the Organization and the outcomes expected of its work. In this regard, it was unfortunate that an agreement could not be reached on the Terms of Reference (TOR) for the Independent Review of the Implementation of the DA recommendations through CDIP discussions during the previous year. The Delegation added that technical assistance and capacity-building in the field of IP were core products of development activities of the Organization, such activities were directly and strongly connected to practitioners in the field. From that perspective, a meaningful evaluation could be done only when the view points of the practitioners or persons having such experiences in the real world were duly reflected. It believed that the Review had to function as a trigger for serious consideration on what the DA had done and in which direction to advance it in the future, keeping standing in the real world. The Group strongly expected that the TOR would be agreed at the forthcoming session of the CDIP so that it could be operated in that way. Furthermore, technical assistance should be provided in an efficient and sustainable manner. Therefore, further efforts should be made as to realize sufficient internal and external coordination. With respect to document WO/GA/46/4 entitled "Contribution of the Relevant WIPO Bodies to the

Implementation of the Respective Development Agenda Recommendations”, the Group strongly believed that the report included the contribution of all relevant WIPO bodies and expected that this practice should continue. Regarding to what it viewed as a persistent call to add a standing agenda item on IP and development, the Group stressed that the entire work of the Committee was related to IP and development, as it is mentioned in its name. Thus, it considered that a standing agenda item on this matter was unnecessary as IP and development-related issues were proposed and would continue to be proposed and discussed on an *ad hoc* basis. With respect to the relevant WIPO bodies, the Group believed that each WIPO body should determine for itself if it was relevant for the purpose of reporting on DA activities. Lastly, the Group did not subscribe to the notion that the CDIP mandate and the coordination mechanisms were not fully implemented and therefore it did not find any change necessary. Nevertheless, it expressed its commitment to be engaged in further discussions on these issues at the CDIP, so as to dismiss concerns by reaching a common understanding on the *status quo*.

37. The Delegation of Kenya, speaking on behalf of the African Group, thanked the Secretariat for the report of the CDIP, which reflected the summaries by the Chair and stressed that while a number of projects were approved, implemented and evaluated, a number of issues, especially regarding the report of the External Review of WIPO Technical Assistance in the Area of Cooperation for Development, the TOR for the Independent Review of the implementation of the DA recommendation, the decision to convene an international conference on IP and development and the implementation of the coordination mechanisms, remained outstanding. The Group believed that there was a need for the General Assembly to give clear directions for the abovementioned matters to be finally resolved. Regarding the report on the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective DA recommendations, the Group called for a more systematic reporting mechanism, which involved objective criteria of assessment, in addition to the statements by Member States. It would give a more comprehensive overview of how the DA was being implemented. Furthermore, the Group considered that if the DA recommendations were to become an integral part of WIPO's work, it was important to introduce qualitative indicators of measurement which could capture more accurately the impact and the results being achieved in various projects and activities, including in the normative agenda.

38. The Delegation of India joined other delegations in considering that the CDIP was an important committee, which played an important role in coordinating, promoting and monitoring the implementation of the DA. The Committee helped maintain high level discussions on the 45 recommendations adopted by the General Assembly in 2007. The Delegation noted with satisfaction that several important steps had been taken by WIPO Member States and the Director General and his team to ensure greater development orientation in WIPO's work and the mainstreaming of the DA. Such mainstreaming in all areas of WIPO's work, including norm setting activities, which was a key objective of the DA, would only be possible with the establishment of an effective monitoring mechanism. In this regard, the Delegation emphasized relevant recommendations 5, 6, 7, 8 and 9 from the report by the external auditors for 2013/14, which requested to ensure that all relevant DA recommendations be considered while formulating the technical assistance activities. The report also identified the steady decline in the budget allocation under Program 9 and a lower number of recommendations being addressed. The report should be taken into consideration by the Secretariat. The Delegation encouraged WIPO to mainstream the DA into various courses offered by the WIPO Academy and develop country plans in consultation with the concerned countries. It also supported the finalization of the TOR for the Independent Review of the Implementation of the DA recommendations, in order to pave the way for the Independent Review as mandated by the WIPO General Assembly in 2010, and not indefinitely extend the timeline for decision-making in this regard. The Delegation urged all the Member States and WIPO Secretariat to urgently decide on the matter of the international conference on IP and development. The Review and the international conference would be an important opportunity to do a comprehensive review of the system-wide implementation of the DA recommendations in WIPO. It also supported an early implementation of the relevant recommendations of the External Review of WIPO's

Technical Assistance, which identified ways in which the technical assistance activities of WIPO in the area of cooperation for development could be improved.

39. The Delegation of Indonesia reiterated its position on the discussion pertaining to the implementation of the DA recommendations that it had expressed during the thirteenth session of the CDIP, held in May 2014. The Delegation believed that WIPO should be a development-oriented organization, which was its legal obligation as a UN Specialized Agency as stipulated in the agreement between WIPO and the UN signed in 1974, the Articles 55 and 56 of UN Charter and the WIPO Convention. The Delegation was of the view that WIPO's work should reflect and take into account the discussion of development issues in any UN bodies and specialized agencies, including but not limited to World Health Organization (WHO), World Trade Organization (WTO), and United Nations Conference on Trade and Development (UNCTAD). The Delegation also asked the General Assembly at its 54th Session to guide Member States on how to continue the discussion on IP and tourism, patent-related flexibilities in the multilateral legal framework, the establishment of the Coordination Committee on development issues, the finalization of TOR for the Independent Review of the Implementation of DA recommendations, and the international conference on IP and development.

40. The Delegation of Iran (Islamic Republic of) stated that the CDIP was established in 2007 to mainstream development in all WIPO's activities and to make it an integral part of the Organization's work. In the area of norm-setting, it was also expected to encourage the development of new IP norms to crystallize the right to development. In this regard, the Delegation believed that the CDIP should explore the ways to employ IP as a means to serve development objectives, utilize the existing flexibilities in international IP agreements, enlarge the public domain and align IP with the efforts made to protect TCEs, TK and GRs. The Delegation added that the CDIP was empowered by the goodwill and commitment of the Member States, to development objectives and its broad mandate. It was expected not only to deal with the work program for the implementation of the 45 DA recommendations, but also to monitor and coordinate with the other WIPO bodies. It was also expected to discuss IP and development issues, which in its turn, could lead to the emergence of additional special provisions for developing countries. While expressing appreciation for the efforts made by the Secretariat to implement projects for benefit of developing countries, the Delegation expressed regret that some important parts of the CDIP mandate had not been implemented or produced practical results. Despite the considerable efforts and time that had been spent on creating a coordination mechanism, it did not yet work as expected. The Delegation was of the view that having an effective coordination mechanism was a part of the solution to the development issues in the Organization by avoiding duplication of work among different WIPO committees. It could be witnessed that the constant deferral of the issues in the CDIP meetings had resulted in a heavy load of work for the Committee, preventing it from moving forward. For instance, the TOR and methodology of the Independent Review of the Implementation of the DA recommendations had not been finalized. This situation was far from the ideals of developing countries at the time of the establishment of the CDIP. The DA should not be reduced to merely the provision of technical assistance, as the Organization's activities and its norm-setting should be development-oriented. The Delegation added that despite all the above-mentioned shortcomings, it fully understood that the whole issue of development in the work of the Organization was a work in progress, and no one should undermine the achievements of Member States in WIPO after the adoption of the 45 DA recommendations. All Member States should be proud of what had been collectively achieved in implementing the DA in the past few years, and look forward to a continuing commitment and political will in consolidating, as well as building further on it and remedy the existing shortcomings. The Delegation remained committed to engaging constructively in the forthcoming discussion at the CDIP and looked forward to seeing a substantive and normative progress in the Committee.

41. The Delegation of China noted with satisfaction that since the DA had been established, WIPO had done a great deal in seeking to integrate the development dimension into its work, and progress had been achieved. It was also reflected by the implementation of 29 projects and the adoption of the Marrakesh VIP Treaty and the Beijing Treaty that fully took on board the development dimension. The Delegation commended the work done by the Director General and his team in seeking to advance the DA. It hoped that the DA would continue to be explored, as there was still a lot of work to be done, and hoped that various parties involved in discussions would show the flexibility required in a spirit of cooperation and openness, in order to ensure that WIPO could do still more in the area of development. The Delegation also very much hoped that the DA recommendations could be implemented to an even greater extent, and expressed its readiness to take part in such discussions.

42. The Delegation of the United States of America stated that the CDIP had made significant progress since the General Assembly approved its creation in October 2007, as it had approved and implemented a number of DA projects with a budget of well over 26 million Swiss francs. Numerous technical assistance and capacity-building activities were being carried out pursuant to the DA recommendations. However, while many DA projects proved to be very useful for developing and LDCs, the DA had also been used to block progress in a number of WIPO bodies during the previous year. The Delegation added that WIPO was created to promote the protection of IP throughout the world through the cooperation among States. This objective had not been changed by the DA. Instead, the DA was intended to support development through the use, protection and enforcement of IP, but not to obstruct the substantive work of WIPO committees. The Delegation believed that it might be time to collectively rethink the function of the DA so that the Organization could continue carrying out its substantive work according to the mandate for the benefit of all Member States. The Delegation expressed its readiness to work in the CDIP with other delegations to find a constructive way forward to resolve the outstanding issues and to resume the normal functioning of WIPO.

43. The Delegation of Brazil started by commending the efforts of the Deputy Director General, Mr. Onyeama, in leading the WIPO Development Sector for the last six years. The Delegation in line with the statements made by the African Group, India, Indonesia, Iran (Islamic Republic of) and China, considered the DA as key for the legitimacy of the Organization. The DA reminded that while a fair reward had to be granted for the intelligence of humans, it had to be complimented by ensuring the right access to health, culture, work, knowledge, information, and education. The Delegation added that the DA was a work in progress with successful initiatives to be celebrated. Under its encouragement, the Secretariat produced concrete and positive results such as the studies conducted by the Chief Economist on the role of IP in developing countries' economies. It was necessary to keep moving ahead and overcome the deadlock that had recently stalled the work of the CDIP, such as the implementation of the coordination mechanisms as mandated by the GA in 2010, the Independent Review of the Implementation of the DA recommendations and the convening of the conference on IP and development. The Delegation stressed that the success of the ongoing General Assembly session depended on the collective capacity of Member States to address different interests in a way that respected the sensitivities of all Members. In this sense, it was fundamental that the ongoing General Assembly session resulted in the definition of a balanced work program, which addressed the protection of IP rights and the promotion of development. Those objectives were fully and harmonically addressed by the WIPO DA as adopted by all Member States. The Delegation stated that the insistence in seeking a work program that did not reflect the interests of the majority of the Members had prevented an outcome that was in everybody's interests. To ignore this reality or pretend that WIPO did not have a role beyond the protection of IP rights and the provision of services would only deepen the impasses that it had been facing. The Delegation concluded by indicating that it was deeply compromising during the discussions at the CDIP on all areas and looked forward to discussing IP and development within WIPO.

44. The Delegation of the Russian Federation noted that the CDIP had achieved a great deal and was very productive in its work, given the work done at previous sessions of the Committee and its contributions to the implementation of WIPO's DA. The Delegation therefore commended the work done by the WIPO Secretariat in putting into practice various projects under the auspices of the DA, particularly pertaining to the development of the Technology and Innovation Support Centers and the Internet platform for knowledge management. Those were two very good initiatives. It assured the Chair of its readiness to work in the area of development and looked forward to the forthcoming sessions of the CDIP, as it intended to continue to discuss all issues relating to its future work and to participate actively in the ongoing discussions.

45. The Delegation of Chile stated that it had supported the development work of the Organization since the adoption of the DA, and commended the work being carried out in the CDIP because it contributed to the implementation of the DA recommendations, such as the dialogue in other committees on substantive aspects such as, *inter alia*, flexibilities. The Delegation emphasized that technical assistance programs, as well as projects that helped WIPO Member States to develop their capacities in different IP fields, should continue. It meant that Members must participate much more closely with the Secretariat in cooperating with management and development of the projects, and added that development was not an unspecific concept and needed to be tailored to each country. Tangible results were needed to support the DA and what was available should be used to improve countries' development, therefore development approaches needed to be included in the work of the Organization. The Delegation concluded by expressing its trust in keeping the DA active and positive in its results and making sure that it was broad based. It also wished to continue to enrich the DA to ensure the integration of policies that sought development in countries such as its own.

46. The Delegation of Algeria thanked the Secretariat and the Chair of the CDIP for their efforts put into the work in this area. The Delegation pointed out that the world was changing and stressed that it was no longer possible in today's world to consider the development of IP as an end in itself. It added that the world and WIPO were not the same as before the adoption of the DA, and the DA was a reality for WIPO and those who did not like it had to find a way to adapt to it. The Delegation also noted that a number of activities were particularly beneficial, and Algeria had continued to seek to modernize its IP system, notably through the establishment and operationalization of the IPAS system. Algeria had also supported in updating its legislation and regulations on IP. Furthermore, Algeria increased its cooperation with WIPO's technical assistance in order to establish a Technology and Innovation Support Center (TISC) that could support the country's actions to bolster creativity and innovation. The Delegation indicated that Algeria would continue to work closely with WIPO, with a view to establishing a technology transfer office, and hoped that cooperation with WIPO would continue in the future, under the general auspices of the DA.

47. The Delegation of Thailand thanked the Chair of the CDIP for his comprehensive report on the work of the Committee over the past 12 months. The Delegation congratulated WIPO for its tireless efforts and commitment to mainstream the issue of development into the Organization's work, and reaffirmed its support for the implementation of WIPO DA recommendations. In this regard, the Delegation highlighted the importance of the Independent Review of the Implementation of the DA recommendations. It welcomed the decision of the Committee during its thirteenth session to hold an informal consultation meeting to find agreement on the outstanding issues, and hoped that Member States would be able to finalize the TOR of the said Independent Review during the informal meeting to be held on the October 22, 2014. The Delegation also expressed appreciation for the Secretariat's work in initiating projects and activities on IP and development and welcomed project proposals submitted by Member States. It reaffirmed the importance it attached to the implementation of all three pillars of the CDIP's mandate and, while acknowledging the progress made on the first two pillars, the Delegation indicated that specific discussions on IP and development-related

issues should be further articulated, which would promote a broader view on IP and development.

48. The Delegation of Egypt thanked the Secretariat and the Chair of the CDIP for their tremendous efforts over the previous year. The Delegation pointed out that the objective of the CDIP was to streamline development into the WIPO architecture and the IP system, and recognized the efforts made through the CDIP, as a number of projects had been implemented and Egypt was one of the countries that had proposed to benefit from such projects. The Delegation noted that Egypt had submitted a proposal on IP and tourism and hoped that it would be adopted during the forthcoming session of the Committee. However, the Delegation emphasized that the *ad hoc* project-based approach methodology was not sufficient to fulfill the objectives of the CDIP, and added that a more holistic and comprehensive approach was needed. The quantification of projects that were implemented could not be considered as a benchmark to measure the progress. The Delegation also stressed that the CDIP should be institutionally reformed and enhanced in order to be enabled to assume its responsibility and fulfill its mandate as a real focal point on development within WIPO. It believed that the coordination mechanism should be made more effective, and intra-reporting should be strengthened in order to enable the CDIP to fulfill its mandate.

49. The Delegation of Japan associated itself with statement made on behalf of Group B. The Delegation stated that Japan attached great importance to development activities, including technical assistance and capacity building, as did other Member States. It therefore greatly appreciated that WIPO had been steadily responding to the situation and working towards implementing the DA recommendations. Regarding development activities, the Delegation indicated that it had been providing various types of assistance through the WIPO/Japan Funds-in-Trust. One of these funds was for Member States in Africa and LDCs, and another was for Member States in the Asia Pacific region. It continued by indicating that Japan's Funds-in-Trust activities included organizing regional, sub-regional and national seminars, workshops, training courses, expert advisory missions, and long-term fellowship programs; and translating selected WIPO materials. Through these channels, Japan had supported a number of WIPO-administered projects and activities, and shared its experience in the use of IP to create wealth, enhance competitiveness, and develop the economy. The Delegation strongly believed that improving IP systems would drive the self-sustained economic development of developing countries as well as contribute to developing the global economy. It also stressed that WIPO's contribution to economic development based on implementing the DA should go in that direction, keeping in mind the objective of the Organization prescribed under Article 3 of the WIPO Convention, as the Group coordinator already mentioned. The Delegation concluded by reiterating its commitment to be engaged in discussions at the CDIP in a faithful and constructive manner, and hoped that all Member States and the Secretariat would cooperate with each other so that those great efforts would be able to bear fruit.

50. The Delegation of Uruguay supported the comments made by Brazil, Indonesia and India, and recognized the significant efforts and progress made within the CDIP to implement a series of projects of which Uruguay was a beneficiary and which allowed significant input into its national development policies. The Delegation thanked the Chief Economist and his team for their support during the time those studies were undertaken, and thanked Mr. Onyeama for his work as Deputy Director General for WIPO's Development Sector. The Delegation expressed concerns regarding statements made by delegations and group coordinators but also at what had occurred at the previous CDIP session, as they would appear to see WIPO as simply a service provider, rather than a UN agency. It believed that development aspects needed to be central to the work of the Organization, and therefore it was extremely concerned with the restating of positions from coordinators. The problem was not about the different approach, but the Member States' inability to take more significant decisions and those who were most affected by that were the developing countries. The Delegation believed that the moment had come to be sincere and frank and recognize the problem, and to undertake decisive and extended talks in order to solve the issues and not to prolong them indefinitely.

51. The Delegation of South Africa aligned itself with the statement delivered by the Delegation of Kenya on behalf of the African Group. It thanked the Secretariat for organizing the two sessions of the CDIP under review and the work undertaken to implement the various DA recommendations and mainstream development within the Organization. The Delegation considered that WIPO saw a watershed moment when it adopted the 45 DA recommendations in 2007, after protracted discussions and negotiations. By that milestone, WIPO was sending out a message to the outside world that it was embracing development-related work and thus making it possible for IP to be used as a tool for development. In 2010, another milestone was reached in the adoption by the General Assembly of the coordination mechanism which was a mechanism that allowed committees to report to the General Assembly on their contribution to the implementation of the various DA recommendations. The Delegation regretted that the previous year had not been a productive one for the CDIP, and stated that concerted efforts were undertaken to undermine the essence of development at WIPO. It was even reminded that WIPO was never established for development work, rather it was established in order to promote the protection of IP. The Organization was beginning to question its own steps that it had taken to finally embrace development. The Delegation added that continued resistance to the implementation of decisions, even General Assembly decisions, could be seen. It included the following issues: the Independent Review on the Implementation of the DA recommendations, which was supposed to take place at the end of 2012/2013 biennium, the full implementation of the coordination mechanisms, the holding of an IP and development conference, the implementation of the recommendations emanating from the External Review on WIPO's cooperation for development, and the implementation of the third pillar of the CDIP mandate. The Delegation continued by stressing that it could not be business as usual when certain delegations were hell-bent on the gains made. It called on all Member States to show the necessary political will to move the work of the Organization forward and to implement the decisions mentioned above. The Delegation also pointed out that it had stated on a number of occasions that the project-based approach for the implementation of the DA Recommendations could not be the only path, hence the Independent Review needed to be given an opportunity to be as broad as possible to provide concrete ideas as to further implementing the DA recommendations. The Delegation wished to send a strong message to the CDIP to speedily resolve all the pending issues under its mandate, and if it failed to do so, the number of principles of reaching decisions and consensus, to which the Delegation subscribed, would at some point be abandoned and the Committee would start utilizing other measures in order to reach decisions and break deadlocks. The Delegation would continue to be constructive to seek solutions so as to move the work of the CDIP forward.

52. The Delegation of Senegal congratulated Mr. Onyeama for all his efforts as Deputy Director General for the WIPO Development Sector. The Delegation supported the statement made by the Delegation of Kenya on behalf of the African Group. It indicated that issues of development and IP were very important for Senegal, so was the CDIP. Senegal had benefited over the last few years of pertinent and significant technical assistance from WIPO, such as the TISC project which, this year, had made possible different training workshops and training of trainers undertaken in hospitals and universities. Judges and small and medium-sized enterprises (SMEs) were also trained in the field of IP. The Delegation added that regarding specific aspects of CDIP projects, Senegal had benefited from the strengthening of the audiovisual sector along with other African countries. As a pilot country, an exploratory study had been done and the future was promising. A workshop was organized on September 1 and 2, 2014, which was extremely successful, not just for professionals in the sector, but also for the financing and the banking institutions which supported the professional sectors in this area.

53. The Delegation of Congo referred to the implementation of the DA recommendations, noting that the DA aimed at generating and favoring innovation and creativity and promoting IP and development. The Delegation welcomed the implementation of some of the recommendations from the DA and encouraged the Director General to continue along this line. It added that Congo benefited from this program, particularly in 2013, with the establishment of

a TISC, which was a center of attraction for researchers, investors, and farmers. The same applied to technical assistance from WIPO with regard to the country's national IP development plan. The Delegation supported the DA and the implementation of the 45 recommendations, and suggested that the new WIPO national IP plan be completed for Congo, so that it would be assessed in 2015.

54. The Delegation of Djibouti addressed the General Assembly in its capacity as Chair of the CDIP. The Delegation recalled that the current year had witnessed the tenth anniversary of the first proposal for a WIPO DA and considered that the adoption of the DA in 2007 was a decisive step for WIPO in strengthening its role as a UN Specialized Agency, and added that with this milestone achievement, the Organization was granted a unique opportunity to mainstream development into its programs. It indicated that since the establishment of the CDIP in 2008, the Committee had held 13 sessions with a continual commitment by Member States in fulfilling all parts of its mandate, particularly through the adoption and monitoring of projects and WIPO activities for implementing the DA recommendations, as well as the work undertaken on IP and development related issues, such as flexibilities in the international IP system. The Delegation added it had had the privilege of facilitating the work of the CDIP during its last five sessions, which was a rewarding experience. The Delegation noted that the report of the CDIP under the Assembly's consideration indicated the progress made during the last year. Two new projects had been adopted and seven completed projects were evaluated. The Committee also examined a number of conceptual and country studies, pertaining to, *inter alia*, crucial matters such as IP and the Public Domain, the Informal Economy and the Audiovisual Sector in African Countries. The CDIP also discussed an assessment of WIPO's impact in the achievement of the UN Millennium Development Goals (MDGs), a revised document on this matter would be presented at the forthcoming session of the Committee. It added that the report of the CDIP also contained the Director General's report on implementation of the DA, and wished to take the opportunity to thank the Director General for his commitment and leadership in this endeavor, and Mr. Onyeama for his dedication and skillful management of the work of the Committee during this period. The Delegation recalled the pending issues before the CDIP. First, the Independent Review of the Implementation of the Development Agenda Recommendations, as requested by the General Assembly in 2010, to which the Committee had to define the Terms of Reference. Second, the General Assembly's decision of CDIP related matters. The Delegation recalled that in 2013, the GA took a decision inviting the CDIP to consider two issues, namely the establishment of the third part of the Committee's mandate as an agenda item for the Committee and the report by the relevant WIPO bodies on the implementation of the DA. The Committee had discussed these matters during its previous two sessions and had requested the GA to extend this mandate. Third, the international conference on IP and development, which could not take place last year due to a lack of agreement over the list of speakers. Fourth, consideration of the recommendations of the Report on the External Review of WIPO Technical Assistance in the Field of Cooperation for Development. Some recommendations were discussed and their implementation was approved. However, the consideration of other recommendations had not been possible yet. The Delegation reiterated its firm belief in multilateralism and noted that in every multilateral process, consensus building was key to achieving progress and reaching balanced solutions. In this context, it was essential for the CDIP to accommodate the contributions of all Member States, and debates should continue to be guided by a spirit of consensus. The Delegation concluded by reaffirming its commitment to dedicate all efforts, with the support of the Secretariat, to facilitate negotiations on those issues, and called upon all delegations to work in a spirit of consensus and to always bear in mind the collective mission to promote an IP system oriented towards everyone's needs and interests.

55. The Representative of the Third World Network (TWN) pointed out that in the context of the tenth anniversary of WIPO's DA and almost the 20 years anniversary of the TRIPS Agreement, it was important to recall that the DA was a genuine response for the push for harmonization levels of IP protection and enforcement, as inappropriately high levels then recurred under the TRIPS Agreement. The DA sought to restore balance in the international IP

system and to that extent, it was meant to block the expansion of IP protection and enforcement that would be inappropriate for developing countries and LDCs. The Representative observed that during the last 10 years, robust discussion had taken place during the DA negotiation, as well as in the CDIP. Many projects had been initiated as part of the DA implementation. Some of those projects came out with excellent findings, and recommendations. It was important to translate those outcomes into WIPO's work. The Representative highlighted some of the challenges and shortcomings in the implementation of the DA, including its mainstreaming into WIPO's activities, as it remained implemented as a project mode and continued to be marginalized. The outcomes of many DA projects had failed to be translated into WIPO's activities especially in the technical assistance programs. Technical assistance continued to be disconnected from the developing needs of people in developing countries, and it advocated for an IP maximalist approach. As an example, the Representative quoted from the National IP Toolkit, volume III, which stated that "customs authorities should have the power to intercept, seize and confiscate goods found to be or suspected of infringing intellectual property rights (IPRs) that are registered or enforced in the country". The Representative considered that it was contrary to the spirit of the TRIPS flexibilities. Under the TRIPS Agreement, there was no obligation to apply border measures to all types of IP infringements. They were constrained to counterfeited goods and pirated copyright works at the commercial level. Apart from the border measures, it also indirectly advocated for, *inter alia*, UPOV model plant variety protection and a special code for IP enforcement. Furthermore, the Representative indicated that the External Review had pointed out several shortcomings in WIPO's technical assistance, notably a lack of transparency and accountability. The Representative also noted that the review of the WIPO Academy was still not available in the public domain, and had received information that it had not even been provided to the Member States, and called the Secretariat to correct that information in case it was erroneous. The Representative continued by highlighting a lack of transparency with regard to the budget allocation related to the development expenditure. It was important to define the development expenditure comprehensively to bring transparency. It also highlighted the urgent need to discuss governance issues which also blocked the mainstreaming of the DA. There was an urgent need to translate the African and the the Development Agenda Group (DAG) joint proposal to establish certain guidelines and standards on technical assistance based on the recommendations of the External Review. The Representative also highlighted the issue of the Independent Review of the Implementation of the DA recommendations, which was due in 2013. The Representative called upon the General Assembly to set a clear timeline for the Review, and also considered that after thirteen sessions of the CDIP, there was no progress regarding the establishment of the coordination mechanisms as mandated by the General Assembly. The Representative noted that the PBC did not report to the General Assembly under the coordination mechanism, although that body made crucial decisions regarding resource allocation within the context of development expenditure. It was very critical for the PBC to receive guidance from the coordination mechanisms in such deliberations that held bearing on the DA. Similarly, the CDIP had not implemented the third pillar of its mandate through the establishment of a standing agenda item on IP and development. The Representative concluded by calling upon the General Assembly to take appropriate actions for the implementation of all aspects of the CDIP mandate.

56. The Representative of Knowledge Ecology International (KEI) stressed that the CDIP had an important mission to ensure continued support for the development dimension in WIPO's work. In practical terms, it was about finding some combination of helping Member States implement appropriate IP rules and correct some obvious flaws in the way IPRs had been implemented in developing countries. The Representative added that on the issue of patents, it was in the interest of developing countries to grant few domestic patents while allowing their inventors to file patents in wealthier foreign markets. The Representative pointed out that a number of developing countries were excessively permissive in granting patents, and stated that the most obvious consequence of this policy failure was in the area of cancer drugs, where there was almost no access to new patented cancer drugs. Because people in these countries actually have cancer, that lack of access had predictable and unacceptable consequences involving avoidable death and suffering. The Representative added that WIPO could be part of

the solution or part of the problem and that went to individual negotiators who were wasting considerable time at WIPO without making such a difference in expanding access to new cancer drugs. The Representative also expressed disappointment with the performance of the WIPO Global Challenges Division and invited the CDIP to make suggestions on how this division could address the obvious and scandalous inequality in terms of access to cancer drugs. The Representative suggested that the work of the WIPO Chief Economist could be used to provide basic economic analysis of the patent and copyright systems in developing countries, including, for example, by evaluating the impact of restrictive and permissive patent grants on access to medicines, and on the development of domestic pharmaceutical industries with some numbers that made the debate on these issues more grounded in evidence. The Representative also indicated that the WIPO Chief Economist could provide insight into the economies of scale necessary to manufacture low cost biologic drugs and the policy options for reducing entry barriers for similar suppliers of biologic drugs and vaccines.

57. The Representative of the Health and Environment Program (HEP) supported the implementation of the DA recommendations. The Representative called for better access to medication for all Cameroonians, as it could assist in the development of Cameroon and Africa, and supported the African Group, particularly South Africa, that had commented on the state reached by the DA at the present time. The Representative called WIPO to coordinate all of the committees so that NGOs could work for prosperity and could be heard by Member States in order to make more headway in the development of their countries.

58. The Secretariat observed that the points raised were positions of countries and did not call for a response from the Secretariat. On his personal behalf, Mr. Onyeama, Deputy Director General for the WIPO Development Sector, thanked all delegations that expressed kind sentiments in respect to his work in this area.

59. The Chair read out the decision paragraphs in respect of the documents concerned, which were adopted.

60. The WIPO General Assembly:

(a) took note of the Report of the Committee on Development and Intellectual Property (CDIP) and Review of the Implementation of the Development Agenda Recommendations (document WO/GA/46/3);

(b) took note of the information contained in the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations (document WO/GA/46/4); and forwarded these reports to the CDIP; and

(c) with respect to document WO/GA/46/10 entitled "Decision on the Committee on Development and Intellectual Property (CDIP) Related Matters", it allowed the CDIP to continue, during its fourteenth and fifteenth sessions, the discussion on the decision on CDIP related matters adopted at the Forty-Third Session of the WIPO General Assembly (document CDIP/12/5) and to report back and make recommendations on the two matters to the WIPO General Assembly in 2015.

ITEM 14 OF THE CONSOLIDATED AGENDA

CONSIDERATION OF THE CONVENING OF A DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A DESIGN LAW TREATY (DLT)

61. Discussions were based on document WO/GA/46/9.
62. The Chair of the General Assembly proposed a decision paragraph stating that “the WIPO General Assembly will, at its session in September 2015, decide on whether to convene a diplomatic conference for the adoption of a Design Law Treaty (DLT) as soon as practicable”.
63. The Delegation of Kenya, speaking on behalf of the African Group, thanked the Chair of the General Assembly for her efforts in trying to solve the issue. The Delegation, reiterating that the provision on technical assistance was critical to the members of the African Group, as it would enable them to implement the treaty, stated that the issue of technical assistance had to be resolved before the convening of a diplomatic conference. The Delegation expressed the need of the African Group to have targeted, adequate and reliable technical assistance enabling the implementation of the treaty. Referring to its opening statement, the Delegation indicated that issues cropping up in WIPO, in terms of change of positions and mandates, had made the African Group fearful as to what to expect in regard to the provision on technical assistance. The Delegation said that the African Group wished to have certainty that, when the treaty would be adopted, its members, including LDCs, would have the necessary technical assistance enabling its implementation. The Delegation suggested amending the decision paragraph proposed by the Chair by introducing another paragraph stating that “the WIPO General Assembly encourages the SCT to continue its work at its thirty-second session and will, at its session in September 2015, decide on whether to convene a diplomatic conference for the adoption of a DLT which would include an article on technical assistance to implement the treaty”.
64. The Delegation of Japan, speaking on behalf of Group B, expressed its gratitude to the Chair of the General Assembly and to the Chair of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) for their efforts in the framework of the informal consultations. The Delegation said that Group B strongly believed that the agreement should have been, at least, to convene a diplomatic conference for the adoption of a DLT at this session of the General Assembly. The Delegation noted that there was a shared understanding among Member States that the substantive provisions in the draft articles and draft regulations had reached sufficient maturity to be brought to a diplomatic conference, which had significantly exceeded the maturity of texts of recent treaties, at the time of agreeing to convene a diplomatic conference for these texts. Observing that the substantive provisions in the draft DLT would benefit users of the IP system, irrespective of their status of development, the Delegation subscribed to the notion that technical assistance was an equally important issue from the substantive perspective. However, the remaining issues under discussion, namely the nature of the provisions on technical assistance, had nothing to do with the benefit to users of the design system. Unfortunately, the expected benefits to users were being sacrificed by prolonged discussions on an unrelated issue, for which no resolution was needed at this time. The Delegation recalled that, consistent with the purposes of WIPO, Member States had the responsibility to promote the protection of IP, an important aspect of which included improvements to the IP system for the benefit of users. This was something that the DLT would provide. Recalling that no one had put into question the fact that WIPO should provide technical assistance and capacity building for the implementation of the treaty, the Delegation indicated that such technical assistance and capacity building would be integrated as one of the components of the wider picture of technical assistance and capacity building regularly and normally provided by WIPO, irrespective of how technical assistance and capacity building would be prescribed in the context of the DLT. In that scenario, technical assistance would be conducted in a more effective and efficient manner than if conducted in a piece meal way, potentially detrimental to technical assistance efforts in other areas. Considering that there

was no reason to deal with activities relating to the DLT in a distinct manner, the Delegation indicated that articles on technical assistance, while appealing in name, would not provide any further certainty or effectiveness. Moreover, technical assistance was already successfully provided by WIPO through regular budget and funds-in-trust. While there was no real concern as to the appropriate provision of technical assistance for the implementation of the DLT, the users of the IP system continued to suffer, as a result of the delay in moving the draft DLT forward. The Delegation stated that it would be prudent for the Assembly to keep the constructive Beijing and Marrakesh spirits and to continue the recent successful multilateral diplomacy by moving the DLT forward to a diplomatic conference, which would bring about improvements to the design system and benefits to IP users across the globe. The Delegation recalled that Group B had made a joint proposal with the CEBS Group for the decision paragraph of this General Assembly, which could give some comfort to other members. Group B had also provided language which could be included in the statement of Group B at the time of adopting a decision on the convening of a diplomatic conference. The Delegation declared that it was deeply regrettable that the General Assembly could not reach an agreement on the convening of a diplomatic conference, despite all those efforts.

65. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, thanked the Chair of the General Assembly as well as the Chair of the SCT for their efforts and expressed its disappointment by the fact that this General Assembly had not been able to decide on the convening of a diplomatic conference for the adoption of a DLT in 2015. The Delegation said that the CEBS Group was convinced that the texts were sufficiently mature for the convening of a diplomatic conference for the adoption of a new treaty in the field of industrial designs, and that it believed that this had been the case for some time. The Delegation indicated that the CEBS Group continued to pay great attention to simplification and harmonization of industrial design formalities and procedures, which would facilitate obtaining industrial design protection for creators, applicants and industrial design holders from all countries. As a user-friendly and flexible instrument, the DLT would be for the benefit of all users. While reiterating the flexibility of the CEBS Group for the inclusion of an article on technical assistance and capacity building for the implementation of the future DLT in the text of the treaty, the Delegation pointed out that this matter could be resolved at the diplomatic conference itself. Further delay on this issue was detrimental to the already agreed part of the text. The Delegation observed with regret the lack of flexibility on the side of its partners, which had resulted in Member States not being able to progress and harvest this low-hanging fruit. The Delegation declared that it agreed to the minimalistic version of the decision paragraph as proposed by the Chair.

66. The Delegation of the European Union, speaking on behalf of the European Union and its member states, said that the European Union and its member states attached great value to harmonizing and simplifying design registration formalities and procedures. The Delegation, noting that the SCT had over the last several years worked assiduously to draft normative instruments, believed that the draft articles and regulations aimed at approximating and simplifying industrial design formalities and procedures which were also needed to establish a dynamic and flexible framework for the subsequent development of design law, necessary to keep up the future technological changes. The Delegation recalled that, in line with the respective DA recommendations, a study had been carried out in relation to the impact of the proposed treaty, which had indicated that respondents in all countries believed that the proposed changes would bring a positive impact. The Delegation noted from the Summary by the Chair of SCT/29 that a number of delegations had stated that sufficient progress had been made by the SCT to recommend to the WIPO General Assembly the convening of a diplomatic conference in 2014. In the same line, the Summaries by the Chair of SCT/30 and SCT/31 acknowledged that further progress on the text had been made at both meetings. The EU and its member states believed that the text under consideration was at a sufficient level of maturity for a diplomatic conference to be convened by the 2014 General Assembly, paving thus the way to the adoption of a DLT. The Delegation stressed that, although there were differences of opinions as to how the issues of technical assistance and capacity building should be dealt with

in relation to the treaty, no WIPO Member State questioned the principle of that provision. The Delegation recalled that questions relating to technical assistance provisions had been raised before in the context of negotiations of the Singapore Treaty on the Law of Trademarks (STLT) and the Patent Law Treaty (PLT). In each case, however, the matter had been resolved to the satisfaction of all parties during the diplomatic conference itself. Hence, the Delegation believed that open questions related to the provisions on technical assistance and capacity building did not necessarily need to be solved before the convening of a diplomatic conference. Finally, the Delegation stated that it deeply regretted that the General Assembly would not take a decision to convene a diplomatic conference, and urged all parties to redouble their efforts in order to reach this goal.

67. The Delegation of China, recognizing the importance and the positive significance of the DLT to all Member States, stated that it was pleased to see the progress made at various discussions. With regard to the technical assistance provisions in the treaty, the Delegation said that it believed that all parties should expedite the work and eliminate the obstacles in order to adopt the DLT.

68. The Delegation of South Africa, aligning itself with the statement of the Delegation of Kenya on behalf of the African Group and expressing its support for the amendments proposed by that Delegation to the draft decision, said that the African Group had been very constructive in engaging on the issue of the DLT. The Delegation recalled that during the 2013 General Assembly, an agreement on this particular issue had been almost reached. However, due to the disagreement of a few delegations, the Assembly had failed to adopt the decision. The Delegation declared that it was surprised that there was a call for flexibility, insofar as the African Group had been engaging constructively on this issue, had shown flexibility and had made proposals on decisions. The Delegation made a call to delegations to resolve this issue and to have an article in the DLT before convening the diplomatic conference. The Delegation stressed that flexibility could not be only from one side, but should be shown by all partners.

69. The Delegation of Djibouti stated that the proposal put forward by the Delegation of Kenya on behalf of the African Group had the support of all members of the African Group.

70. The Delegation of Spain said that the inability to make progress, be it small, in all areas, caused frustration and took the discussion backwards. The Delegation expressed its dissatisfaction with the fact that the Assembly did not find a minimum consensus. Noting that the delegations were not willing to give up their positions and that no common ground was found, the Delegation believed that this situation was worse than the one before the meeting. Finally, the Delegation urged all parties to try to agree at least on the proposed decision paragraph.

71. The Delegation of Italy pleaded Member States to suggest language that was likely to be agreed.

72. The WIPO General Assembly did not take a decision on this item.

ITEM 15 OF THE CONSOLIDATED AGENDA

MATTERS RELATING TO THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

73. Discussions were based on document WO/GA/46/5.

74. The Chair opened Agenda Item 15 and informed delegations that the document under consideration was document WO/GA/46/5 entitled "Report on the Work of the Standing

Committee on Copyright and Related Rights". The Chair invited the Secretariat to introduce the agenda item.

75. The Secretariat explained that document WO/GA/46/5 reported on the work of the Standing Committee on Copyright and Related Rights (SCCR) during its past three meetings held in December 2013, April 2014, and June 2014. The document reported on the two substantive topics on the current SCCR agenda: broadcasting and limitations and exceptions. It also described the Committee's contribution to the WIPO DA. The Secretariat noted that with respect to broadcasting, the General Assembly had approved, in 2012, the recommendation that the Committee continue its work towards a text that would enable a decision on whether to convene a diplomatic conference in 2014. Work was to remain consistent with the 2007 General Assembly mandate to develop an international treaty to update the protection of broadcasting and cablecasting organizations in the traditional sense. In 2013, the SCCR was directed to continue that work. The Secretariat highlighted that constructive discussions had been pursued during the meetings in the previous year. However, at the most recent Committee meeting, there was no agreement on recommendations to the General Assembly. In the proposed decision paragraph, the General Assembly was invited to consider appropriate action towards convening a diplomatic conference for a treaty on the protection of broadcasting organizations. As reflected in the report, that could include considering whether to direct the SCCR to take specific steps towards the development of the text, or a recommendation to the 2015 General Assembly. That body could direct the Committee to convene a diplomatic conference in 2016. The Secretariat stated that with respect to limitations and exceptions, the General Assembly had said that the SCCR should work towards an appropriate international legal instrument or instruments, whether model law, joint recommendation, treaty and/or other forms, with the target to submit recommendations on limitations and exceptions for libraries and archives to the General Assembly by the 28th Session of the SCCR, and to submit recommendations on limitations and exceptions for education and research facilities and persons with other disabilities than visual impairments by the 30th Session. The Committee discussed limitations and exceptions in each of its meetings in the previous year. However, despite constructive discussions, no agreement was reached on recommendations to the WIPO General Assembly on the topic of libraries and archives. The Secretariat noted that the decision paragraph on limitations and exceptions encouraged progress consistent with the recommendations approved by the General Assembly in 2012, with the target to submit recommendations on both existing limitations and exceptions topics in 2015. The Secretariat highlighted that the last section of the report covered the contribution of the Committee to the Implementation of the Development Agenda Recommendations. The report covered activities since the 2012 General Assembly, including the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities and the adoption of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh VIP Treaty). The Secretariat pointed out that it had been working with Member States on the ratification and implementation of the Beijing Treaty and the Marrakesh VIP Treaty. There were at the time five ratifications for the Beijing Treaty and one ratification for the Marrakesh VIP Treaty.

76. The Delegation of Japan, speaking on behalf of Group B, regretted that the SCCR could not agree on conclusions in the previous two sessions and in particular, on conclusions to the General Assembly on the convening of a diplomatic conference to adopt an international treaty to update the protection of broadcasting and cablecasting organizations in the traditional sense. Under the guidance of the Chair of the SCCR, the Committee had made good progress on substantive discussions, especially with regard to protection of broadcasting organizations. Discussions had focused on technical issues and on fundamental issues such as the platforms to be covered and the activities to be included under the objective and the scope of protection to be granted to broadcasting organizations in the traditional sense. They had also successfully clarified issues and Member States' positions in an organized way. Such discussions had paved the way to official compromise, filling gaps and paving the way for future consensus.

Some concrete options worth considering for possible compromises became apparent when considering the *status quo* during the substantial discussion on the treaty for the protection of broadcasting organizations. Group B felt it was high time to agree to a recommendation providing concrete timing and a target for holding a diplomatic conference, thus allowing the discussion to move to the next phase with a mature text for negotiation. Substance should come first, and with a mature text the Committee had arrived at that next phase. Concerning limitations and exceptions for libraries, archives, research institutions and for educational purposes, a good discussion and exchange of experiences had taken place in the previous three sessions of the SCCR. Regarding the mandate, it had already expired for limitations and exceptions for libraries and archives in light of disagreement on a recommendation at the 28th Session of the SCCR. Group B was ready to discuss the way forward, but discussing that unsettled issue at the General Assembly should be avoided. Regarding the frequency of sessions of the SCCR, it was noted that SCCR should return to the usual schedule followed in other committees.

77. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, stressed its longstanding support for a proposed treaty on the protection of broadcasting organizations. CEBS recognized and supported the calls made by stakeholders to deliver international legal protection for broadcasting organizations from signal piracy that jeopardized legitimate and necessary investments. The SCCR should give priority to the discussions on a way forward to finalize the treaty proposal. There was also a need to agree on a common goal, to hold a diplomatic conference in 2016. The last discussions at the SCCR brought significant progress on substance, which came at the cost of concessions made by the CEBS Group towards other negotiating parties. It was important for the CEBS Group to see a light at the end of the tunnel. The CEBS Group was prepared to further discuss and exchange views on the issues relating to exceptions and limitations within the framework of existing international copyright treaties and national laws. Experiences and best practices should facilitate the finding of ways for a workable, effective application of exceptions and limitations, in both the traditional and digital environments.

78. The Delegation of Kenya, speaking on behalf of the African Group, indicated that it was important to make progress on all three items currently on the agenda of the SCCR. The Delegation noted that the mandate regarding the protection of broadcasting organizations was open-ended, while the mandates of the two topics on limitations and exceptions were time-bound. It was important to resolve the issue during the General Assembly in order to avoid different interpretations during future sessions of the Committee.

79. The Delegation of Paraguay, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), noted that during a preparatory meeting with regional coordinators in the previous week, it was stated that it would be possible to undertake consultations on the future work of the SCCR. The Delegation requested that such consultations begin immediately, perhaps with the assistance of the Chair of the General Assembly.

80. The Delegation of the European Union and its member states noted that the European Union and its member states had been actively involved in the discussions on the treaty for broadcasting organizations. In that regard, the Delegation stated that it had worked tirelessly to advance work on the matter, which was undeniably complex and technical at times. It attached great importance to the negotiations and had been encouraged by the latest progress in the discussions on the main elements of the treaty, such as the scope of application and the catalogue of rights to be vested in broadcasting organizations. The Delegation further stated that in order to achieve a treaty that would give broadcasting organizations adequate and effective protection, a broad consensus needed to be built as to the extent of the protection to be granted. While trying to build such a consensus, the aim should be to maintain a treaty that looked at the needs of the broadcasting organizations in the 21st century. With that objective in mind, it was noted that the Committee should accelerate its work to ensure greater progress

and begin the process to convene a diplomatic conference, which would take place in 2016. The Delegation highlighted its expectation that the General Assembly's decision on that item would reflect its position. With regard to limitations and exceptions in favor of libraries and archives, as well as educational teaching and research institutions, and persons with other disabilities, the Delegation believed that the current international copyright framework already enabled WIPO Member States by providing the required legal space to introduce, maintain and adapt, when necessary, meaningful limitations and exceptions in their national laws. Furthermore, it was noted that the current international copyright framework provided all the needed flexibility for WIPO Member States to take into account the specificity of their legal regimes as well as their economic and the social needs, while respecting the balance necessary to ensure that copyright continued to be an incentive and a reward to creativity. Consequently, the Delegation stressed that it was ready to debate and work with all WIPO Member States, so that limitations and exceptions functioned in the best possible way in the framework of the existing international treaties. The Delegation pointed out that it was an approach in which WIPO Member States would take responsibility for their own legal frameworks, supported by the exchange of ideas, principles, and best practices, which should be the way forward on the issue. The Delegation also stated that it was pleased to see that the Committee had made some progress in that direction in its last few sessions. However, fundamental differences seemed to persist on whether or not there was a need for an international legally binding instrument on exceptions and limitations in that area. Such differences had regrettably hampered discussions in the SCCR and affected progress on all items on the agenda of the Committee, despite the substantial efforts and resources that had been put in by all delegations, and the extraordinary engagement of the Committee's Chair and Vice-Chair. The Delegation remained fully committed to finding a way forward for the work in the SCCR, in relation to items to be included in its future work program, to overcome the current impasse. In that regard, the Delegation made particular mention of the failure of the SCCR to fulfill its mandate by making recommendations to the General Assembly on exceptions and limitations on libraries and archives by its 28th session. The Delegation observed that the future work program needed to be built upon the understanding that an effective copyright system at the international level was made up of many interlinked elements that went well beyond new normative efforts. The Delegation believed that it was essential to carry out a thorough reflection on the working method and the role of the SCCR. The Delegation stressed that the common goal of the Committee should be to ensure the best possible use of time and resources, as well as the ability of the Organization to continue playing a central role in copyright at the international level. For those reasons, the Delegation noted that it did not believe that the draft decision language proposed by the Secretariat reflected the proper balance of opinion. As a result, the Delegation stated that it was not in a position to join the consensus on the decision paragraphs as currently drafted.

81. The Delegation of Brazil supported the statement made by the Delegation of Paraguay on behalf of GRULAC. The Delegation was of the opinion that consultations would be the appropriate way to continue discussions on all SCCR matters including broadcasting as well as exceptions and limitations for libraries and research institutions. Referring to a different matter relating to the DLT, the Delegation sought further clarification on the purpose and the objectives of engaging in confessionals on the DLT process. The Delegation stated that it understood that the discussions on that point had been suspended. It informed the Chair that before the Assembly gave the green light to engage in that exercise, the Delegation would need further clarifications on the purpose, objectives and expectations of holding those consultations. The Delegation stated that it had been personally involved in the discussions on the DLT in the past, and had still failed to fully understand the purpose of confessionals, which was an exercise that was not usual at WIPO.

82. The Delegation of Mexico said that it recognized the importance of the protection of audiovisual performances, both at the national and international levels. Indeed, it was for that reason that Mexico had signed the Beijing Treaty on Audiovisual Performances. The Delegation was pleased to inform the General Assembly that, on June 25, 2014, Mexico had

signed the Marrakesh VIP Treaty. Mexico was taking all the necessary steps to ensure that the ratification instruments for those treaties were deposited with the Secretariat without delay. The Delegation pointed to the humanitarian and social aspects of the Marrakesh VIP Treaty, under which more than 285 million persons with visual impairments throughout the world would have access to more information, as well as to education and culture. The Beijing Treaty would strengthen the economic and moral rights of film actors and other performers. The other delegations present were invited to sign and ratify both of the abovementioned international agreements as soon as possible. Over the past two years in the SCCR, the Member States had succeeded in adopting those two significant treaties. If the SCCR continued to work constructively, to demonstrate goodwill and flexibility, and to take into account the interests and circumstances of all the parties concerned, it would be able to make progress regarding those items that remained pending. The Delegation also fully endorsed the issues currently under consideration within the Committee and expressed the hope that the spirit of the Beijing and Marrakesh Treaties would continue to prevail in the work of that body. In closing, the Delegation reiterated its commitment to continue to participate actively and constructively in the negotiations, in order to reach vital agreements on the substantive issues on the SCCR's agenda."

83. The Delegation of Ecuador congratulated Mr. Martin Moscoso for his chairmanship of the SCCR. It requested the continuation of consultations on copyright issues. The Delegation noted that Ecuador understood the significance of copyright and related rights for its citizens and had actively participated in seeking a more balanced system that would contribute to the well-being of its people. The Delegation observed that was the reason the Committee needed to continue its work consistent with the achievements that had been made in previous meetings, including the success of the Marrakesh VIP Treaty, which had the objective of expanding access to printed texts for persons with visual impairments. The Committee had been able to reach significant balance within the international system of IP. The Delegation urged the Committee to continue its work on the basis of consensus and agreement, to be flexible, and to have a view that looked to the future, so that it could make headway and adopt a treaty that would appropriately protect the significant role played by libraries and archives in the digital era. The Delegation also urged the Committee to make headway in protecting the right to access for educational purposes and for persons with other disabilities who were not covered by the Marrakesh VIP Treaty. It also stated that it was necessary for the Committee to continue to work on those areas that were still not guaranteed for the protection of broadcasting associations and to hold a successful diplomatic conference on that issue. The Delegation reiterated its commitment to the development of the IP system. It noted that there would obviously be differences, but they could be positive as long as there was flexibility and transparency. In closing, the Delegation called on the General Assembly to think about the millions of persons who were awaiting concrete results, be it *via* international instruments or specific decisions which were derived from discussions in the multilateral sphere.

84. The Delegation of Norway echoed the intervention of Japan on behalf of Group B. It was committed to continued and structured work within the SCCR, on the protection of broadcasting organizations and on limitations and exceptions for libraries and archives, as well as education and research. As the past year had not been successful for the SCCR, it was worth considering having just a few very focused meetings in the future, with a clear work plan, in order to increase the chances of success.

85. The Delegation of China commended the progress made since the 26th session of the SCCR and announced that it stood ready to work with other delegations in the spirit of openness, inclusiveness and flexibility, so that consultations in the SCCR could achieve substantive progress.

86. The Delegation of South Africa supported the statement made by the Delegation of Kenya on behalf of the African Group. It commended the Committee for the considerable progress made in respect to the various matters of the agenda, particularly the protection of the

broadcasting organizations. At its 33rd session in 2006, the WIPO General Assembly had approved the convening of a diplomatic conference on the protection of the rights of broadcasting organizations, subject to some conditions related to objectives, specific scope and object of protection. The Delegation was of the view that the Committee had complied with the mandate given and based on the consensus among delegations, it appealed to the General Assembly to go ahead with the convening of a diplomatic conference in the near future, possibly in 2016. It proposed that consultations be scheduled to look at the roadmap to arrive at a diplomatic conference. With regard to exceptions and limitations, it expressed its disappointment at the breakdown of both the 27th and the 28th sessions of the SCCR with regard to establishing a future work program. Exceptions and limitations were a delicate balancing act in the IP system and structured discussions should be developed by the Committee without focusing too much on the nature of the outcome. Those structured discussions would enable Members to learn from each other on how to implement exceptions and limitations, with no detriment to rightholders' interests and creativity. The Delegation affirmed that the broadcasting treaty and exceptions and limitations should not be linked, but treated in relation to their own merits, taking into account their levels of maturity.

87. The Delegation of Trinidad and Tobago noted that the Government was taking the required steps to amend its copyright legislation, in order to incorporate the Beijing Treaty on Audiovisual Performances and the Marrakesh VIP Treaty. The Delegation applauded the work of the SCCR and hoped that the same good spirit shown to adopt the aforesaid treaties would help to achieve a diplomatic conference on broadcasters' rights in the near future.

88. The Delegation of Iran (Islamic Republic of) stated that the successful achievements of the SCCR that led to the Diplomatic Conferences of Beijing and Marrakesh raised expectations for the Committee's progress and dynamics. The recent lack of progress in the work of the Committee might undermine the credibility of WIPO norm-setting activities in the field of IP. The current standstill should be overcome by reaffirming the goodwill, understanding and spirit of cooperation among delegations. The Delegation supported a binding treaty on the protection of broadcasting organizations to fight against signal piracy, consistent with the mandate of 2007 General Assembly. Undoubtedly, that future treaty should take into account the public interests at large. It also supported the provision of a mandate to draft an international instrument on limitations and exceptions on library and archives, education and research institutions, and people with other disabilities. Finally, it confirmed that its Government was taking practical steps to ratify the Marrakesh VIP Treaty after having signed it in June of the previous year.

89. The Delegation of Paraguay stated that its request for the floor was on Agenda Item 14 in relation to the possibility of convening a diplomatic conference for the DLT.

90. The Delegation of the United States of America expressed its support for the updating of the protection for broadcasting organizations, under the terms of the 2006/2007 WIPO General Assembly mandate, which called for a signal based approach to provide protection for the activities of broadcasting and cablecasting organizations in the traditional sense. Consistent with that mandate, such protection had to be carefully targeted, focusing on the unauthorized simultaneous or near simultaneous retransmission of broadcast signals to the public over any type of platform, including the Internet. Within that framework, active preparations were underway for the December 2014 session of the SCCR. The Delegation was committed to working with other WIPO members on narrowing the proposed treaty text in a manner consistent with the terms of the General Assembly mandate. Copyright exceptions and limitations were critical to the functioning of national copyright systems, and the United States' national experience in developing and applying a wide range of different exceptions and limitations had been extremely positive. The Delegation looked forward to continuing the exchange of information and views with other delegations on its national approach. It expressed support for the SCCR work aimed at deepening the mutual understanding of Member States of copyright limitations and exceptions with respect to libraries and archives, educational and research institutions and persons with disabilities other than visual impairment.

It was gratified by the positive response from delegations in discussing its recently tabled proposals. The proposals set forth principles and objectives, which provided an approach that could be of assistance to national policymakers when enacting or updating national copyright exceptions for libraries and archives and for educational activities. The current international framework for copyright exceptions and limitations provided the appropriate flexibility, consistent with well-established international standards for countries to enact exceptions and limitations to advance their own national, social, cultural and economic policies. The Delegation did not support further binding norm setting, but rather believed that the SCCR should focus on developing agreed principles and objectives.

91. The Delegation of Nigeria supported the statement made by the Delegation of Kenya on behalf of the African Group and attached high importance to the advancement of WIPO's work within the context of the SCCR. Significant achievements had been made in the last few years, as evidenced by the adoption of the Beijing Treaty in 2012 and the Marrakesh VIP Treaty in 2013. Those developments were reflective of Member States objective to promote creativity for the economic, social, and cultural development of all countries through a balanced and effective international IP system in line with the basic mandate of WIPO. It had already initiated a process for the ratification of those two treaties. While acknowledging those important developments, it was concerned about the loss of momentum in the advancement of the three matters pending in the SCCR. Efforts had been made at the 27th and the 28th sessions of the SCCR to advance discussions on the issue of the protection of broadcasting organizations, exceptions and limitations for libraries and archives and exceptions and limitations for educational institutions and persons with other disabilities, but it was worrisome that no conclusions had been reached by Member States on those issues at the two sessions. The dynamics of the international environment validated the legitimate aspirations of many Member States, including Nigeria, for a more proactive and effective international system of protection, as well as the adoption of suitable exceptions for sustainable development in education, access to information and knowledge. In going forward, it was important for Member States to demonstrate greater flexibility and political will in addressing the pending normative work in the SCCR. The Delegation remained committed to constructive engagement within the agreed work program of the SCCR.

92. The Delegation of the Russian Federation supported the continuation of work on the protection of broadcasting organizations and limitations and exceptions. On the issue of broadcasting organizations, some progress had been achieved in the course of the discussions that had taken place over the past couple of years within the Committee, but the work was not yet completed because there were still divergent views among Members of the Committee on particular points. Work needed to continue on the text in order to improve the level of protection along the lines of the standards that had been achieved in other treaties. Significant experience had been achieved at the national level and through national legislation which could be reflected in a future text. There was the need to work as rapidly as possible towards the adoption of an appropriate text so that by the following year the General Assembly would be able to note progress and decide upon the convening of a diplomatic conference. On the issue of limitations and exceptions, the Delegation stated that a kind of guarantee was very important in order to strike the proper balance between the rights of society on the one hand and the rights of rightholders on the other. Exchange of experiences on the subject matter had to be pursued with a view to improving the existing documentation on limitations and exceptions within the framework of the SCCR.

93. The Delegation of El Salvador supported the statement made by the Delegation of Paraguay on behalf of GRULAC. With reference to the Marrakesh VIP Treaty, the Delegation was pleased to note that El Salvador's President had seen to its ratification. The deposit of the instrument would take place soon after the meeting. The Delegation urged other Member States to carry out all necessary administrative steps to ratify that treaty.

94. The Delegation of Japan expressed appreciation for the significant discussions that had taken place during the latest three sessions of the SCCR. Notably, substantial progress had been achieved in the discussions on the issue of the proposed broadcasting treaty. The Delegation associated itself with the statement of Group B, and urged a focus on establishing an international framework to protect broadcasting organizations in response to the rapid digitization of the world. Its objective was to adopt a treaty as soon as possible, since 16 years had already passed since discussions on the issue had begun. The Delegation observed that broadcasting organizations around the world were eagerly awaiting the treaty. It noted that the Government of Japan had actively participated in the discussions on the issue and had submitted various proposals. The Delegation was very keen to keep its commitment for the future and to convene a diplomatic conference as early as possible. With regard to exceptions and limitations for libraries and archives and education and research institutions, there was the need to reach agreement on appropriate plans. At the same time, it was noted that Member States should bear in mind that the social and cultural background in every country had significant influence on how to set up a balanced system to address those issues. The Delegation stated that the existing three-step test had already worked well around the world as a global standard. The SCCR should keep sharing ideas, providing enough room for flexibility to maintain the approaches of every country within the existing international framework. The Delegation also announced that Japan was the fourth country to accede to the Beijing Treaty on Audiovisual Performances.

95. The Delegation of Peru supported the statement made by the Delegation of Paraguay on behalf of GRULAC. It joined other delegations that had expressed their surprise that consultations on the SCCR were not yet taking place, as nobody had opposed the holding of those consultations. It was already the third day of the General Assembly and consultations on external offices and the IGC had already started, so the Delegation suggested applying the same strategy to the SCCR. The Delegation believed there was room to find consensus.

96. The Vice-Chair acknowledged that it was premature to make a proposal for a decision at that stage and proposed to suspend the debate on Agenda Item 15. Mr. Martin Moscoso, Chair of the SCCR, would provide assistance during discussions pending a meeting with the Chair of the General Assembly on whether to commence informal consultations. It would be necessary to revert to Agenda Item 15 later in the week.

97. The Chair thanked the Vice-Chair and reopened Agenda Item 15.

98. The Delegation of Kenya expressed concern with the fact that the 27th and 28th sessions of the SCCR had ended with no conclusions on the way forward in relation to the protection of broadcasting organizations and exceptions and limitations. The Delegation recalled the position of the African Group and South Africa. It observed that Kenya had a very vibrant broadcasting industry and that the issues discussed at the SCCR would clearly address technological changes. It looked forward to a favorable conclusion of the matter in line with the 2007 mandate from the General Assembly, with a view to convening a diplomatic conference in 2016. Regarding limitations and exceptions, the Delegation was concerned about moving further away from where the SCCR had begun in its 26th session. Work should be done towards reaching a consensus on exceptions and limitations, to ensure that the rights of authors were balanced with the interests of users. It was important to underline that the process and discussions were for the benefit of the society as a whole. Kenya's constitution protected copyright like any other property and at the same time provided for the right of access to information – both are fundamental rights and freedoms. The Delegation highlighted the importance of achieving a balance that would not disadvantage authors.

99. The Delegation of India announced that India was the first country to ratify the Marrakesh VIP Treaty by depositing the instrument of ratification at WIPO. On the three topics under discussion in the SCCR, namely broadcasting organizations, limitations and exceptions for libraries and archives and for educational and research institutions and persons with other

disabilities, it indicated that all three topics were of high importance and it wished to give equal treatment to them. Sufficient time allocation should be given and constructive discussion should be undertaken by all delegations on all the topics during the following years, in order to submit recommendations to the General Assembly in the future for appropriate international instruments on each topic. The Delegation made note of the movement towards a treaty for the protection of broadcasting organizations during the previous session of the SCCR and indicated its commitment to comply with the signal-based approach, in the traditional sense, consistent with the 2007 General Assembly mandate. The Delegation stated that there were several concerns regarding updating the rights of broadcasting organizations with respect to digital platforms. Further debate and discussion were required for greater technical clarity, so that a uniform understanding of the level of protection or the scope of protection could be obtained and suitable recommendations could be made to the General Assembly. In the previous two sessions of the SCCR, no agreement was possible on making a suitable recommendation to the General Assembly. It stated that the mandate to discuss all the three items remained in the Committee and appropriate, timely recommendations should be made from there. The Delegation expressed concerns about decision paragraph three of document WO/GA/46/5, “(iii) consider appropriate action towards convening a diplomatic conference for the adoption of a treaty on the protection of broadcasting organizations;” since the previous two sessions of the SCCR had not reached an agreement on decisions and the conclusions from the Chair of the SCCR had not suggested such language. The Delegation raised a question regarding the source of this language. Regarding paragraph four, “(iv) encourage progress on limitations and exceptions consistent with the recommendations approved by the WIPO General Assembly in 2012, namely to continue discussions to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for libraries and archives as well as on educational and research institutions and persons with other disabilities to the WIPO General Assembly in 2015” the Delegation supported its wording and believed that it should be reproduced in decision paragraphs for all three issues.

100. The Delegation of Indonesia referred to the issues of exceptions and limitations for libraries and archives and exceptions and limitations for educational and research institutions and for persons with other disabilities, as well as the contribution of the SCCR to the implementation of the DA recommendations. It noted that IP for a global society should provide legal certainty in regulating access to libraries and archives for the public good and in contributing to the work of educational and research institutions and persons with other disabilities. Those issues were borderless and should be addressed through international cooperation. The Delegation supported the idea of having legally binding instruments on exceptions and limitations for libraries and archives and exceptions and limitations for educational and research institutions and for persons with other disabilities. It hoped to receive guidance from the General Assembly on how to expedite the finalization process of concluding those two international legal instruments. Furthermore, the Delegation noted that the contribution of the SCCR to the implementation of the DA recommendations had not been sufficiently discussed during the previous SCCR meeting. It urged the Assembly to offer guidance on how to move the discussions forward and welcomed the initiative to hold informal meetings facilitated by Mr. Martin Moscoso, Chair of the SCCR. The Facilitator should provide a balanced allocation of time to discuss all pending issues of the SCCR. Regarding the development of Indonesia’s national copyright law, the Delegation stated that a new copyright law had been approved by the parliament on September 16, 2014. The provisions of the new copyright law included, among others, efficient copyright protection for multimedia tools, effective collective management organizations for music and literary works, the term of copyright protection for the author’s life plus 70 years, and bilateral and multilateral cooperation regarding copyright issues. The new copyright law also incorporated sufficient provisions regarding the Marrakech VIP Treaty and the Beijing Treaty.

101. The Delegation of Uruguay thanked the Secretariat and informed the Assembly that Uruguay had approved the ratification of the Marrakesh VIP Treaty in August 2014. It hoped to

make the deposit of the instrument of ratification shortly and urged countries to ratify the Marrakesh VIP Treaty as soon as possible. The Delegation regretted the lack of agreement in the previous two sessions of the SCCR regarding recommendations and conclusions. It was frustrating especially for small countries that worked hard to come up with joint proposals on libraries and archives. Very interesting proposals had been put forward and deserved the necessary time and space for discussion. The Delegation supported the statement made by the Delegations of Paraguay, Brazil and Ecuador. It stated that someone talented and knowledgeable, such as Mr. Martin Moscoso, knew the positions on the issues and could start the work as soon as possible. The Delegation also stated that the future work should be balanced and should represent the interest of all parties. The three issues discussed at the SCCR were equally important. It affirmed that delegations that were trying to limit the discussions on limitations and exceptions, for example, thinking that that would accelerate the work on other issues, such as broadcasting organizations, would need to think again. The Delegation noted that there was a need to adopt a broader approach. When all delegations were committed and had their interests reflected in the future agenda the issues would move much faster. If there were groups of countries that were frustrated, then there would not be much scope to reach agreements and remain positive in the negotiations. The Delegation reiterated its full commitment to the discussions.

102. The Delegation of Algeria expressed its support for the statement made by the Delegation of Kenya on behalf of the African Group. The Delegation pointed out that the SCCR was focused on three issues: the protection of broadcasting organizations, limitations and exceptions for libraries and archives and limitations and exceptions for educational and research institutions. With regard to broadcasting, the Delegation noted that it supported the mandate adopted in 2007 by the General Assembly. The Delegation also called upon Member States to continue to work on the substance of a treaty. That would make it possible to arrive at an agreement on the mechanism and the scope of the treaty, so that the Committee could advance towards the convening of a diplomatic conference. With regard to limitations and exceptions, the Delegation expressed its concern and disappointment following the discussions in the SCCR. In particular, the Delegation stated that it had been perplexed by the stance that had been taken by certain delegations with reference to how discussions should be pursued in that area. The Delegation asked how it could be possible to object to a legal instrument that would promote access to knowledge for research and education. The Delegation affirmed that it was an objective that should unite rather than divide the Committee. On that basis, it reiterated its wholehearted support for the Committee's work plan on limitations and exceptions. The Delegation urged Member States to commit themselves in good faith to discussions on limitations and exceptions for libraries and archives and also for educational and research institutions, in order to produce a binding international instrument in that area. The Delegation further stated that it believed it was necessary to adopt a balanced and ambitious work program in the Committee, covering all three topics. It noted that such a work plan was very much in line with the work that was being done nationally to establish a balanced copyright system. In that regard, the Delegation indicated that Algeria had organized a workshop on creativity, involving a number of stakeholders from broadcasting institutions, as well as those involved in the production and dissemination of cultural products. The Delegation noted that the legislation was also in place and that Algeria had been working with WIPO to provide training for staff working in its national copyright and related rights office. Additionally, the Delegation pointed out that Algeria had recently made a request to contribute to a manual which would make it possible for African experts to enjoy the benefit of its expertise in that area. On that basis, the Delegation continued to call on the SCCR and WIPO Member States to take the work forward.

103. The Delegation of Côte d'Ivoire stated that the issues dealt with by the SCCR were very important to Côte D'Ivoire. The Delegation noted that in collaboration with WIPO, a meeting had been conducted in Abidjan, from December 4 to 6, 2013, with the Ministers of Culture of the Member States of the Economic Community of West African States (ECOWAS) and Mauritania. The meeting had explored the ratification of the Marrakech VIP Treaty and the Beijing Treaty. The Delegation affirmed that quite naturally, questions linked to limitations and exceptions for

libraries and archives and educational and research institutions were of great interest to Côte d'Ivoire. The Delegation noted that they were issues that could rebalance the international copyright system. In that context, it supported the statement that had been made by the Delegation of Kenya on behalf of the African Group and the statements of previous speakers who had supported that notion. The Delegation expressed its support for the convening of a diplomatic conference on broadcasting organizations. However, it noted that the work seemed to have slowed considerably with regard to work on limitations and exceptions. The Delegation stressed that it was necessary to have a clear timetable for discussing those issues so that the Committee could move forward to properly respect the rights of creators and protect their interests. The Delegation invited other delegations to show a more constructive and flexible approach, which was necessary to achieve the balance that was being sought in the international copyright system. It urged Member States to avoid denying the Right to Education as stated in Article 26 of the Universal Declaration of Human Rights of 1948, which enshrined the passage of humanity to modernity and civilization.

104. The Delegation of Senegal associated itself with the statement made by the Delegation of Kenya on behalf of the African Group. The Delegation welcomed the progress that had been made in the SCCR at recent sessions, in regard to the protection of broadcasting organizations. The Delegation encouraged the SCCR to continue to work with a view to convening a diplomatic conference in 2016. It stated that the need to have provisions on limitations and exceptions for libraries, archives, educational and research institutions was clear, as the Committee sought to meet the aspirations for socio-economic and technical development, held by the LDCs and all developing countries. As a result, the Delegation stated that it believed the adoption of legislation or regulations on the issue of limitations and exceptions was particularly important, but had to be balanced and had to take due account of the interests of rights holders. For those reasons, it urged continued work to produce a legally binding instrument on limitations and exceptions. The Delegation encouraged all delegations to enter into discussions on that issue in a constructive spirit. It further stated that it was necessary for delegations to be constructive, clear and open in their thinking. The Delegation pointed out that over recent years, at the national level, Senegal had carried out a number of activities in the area of copyright and related rights. Indeed, it was noted that Senegal had undertaken far reaching reform, which began in 2008, when legislation on copyright and related rights was adopted in the country. The purpose of the legislation was to ensure that WIPO Internet Treaties - the WIPO Performances and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT) – could be transposed into Senegal's legislation. The legislation had been fully validated by Senegal's Supreme Court in June 2014. Similarly, in cooperation with WIPO, Senegal was currently overhauling its collective management system for copyright and related rights. The Delegation noted that Senegal was encouraging all parties to the Beijing and Marrakesh VIP Treaties to move forward on those issues. The Delegation also stated that it intended to hold a number of workshops, to train people in Senegal about the provisions of those treaties, so that they could fully understand what was involved in their implementation. In closing, the Delegation strongly called for a more constructive dialogue to be pursued in those areas. The Delegation stressed that Member States should not fall into the traps that had held up work at recent sessions of the SCCR, and noted that Senegal stood ready to participate in any dialogue that would allow the Committee's work to make progress.

105. The Delegation of Sri Lanka endorsed the statements that had been made by the Delegations of Kenya and Senegal. It suggested that broadcasting should be the priority for the next SCCR. Therefore, the Delegation proposed that the majority of time be allocated to that matter. The Delegation observed that the broadcaster treaty was important to Sri Lanka, as the role that broadcasters played in the development of countries was very significant. It noted that it would like to see accelerated work on the broadcaster treaty. The Delegation further affirmed that the issue should be made a priority at the following sessions of the SCCR, so that it would be possible to convene a diplomatic conference in 2016.

106. The Delegation of Yemen stated that it had signed a Memorandum of Understanding (MoU) addressing the question of cooperation between Yemen and WIPO on copyright and neighboring rights. The agreement also addressed the issue of setting up a department for IP in Yemen. The Delegation expressed its support for WIPO's work in relation to the LDCs.

107. The Representative of the International Federation of Library Associations and Institutions (IFLA), also speaking on behalf of Electronic Information for Libraries (eIFL), expressed his concern about the state of the SCCR text-based work for libraries and archives. Exceptions at the national level were optional and national. As a result, in some countries there were no exceptions and limitations for libraries and archives and in others exceptions for core library activities such as preservation or lending were absent. Moreover, exceptions had to be updated for the digital environment. Learning and text data mining were not being addressed or were being taken away by contracts. In a digital world, where information was increasingly borderless, the immense disparity in national limitations and exceptions for libraries, as evidenced in the Crews Study, was a matter of concern. The Representative asserted that claiming all problems could be solved at a national level was absurd. No country was immune from needing information from elsewhere in support of education, research and culture. People expected libraries and archives to provide information to them irrespective of their location. Yet when exceptions stopped at the border and libraries could not legally provide the material, then people were denied access to information. The Representative urged the General Assembly to renew its recommendations made in 2012 that the SCCR continue text-based work towards a binding international legal instrument, with a view to submit recommendations on limitations and exceptions for libraries and archives to the General Assembly in 2016, based on proposals by Member States contained in document SCCR/26/3, which had been adopted by the SCCR.

108. The Representative of the World Blind Union (WBU) thanked Member States for the achievement in Marrakesh in 2013. The fact that 80 Member States had signed the Marrakesh VIP Treaty within the first 12 months had been a tremendous motivation for various stakeholders to work towards its entry into force in 2015. WBU was working with many Member State representatives at that moment to collaborate in the ratification process.

109. The Representative of Copyright Research and Information Center (CRIC) praised the progress made at the SCCR concerning the broadcaster treaty. The discussion on the protection of broadcasting organizations had begun in the 20th century and the work of the SCCR had to be concluded according to the mandate given in 2006, with the same spirit of harmony shown for the Beijing and Marrakesh VIP Treaties.

110. The Representative TWN stated that access to knowledge in developing countries needed to be greatly enhanced through adequate limitations and exceptions to copyright. That included not only rights for textbooks but also journals, articles, and videos, among others. Often the high price emanating from copyright monopolies restricted access to digital materials. In that sense, developing countries should be cautious about ratifying the WIPO Internet Treaties. The SCCR had not adequately addressed the needs of developing countries thus far. The Committee should clearly focus on the expansion of limitations and exceptions to copyright to increase the technological absorption capacity in developing countries rather than enhancing copyright protection.

111. The Representative of the International Federation of Film Producers Associations (FIAPF) pointed out that it had been taking an active part in the deliberations of the SCCR for many years. In recent times, and especially in the previous year, FIAPF had been increasingly concerned with a tendency to place copyright and exclusive rights in opposition to the public interest and to global development aims, as well as the tendency to equate the DA with a drive to weaken the exclusive rights of creators and producers. As practitioners of film and audiovisual production, it had an abundance of empirical evidence to suggest that – far from inhibiting development or restricting access by citizens to cultural content – granting

creators and producers of cultural works the exclusive right to authorize or prohibit the use of their work, to extract economic value from licensing their rights on an individual basis, and to have legal recourse against the circumvention of technical measures designed to protect their content, were pivotal incentives, which helped to generate creativity and audiovisual enterprise everywhere in the world and provided people with a greater choice of cultural works to access. The Representative urged delegations to recognize the vital, organic link between a strong copyright framework and economic and social growth and to seek out active and dynamic partnerships with national creative sectors to fulfil their considerable potential as engines of GDP growth, job creation, and innovation and to give local citizens growing opportunities to express and celebrate their own cultures. FIAPF was conditionally supportive of a treaty to support television broadcasters in the deployment of legal tools against the unlawful use of their signals and recognized that some progress had been achieved in the last two SCCR meetings to arrive at clarification of key concepts, but remained concerned that the treaty under consideration should be rigorously restricted to giving the broadcaster the means of opposing the theft of their signals, without in any way impeding on the rights to the audiovisual content itself, which are those enjoyed – amongst others – by producers and authors. The organization had followed with interest the difficult discussions on exceptions and limitations on libraries and archives, and on education and scientific research, but considered that the need for an internationally-binding instrument on those types of exceptions and limitations had not been demonstrated. The Representative stated that FIAPF supported a continuous exchange of views between Member States as a more achievable and pragmatic objective of deploying a framework to assist those individual Member States who wished to do so in formulating and implementing exceptions and limitations at the national level, using the flexibilities existing in WIPO copyright treaties and bearing in mind the different socio-cultural contexts, which would render internationally-mandated exceptions ineffective or be downright disruptive of fragile creative economies.

112. The Representative of KEI expressed opposition to future work on the treaty for the protection of broadcasting organizations. Broadcasters were claiming the treaty would address signal theft, but then they should be ready to accept a level of protection that did not extend to post-fixation rights. The Representative was of the view that broadcasters were seeking economic rights for content they did not create and did not own, which would come at the expense of copyright holders and consumers. KEI was also concerned with the impact on the distribution of income between copyright holders and national and big international broadcasting entities. The proposed new treaty would impose new liabilities for the sharing of information. The Representative stated that KEI supported the SCCR work on limitations and exceptions including work on binding treaties and on a revision of the Tunis Model Law for Developing Countries. The SCCR could be in a position to reach timely consensus on minimum copyright limitations and exceptions for preservation and archiving, which were two important functions. These provisions would yield global cross-border benefits and were mature enough to justify norm setting. The SCCR was also invited to examine the issue of the impact of long copyright terms on performers, book publishers and consumers.

113. The Representative of HEP was committed to working in the area of education and IP, with a view to ensuring that everyone in Cameroon enjoyed the greatest possible access to information, in particular in relation to manuals, videos and other kind of teaching materials that could be provided through libraries. The Representative believed that the work program on issues relating to libraries and archives should be continued, as well as the work on limitations and exceptions for education and research institutions.

114. The Representative of the European Broadcasting Union (EBU) said that after so many years of discussion, anything that deserved to be said had already been mentioned several times in that context. There was a clear risk of losing the credibility of the SCCR. In 1993, three years before the adoption of the well-known WIPO Internet Treaties, the EBU published an article on the need for an update of the Rome Convention with regard to broadcasters' rights, pointing out the gaps in that convention. That kind of delay made progress impossible and was

not understandable to the outside world. The Representative wondered how it could be explained that all rights at the international level had been updated except those of broadcasters. Of course the process was subject to political agreement among many Member States from all over the world, but that same process when applied to the WIPO Internet Treaties took only 18 months. Arguing that the political environment had changed would mean ignoring the fact that from the first day of negotiations the overwhelming majority of SCCR members recognized the need for a treaty on the subject. The broadcasters' rights in the Rome Convention were included in only one provision. The Representative asserted that discussing one provision for 20 years was incredible. He also pointed out that the delay had negative impacts on the outside world because it created the impression that the fight against online piracy was not taken seriously. He further noted that condoning piracy would have a ripple effect on the fight against piracy, leading to a loss of respect for copyright and to the devaluation of copyright and related rights. The business interests represented by EBU were close to exhausting the resources and patience to keep their engagement in the process. The Representative stressed that the SCCR needed to focus on the broadcaster treaty. The General Assembly should stipulate that a diplomatic conference be convened in 2016. That could be achieved through a strong commitment by Member States in the following two or three sessions of the SCCR. EBU was grateful to countries that had expressed the same view and in particular to countries from the African region and Sri Lanka.

115. The Representative of the International Publishers' Association (IPA) expressed strong support for the WBU and its quest to obtain quick ratification of the Marrakesh VIP Treaty. The Representative was delighted that the WBU had been working with IPA to solve the problem of accessibility at its root. Publishers would need to be able to publish accessible e-books. It was noted that very valuable support towards that objective was being received from the WIPO Accessible Books Consortium (ABC). Publishers had been able to make stunning progress even if there was still a long way to go before full and equal access could be achieved. The Representative observed that it was wonderful to see that the Marrakesh implementation process and ABC complemented each other. Both issues treated under limitations and exceptions on the current SCCR agenda were very big and complex areas, where a lot of different things were developing. IPA was in favor of balanced and well-formed limitations and exceptions in those areas and was delighted to note that the international legal framework was flexible and appropriate. Countries interested in introducing such exceptions were encouraged to seek the expertise of the WIPO Secretariat, to identify copyright laws of other Member States with potential model clauses on limitations and exceptions for their own laws. The Representative reminded Member States of the need to be careful because laws in those areas were becoming outdated quickly, as the world was changing dramatically. It was important to look at issues outside the room, because the changes that had occurred during the previous 10 years had been dramatic and exciting. They could justify optimism, for instance when looking at areas like e-lending, digital preservation, cross-border licensing and open access. In the educational world there was fantastic growth in the areas of distance learning, premium educational services, free academies and massive online courses. There was unprecedented educational, scholarly and research content available around the world. The Representative affirmed that if WIPO wanted to stay relevant in its discussion about limitations and exceptions, it must take into account those changes and must consider policies and instruments that were so flexible, they would stand the test of time. There were several pilot projects showing how libraries were collaborating with publishers and how startups were competing with established publishers to deploy more services that were less expensive, more appropriate and more global.

116. The Chair adjourned discussion on Agenda Item 15 to a later stage.

117. The Chair reopened Agenda Item 15, on Matters Relating to the Standing Committee on Copyright and Related Rights (SCCR). She reminded delegates that the agenda item had been subject to informal consultations under the chairmanship of Mr. Moscoso, whom she thanked very much for his efforts to try to find a solution.

118. The Chair was pleased to inform the plenary that to her understanding, the consultations had resulted in consensus. She read the following decision text that had been agreed to during the informal consultations:

“The WIPO General Assembly:

“(i) took note of the information contained in document WO/GA/46/5; and

“(ii) took note of the statements made by delegations at the 46th session of the WIPO General Assembly in 2014.”

119. The Chair proposed the text as the agreed decision under Agenda Item 15.

120. The Delegation of Kenya, speaking on behalf of the African Group, thanked the Facilitator, the Chair of SCCR, for his tireless efforts in trying to reach consensus on that particular issue. However, the Delegation expressed its regret that despite its efforts and flexibility, a substantive agreement could not be reached on that particular item. The Delegation reminded the Chair that a number of delegations in its Group had made suggestions on the item on broadcasting. The exceptions for libraries and archives. In that regard, the Delegation requested the addition of a third paragraph regarding the issues of the protection of broadcasting organizations, limitations and exceptions for libraries and archives, and limitations and exceptions for educational and research institutions and persons with other disabilities.

121. The Chair thanked the African Group for its proposal. She had already noted very clearly that there were two proposals on the table: the decision paragraph read by the Chair and the decision paragraph proposed by the African Group. The Chair also noted that the latter proposal was supported by the whole African Group. She stated that there was also a third option, which was that no decision would be taken. That option could apply if it became very clear that there was no consensus on either one of the proposals on the table.

122. The Delegation of Italy requested that the African Group repeat its proposal.

123. The Delegation of Kenya, speaking on behalf of the African Group, clarified that the third paragraph would read as follows: “(iii) directed the Standing Committee on Copyright and Related Rights to continue its work regarding the issues on the protection of broadcasting organizations, limitations and exceptions for libraries and archives, and limitations and exceptions for educational and research institutions and persons with other disabilities.”

124. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, noted that the element proposed by the African Group was exactly the same one that had been discussed and had not found consensus during the informal consultations. The Delegation further elaborated that it was exactly the same element that had not allowed the plenary to begin at 4 p.m., as all the delegations had needed to wait for the informal consultations on that particular topic to be completed. The Delegation could only suggest that it would be able to take that suggestion on board if there was a full stop after the word "work."

125. The Chair acknowledged delegations that tried to be helpful, but wondered whether it was the best use of the time of the Assemblies to repeat the discussion and the proposals one after the other. It was known that there had been no consensus earlier on any of the proposals that were being raised again. However, the Chair stated that the discussions could be revisited if delegations so wished.

126. The Delegation of Japan, speaking on behalf of Group B, thanked the Facilitator for his efforts to find a solution on the issue. The Delegation found it regrettable that a substantive decision could not be agreed upon, although consensus had emerged around the wording relating to the protection of broadcasting organizations. The Delegation suggested that at the same time, the Chair's proposal and the Facilitator's proposal could be used as a basis for

further work. The Delegation added its voice to that of the Czech Republic in noting that it was a pity the conversation that had been heard several times before was being repeated. The Delegation noted that Member States should focus on the language before them that had been proposed by the Chair. The Delegation further stressed that the repetition of the same discussion would lead nowhere and was just a waste of time.

127. The Delegation of Italy, speaking on behalf of the European Union and its member states, expressed its support of the language that had been proposed by the Chair. With regard to the addition that had been proposed by the African Group, the Delegate stated that it would like to add its voice to the proposal of the Czech Republic. It was an elegant solution that did not add or detract from any position.

128. The Delegation of Iran (Islamic Republic of) expressed its support for the proposal submitted by the African Group to define the issues on the SCCR agenda, or at least to make reference to the document before the General Assembly, document WO/GA/46/5, which was a report on the work of the SCCR that had been prepared by the Secretariat for the meeting.

129. The Chair observed that there were presently four proposals for consideration by the Assemblies.

130. The Delegation of Brazil thanked the Chair of the SCCR for his able stewardship and his tireless efforts to bridge the gaps among the different positions upheld by delegations during the General Assembly regarding the current agenda item. It was regrettable that despite all the hard work of the Facilitator and the delegations, Member States had not been able to reach an agreement. It was disappointing to see some delegations insisting on certain positions that ultimately amounted to trying to deny the legitimate positions of others. The proposed decision on Agenda Item 15, which came from the Chair, did not provide the necessary comfort in terms of adequately allowing for the continuation of the work of the SCCR on the basis of previous mandates that the General Assembly had produced in the past. More specifically, the 2012 General Assembly decision provided clear indications on the elements of consensus that were necessary to guide Member States on those ongoing discussions. For Brazil, negotiations on broadcasting and on limitations and exceptions for libraries and archives were very important and the Delegation remained committed to working constructively to reach a positive outcome on both issues. The progress on limitations and exceptions was considered the way forward in order to achieve a more balanced IP system that took into account Article 7 of the TRIPS Agreement and Recommendation 45 of the WIPO DA stating that the protection and enforcement of IP rights should be pursued in a manner conducive to social and economic welfare. The Delegation urged all delegations to fully recognize the importance of the issue of limitations and exceptions, and consequently to engage constructively in the ongoing discussions without prejudging the outcome of the exercise. The Delegation was in a position to support the proposal made by the African Group. Alternatively, it proposed to consider adopting a decision regarding Agenda Item 15 that reproduced the exact language agreed by all delegations on the occasion of the December 2013 General Assembly, with the necessary adjustments related to the document references. Besides being uncontroversial because it was agreed by all delegations one year before, that decision was tested in practice and proved to be effective in terms of allowing for the work of the SCCR to continue without imposing restrictions or otherwise jeopardizing the respective positions of each and every delegation in the discussions within the SCCR. Additionally, reproducing the language of the 2013 General Assembly would unquestionably amount to the minimum common denominator. The Delegation urged all delegations to revert to common sense and agree on what was already agreed.

131. The Chair considered that due to the limited time available and the number of proposals on the table, progress was very unlikely.

132. The Delegation of Egypt fully supported the proposal made by the Delegation of Kenya on behalf of the African Group. It was extremely concerned by the unwillingness to engage

constructively on the issue of limitations and exceptions, which was a priority for developing countries. Informal consultations had been held in order to try to have a meaningful outcome; however, the unwillingness to engage on limitations and exceptions showed by certain delegations would have an impact on the credibility of the Organization. The African Group was simply asking to enumerate or clarify the issues. At the same time, other diplomatic conferences were being requested, and the issues before the Organization had to be addressed proportionately. The issue of limitations and exceptions was very important for developing countries and killing the mandate would not be useful for the Organization.

133. The Chair reminded delegations that there had already been extensive informal consultations on the subject and the positions of delegations were already well known.

134. The Delegation of Chile indicated that it would send a substantive statement to the Secretariat through the relevant channels. It thanked the Facilitator, whose efforts helped to guide the work during the session, and it seriously regretted the lack of consensus concerning a decision that carried forward substantive progress on the agenda of the SCCR in a balanced way. The Delegation supported the proposal submitted by the Delegation of Brazil to use language already adopted by the 2013 General Assembly. It would have enabled the Committee to keep on working on the basis of something that was already agreed upon one year before. Incorporating the issue of limitations and exceptions into the agenda was an important step forward in achieving balance in the work of the Organization, also in light of the DA. The Delegation remained committed to working with a constructive approach on all topics under discussion.

135. The Delegation of South Africa regretted the fact that informal consultations could not achieve a consensual decision. Discussions on both broadcasting and limitations and exceptions were very important to South Africa. In order to maintain the momentum on both issues, it supported the proposal put forward by the Delegation of Kenya on behalf of the African Group.

136. The Delegation of Japan said that the statements were a duplication of the ones made during the informal consultations, which did not help a possible positive outcome. It requested that the Chair suspend the meeting to have a brief consultation about the way forward.

137. The Delegation of Uruguay expressed support for the proposal of Brazil as it was a useful attempt to find a common ground.

138. The Delegation of Mexico supported Brazil's proposal because using language already agreed upon in the past would facilitate a possible decision, but did not prejudice any discussion that might take place in future sessions of the SCCR on any of the items on its agenda. The decision would just be an encouragement for the SCCR to continue its work.

139. The Delegation of Kenya, in reaction to the proposal from Group B, believed it was important to proceed in the same way for all topics. It was important that the General Assembly go through all agenda items because only a few delegations had participated in the informal consultations. In that regard, the Delegation requested to move to the following agenda items and not break the meeting.

140. The Delegation of Brazil seconded the comments made by the Delegation of Kenya to the effect that the discussion should not be suspended until the subsequent agenda items were discussed.

141. The Delegation of Italy supported the proposal of Group B. A new proposal had been put forward and there was a need to coordinate.

142. The Chair proposed to suspend discussion on Agenda Item 15 and opened the following agenda item.

143. The Chair reopened Agenda Item 15 and proposed to complete work on the item by concluding that there was no decision on the agenda item.

144. The Delegation of Brazil highlighted that it did not recall any opposition to its previous proposal to reproduce the language from the previous General Assembly. That language was agreed by all delegations and nothing had changed since the previous year. Since no opposition had been made to that proposal, it should have been taken into consideration and the delegations should have been consulted on whether they opposed what had been agreed one year before and if necessary, why they were opposed to such a solution.

145. The Delegation of Italy stated that it did not want to reopen the discussions at that stage, and that if discussions were reopened the previous agenda item would have to be reconsidered as well.

146. The Delegation of Kenya recalled that there was an agreement and indicated that it wanted to hold to that agreement.

147. The Chair stated that the interventions confirmed her understanding of the state of the discussions and provided a response to the Delegation of Brazil.

148. The Delegation of Japan, speaking on behalf of Group B, stated that it had agreed with the Chair's proposal without any amendments on the concluding statements for all four topics. The statements were the result of long-lasting consultations and it was preferable to agree with the proposals as they stood, based on a minimum approach, because it was a reality that the proposals represented the maximum decisions on which delegations had managed to agree. The Delegation stated that it remained ready to agree with the Chair's proposals on all the remaining agenda items, but thought that considering the time, further discussion would not lead anywhere and the Chair's proposals should be accepted as they were presented. Otherwise, unfortunately, the wise conclusion would be to declare that there was no conclusion.

149. The Chair stated that the statement delivered by the Delegation of Japan also confirmed her understanding from the outcome of consultations with the regional coordinators. There had been no consensus on any proposals presented during the discussions. The Chair proposed to conclude that there was no decision on Agenda Item 15 and opened the floor for any objections.

150. The WIPO General Assembly did not take a decision on this item.

ITEM 16 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC)

151. Discussions were based on document WO/GA/46/6.

152. The Chair of the General Assembly opened Agenda Item 16 "Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)" and referred to informal consultations that had taken place on this item. The Chair thanked Mr. Ian Goss from Australia for his assistance in facilitating, at her request, the informal consultations. The Chair advised that the informal consultations had not resulted in any agreement on a draft decision. The Chair proposed a draft decision, which read as follows:

"The WIPO General Assembly:

"(1) took note of the information contained in document WO/GA/46/6;

“(2) took note of the statements made by delegations at the Forty-Sixth Session of the WIPO General Assembly in 2014; and

“(3) decided that the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) should meet in 2015 in order to make a recommendation to the 2015 General Assembly as to the mandate of the IGC for the 2016/2017 biennium.”

153. The Delegation of Kenya, speaking on behalf of the African Group, thanked Mr. Goss for his tireless efforts to find a consensus. The work of the IGC was very important for the African Group. It believed that the IGC had made very substantive progress during the last sessions, and Member States were in a position to take the final decision to convene a diplomatic conference as per the 2014/2015 mandate. Therefore, the African Group proposed to replace Paragraph (3) of the draft decision with “decided to convene a diplomatic conference in 2016 to adopt a legally binding instrument or instruments for the effective protection of genetic resources, traditional knowledge and traditional cultural expressions as per the 2014/2015 mandate”.

154. The Delegation of Paraguay, speaking on behalf GRULAC, thanked Mr. Goss, the Secretariat and all the parties involved in those negotiations, even though a satisfactory agreement had not been reached. GRULAC wished to propose the adoption of the work program which had been submitted in all the Facilitator’s proposals on the basis that there would be at least 18 days of IGC sessions during 2015. Any fewer days would mean a step backwards in the negotiations. The work program would consist of three thematic sessions of the IGC, and a high level segment to address key political issues in the negotiations. The first meeting of 2015 - IGC 29 - would last five days and deal with TK. The second meeting - IGC 30 - would last five days and focus on TCEs. The third meeting - IGC 31 - would consist of five days dealing with GRs and three days of a high level segment. GRULAC believed that such a proposal was balanced and consistent with the mandate of the IGC.

155. The Delegation of Japan, speaking on behalf of Group B, thanked Mr. Goss for his tireless efforts. Throughout the IGC process in 2014, the feeling had been shared that a lack of common understanding on policy objectives and guiding principles caused the divergence. Further technical work needed to be done to lead a shared understanding of the key issues. The IGC had not reached the phase where a political decision was required. Group B believed that the 2014 WIPO General Assembly should have agreed on a reasonable and feasible work program to advance the substantive work and to avoid the situation where the latter part of the IGC’s mandate had no substantive meetings. The work program had to be prepared properly, with due attention to the balance in the whole picture of WIPO’s work. It highlighted the importance of transparency during the process. Additionally, Group B emphasized that the form of the international legal instrument(s) pursued by the IGC should follow the substance. Therefore, the decision made by the General Assembly should not prejudge the outcome.

156. The Delegation of Bangladesh, speaking on behalf of the Asia and Pacific Group, thanked Mr. Goss for his continued efforts to reach a consensus. The Asia and Pacific Group was extremely disappointed to see that the proposed draft decision did not contain any work program. Although the last version of the draft decision proposed by the Facilitator was not a preferred decision, the Asia and Pacific Group supported it because it showed a spirit of great compromise. The Asia and Pacific Group hoped that all Member States would agree on it.

157. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, thanked Mr. Goss. The CEBS Group recognized the importance of the work carried out by the IGC, and were convinced that the discussion on the effective protection of GRs, TK and TCEs should continue since a number of fundamental, substantive issues still remained unclear and open and needed to be resolved in all the three areas. Moreover, the CEBS Group firmly believed that the IGC needed more evidence-based debate on the potential legal and economic impacts

of protection of GRs, TK and TCEs. A decision on the nature of any instrument or instruments had not been made. Before any such decision could be made, a firm basic consensus on the principles and substance of such protection must be achieved. With regard to TK and TCEs, the CEBS Group reiterated its preference for a non-binding, flexible and sufficiently clear instrument or instruments. With regard to GRs, the CEBS Group remained committed to further discussing a disclosure requirement which would not threaten the legal certainty of the patent system. The CEBS Group had made numerous appeals and efforts to bridge gaps and arrive at a productive and effective work program. It noted the result of the lengthy informal consultations. The CEBS Group remained committed to further contributing to the negotiations at the IGC in order to fulfil its mandate in an effective and efficient manner.

158. The Delegation of the European Union, speaking on behalf of the European Union and its member states, thanked Mr. Goss for his enormous efforts to ensure good faith negotiations throughout the General Assembly. It recognized the importance of the work carried out by the IGC. It believed that the discussions in 2014 had been fruitful and some limited progress had been made. However, a significant number of issues which were fundamentally important needed to be resolved before the next stages of the work could be considered. In that respect, it regretted that the IGC had not been able to produce a recommendation to the General Assembly for its future work program. It further regretted that no agreement on the way forward had been reached at the General Assembly. It would continue to work constructively with all delegations to find ways to achieve tangible results. It reiterated its understanding that any international instrument(s) to be created should be non-binding, flexible, evidence-based and sufficiently clear. It reminded Member States that no decision had been reached on the nature of the instrument(s) to be adopted and that the work of the IGC should continue on that basis.

159. The Delegation of India said that the IGC process had made considerable and significant progress. The texts had developed. There had been a fair amount of productive engagement, and all three texts had improved substantially. It thanked Mr. Goss for his constructive engagement to involve the various groups and countries in arriving at a decision. Considering the significant progress that had already been made, the Delegation felt that the draft decision was extremely disappointing and did not reflect the views of Member States. In that regard, it supported the intervention made by the Delegation of Bangladesh on behalf of the Asia and Pacific Group. The IGC should continue its text-based negotiations with a view to deciding on convening a diplomatic conference in 2016, and there should be three thematic sessions in 2015, followed by a stock-taking meeting, in order to allow countries and groups to voice their opinions and engage constructively on the texts and thereby arrive at a decision at the 2015 General Assembly.

160. The Delegation of Iran (Islamic Republic of) was disappointed with the draft decision. The IGC was the heart of development-friendly norm-setting in WIPO. With that decision, it would be unable even to implement the decision of the last General Assembly, because of the lack of a consensus on the work program. It was unfortunate that, despite increased efforts by Member States and the IGC's mandate agreed in 2009 to conduct text-based negotiations and hold a diplomatic conference, it seemed that the work remained unfinished. Political will and a sufficient number of sessions were a prerequisite for progress at the IGC. The question was why the most important Committee for developing countries should not be a permanent committee. It requested Member States to think about changing the nature of the IGC to a permanent or standing committee, so as to be able to realize the objective of developing countries in finalizing a binding instrument(s) on TK, TCEs and GRs.

161. The Delegation of Jamaica supported the statement made by the Delegation of India on the importance of the work that had been done at the IGC. The IGC had made substantive progress and it was unfortunate that the General Assembly had been unable to arrive at some consensus. However, it reiterated the position put forward by the Delegation of Paraguay on behalf of GRULAC. The need to agree on a work program in order to move the process forward to a conclusion was not only for the developing world, but also for the developed world. It

wished that the General Assembly could arrive at some conclusion on that matter. A lot of work had been done. It thanked the Facilitator for all that he had done. Unfortunately, the current decision did not address the substantive issues. It hoped that the General Assembly could agree on a work program.

162. The Delegation of Peru thanked Mr. Goss and the Secretariat. At least six proposals had been tabled over the past few days. Some of them were closer to a consensus, while others were further from a consensus, and they reflected different stages of the negotiations. Important steps forward had been taken. The IGC had been working on the protection of TK, GRs and TCEs for many years, which was vitally important for Peru and for the vast majority of, if not all, developing countries. The IGC process was of vital importance. It was necessary to see urgency in the outstanding issues. While it recognized the value of the Chair's proposal, it did not include a work plan, and the work plan was important. It underscored the importance of GRULAC's proposal to ensure that the process be preserved. The request of the Asia and Pacific Group seemed to go in the same direction. What was being sought was a minimum, namely, preserving the work of the IGC for the coming year, since there was a mandate, so that the IGC could move forward with the substantive issues. No decision would not be acceptable. That could affect or even put a halt to the work of the IGC. Without an agreement in the General Assembly, discussions would end and that would have a terrible impact on the countries that believed that an agreement could still be reached at the IGC.

163. The Delegation of South Africa supported the statement made by the Delegation of Kenya, speaking on behalf of the African Group. It thanked Mr. Goss for his very constructive contribution towards reaching an agreement. He had been a very constructive and insightful Facilitator throughout the year. The Delegation pointed out that it was under pressure at the national level. In the past week, a 20-year review conference on the promotion, protection and management of indigenous knowledge systems had been held in South Africa. The Presidency had also launched an evaluation of the indigenous knowledge systems policy within the country. There was tremendous pressure to reach an agreement on the instruments within WIPO, notwithstanding that within the country its own norm setting processes on indigenous knowledge had advanced. South Africa had an Act which had been assented to in December. There was a cabinet decision on *sui generis* protection that was imminent. Therefore, the issues being discussed at the IGC were critically important. It stressed that the Delegation of South Africa, together with other African delegations, had been the thought leaders in the IGC. From 2002, they had put proposals on the table to advance the work. The Delegation had noted with regret that the process was not making any progress. It was probably a mutual responsibility of the partners. It was not the prerogative of one grouping. Every time proposals were made, they were bracketed, and then eventually it was claimed at the General Assembly that there was no progress being made. Proposals to constructively build a consensus were not being presented. The Delegation regretted that the partnership needed was far from being reached. The African Group had worked very constructively to make a decision and to make progress. The African countries were the demandeurs. Their ordinary people were being affected, since biopiracy continued. It demanded that a decision be made. It understood the quality of the text and the complexity of the issues. It was regrettable that the complex issues had not been addressed from a technical point of view. The Delegation was not interested in a work program without a purpose. An agreement on whether the instrument would be binding or non-binding needed to be sorted out before the IGC could reach conclusions. It was a pity that a decision could not be reached on that. It supported the proposal made by the Delegation of Kenya on behalf of the African Group. In 2008, it had been said that the text on TCEs was ready for a diplomatic conference. A few years later, it was now regarded as not ready. The Delegation was convinced that the issue was not the text, but rather the political will.

164. The Delegation of Indonesia thanked Mr. Goss. It supported the statement made by the Delegation of Bangladesh on behalf of the Asia and Pacific Group and reiterated its position that a diplomatic conference should be convened as soon as possible. It attached a great importance to having an effective and robust work plan, or at least one that would be similar to

the 2014 one. This was essential in order to ensure the earliest conclusion of an international legal instrument(s) for the protection of GRs, TK and TCEs.

165. The Delegation of Canada thanked Mr. Goss for his excellent work throughout the General Assembly, as well as throughout the year during the IGC sessions. The Delegation was deeply disappointed that Member States had not been able to reach a consensus on a work plan for the IGC. It was of the view that the last version of the Facilitator's text struck the right balance of positions expressed by all groups. The Delegation was deeply concerned with the pause in the work. It reiterated its commitment for the work of the IGC and hoped that obstacles preventing the General Assembly from moving forward on the important issue could be overcome.

166. The Delegation of Brazil thanked Ambassador Wayne McCook for his formidable work as the Chair of the IGC. It also thanked Mr. Goss. The Delegation supported the statement made by the Delegation of Paraguay on behalf of GRULAC. It was willing to accept the proposal by the Delegation of Kenya on behalf of the African Group and considered it unfortunate that some delegations insisted on denying the majority to move forward on this issue. Document WO/GA/46/6 presented a consolidated document relating to IP and GRs and draft articles on the protection of TK and TCEs. On GRs, there were only a small number of issues that were still a matter of discussion, and the Delegation was confident that little work was required so that a diplomatic conference could be convened in the near future. On TK and TCEs, a new approach regarding the scope of protection had been introduced, resulting in an important improvement. The tiered approach provided a good way forward with a view to achieving an international legal instrument or instruments with the necessary flexibility to accommodate the different concerns expressed by delegations. On the definition of the new work program for the IGC, even though it believed that the General Assembly could have agreed on a more ambitious work plan, it believed that a compromise had been reached and remained committed to the objective of establishing an international framework for the protection of GRs, TK and TCEs.

167. The Delegation of Thailand attached great importance to the work of the IGC on GRs, TK and TCEs. It wished to align itself with the statement made by the Delegation of Bangladesh on behalf of the Asia and Pacific Group and supported the statements made by the Delegations of India and Indonesia. The Delegation expressed its deep regret on the last draft decision before the General Assembly, which lacked clarity on how the IGC should continue its work as it contained no work program for the IGC in 2015. It believed that commendable progress had been achieved thus far. Therefore, it wished the decision to contain a clear work program for the IGC in 2015. In this regard, it was of the view that the sixth version of the draft decision proposed by Mr. Goss was balanced, and it highly appreciated his hard work. The Delegation urged the General Assembly to reconsider the said sixth version, particularly the scheduling of the three thematic sessions followed by the stock-taking and high level segment. It sincerely hoped that a draft could also be a viable roadmap towards convening a diplomatic conference in the very near future.

168. The Delegation of Nigeria supported the proposal made by the Delegation of Kenya on behalf of the African Group and the statement made by the Delegation of South Africa. The Delegation thanked Mr. Goss. It stressed that it was no longer enough to keep having meetings and extending mandates without foreseeing a call for a diplomatic conference.

169. The Delegation of Egypt endorsed the statement made by the Delegation of Kenya on behalf of the African Group. It shared the concerns and frustration that had been expressed by the Delegation of South Africa. After 15 years the IGC was not able to conclude its work and to have a decision. The Delegation hoped that it was not a situation of following a proverb that death was more honorable than torture. There was a need to put an end to the negotiations at the IGC.

170. The Delegation of the United States of America thanked Ambassador McCook and Mr. Goss for their work. The Delegation supported the statement made by the Delegation of Japan on behalf of Group B and shared the frustration expressed by the Delegation of Canada. The Delegation could not agree to convene a diplomatic conference, or agree on the nature of an instrument before knowing its contents. The Delegation expressed its willingness to agree upon a work plan for Member States to continue their constructive work.

171. The Delegation of Australia thanked Mr. Goss and Ambassador McCook for the work done. The Delegation believed that significant progress toward an agreed text had been achieved. It regretted that a work program for 2015 could not be agreed on. The Delegation hoped that the good work undertaken would continue at some point in the future, based on a spirit of cooperation and compromise. The Delegation expressed its willingness to continue to work with other Member States towards a positive outcome. Failure to agree on a work program meant a lack of progress in developing a framework to provide certainty for industry, and importantly, it would disappoint indigenous peoples and local communities.

172. The Representative of KEI noted, with respect to the protection of GRs, that WIPO's work on a disclosure requirement was most likely to achieve near term success in terms of norm setting. With respect to the proposed instruments on TK and TCEs, he had reservations about possible, unintended consequences of binding norms, in terms of reduced access to knowledge, culture and education. For example, he would be concerned if large corporations could use licensed *sui generis* rights to have long term or even perpetual monopolies on medical technologies or data. There were opportunities to use TK and TCEs regimes to expand access to data, knowledge and technologies, and those should be explored, including in particular, those legal regimes that paralleled some of the access expanding licensing strategies pioneered by Richard Stallman for the free software community.

173. The WIPO General Assembly did not take a decision on this item.

ITEM 17 OF THE CONSOLIDATED AGENDA

REPORTS ON OTHER WIPO COMMITTEES

ITEM 17(i) OF THE CONSOLIDATED AGENDA

STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

174. Discussions were based on document WO/GA/46/7 Rev.

175. The Secretariat explained that document WO/GA/46/7 Rev., Annex I, pages 1 to 4 provided a progress report on the work of the Standing Committee on the Law of Patents (SCP) at its twentieth session held in January 2014, and described the contribution by the SCP to the implementation of the DA recommendations. The contribution consisted of the statements extracted from the draft report of the twentieth session of the SCP (document SCP/20/13 Prov.2, paragraphs 160 to 165). The Secretariat invited the General Assembly to take note of the information contained in the document.

176. The Delegation of Japan, speaking on behalf of Group B, thanked the Chair of the SCP for his efficient chairing of the twentieth session of the Committee and the Facilitator for his professionalism during the discussion on future work. In addition, the Delegation thanked the Secretariat for its hard work over the past year in preparing the documents. The Delegation stated that the agreement on the future work of the twentieth session of the SCP to which delegations had failed to agree at its two previous sessions was a good sign of a changing working spirit of the Member States in that field. The Delegation noted that the agreed future

work included interesting items such as an information sharing session regarding experiences on international work sharing and collaboration and a study on inventive step. The Delegation stated that work sharing among patent offices through use of examination results was one of the most essential and necessary aspects where multiple applications should be dealt with in an efficient manner with limited resources. The Delegation expressed the strong belief of Group B that such an aspect was very important for IP offices of both developed and developing countries. The Delegation stated that the Committee should continue to contribute to that important aspect in order to maintain the *raison d'être* of multilateralism in the field of IP and Group B looked forward to being engaged in discussions on that issue at the future sessions of the SCP. Finally, the Delegation stated that Group B continued to commit itself to the work of the SCP to achieve the objective of the Committee, i.e., to facilitate coordination and provide guidance concerning the progressive international development of patent law, including patent law harmonization.

177. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, welcomed some progress made by the SCP during the period of review. The Delegation stated that the CEBS Group remained committed to continue and improve discussions on all topics under the Committee's work program, such as quality of patents, including opposition systems, exceptions and limitations to patent rights, patents and health, confidentiality of communication between clients and their patent advisors and transfer of technology. Further, the Delegation reiterated its continuing great interest concerning the issue of quality of patents, which was one of the most important and complex issues for the benefit of all patent users. Noting that the CEBS Group also continued to attach importance to the work of the Committee on the issue of confidentiality of communications between clients and their patent advisors, the Delegation looked forward to a half-day seminar on the confidentiality of advice from patent advisors and practical experiences of clients as well as patent advisors to be held at the next session of the Committee. The Delegation further expressed its hope that future work on all topics would increase and contribute to better understanding of the importance of the patent system, its use and development. The CEBS Group continued to believe that the results of that work would also enable useful discussions on substantive issues concerning the law of patents towards its harmonization.

178. The Delegation of Italy, speaking on behalf of the European Union and its member states, expressed its satisfaction that progress was made at the twentieth session of the SCP, that positive conclusions had been reached and that delegations agreed to continue discussions on the basis of the work program that included topics such as quality of patents, including opposition systems, confidentiality of communication between clients and their patent advisors, exceptions and limitations to patent rights, transfer of technology and patents and health. The Delegation further stated that the topics in the work program addressed important and complex issues related to the international patent system. It expressed its hope that the discussions would achieve a more efficient and accessible patent system as a whole. The Delegation was keen on advancing the issue of quality of patents, including opposition systems, as it believed that work on that topic would be of interest to all Member States across the spectrum of development, as well as on the topic of confidentiality of communications between clients and their patent advisors since convergence of different provisions would be of a benefit to all the users of the patent system irrespective of the level of the development of individual Member States. Finally, the Delegation noted that it remained committed to all the topics in the work program of the Committee, and expressed its hope that further work would enable fruitful discussions on technical issues concerning patent law and consideration of the need for international patent law harmonization.

179. The Delegation of the United States of America supported a balanced work program for the SCP. The Delegation expressed its belief that the non-exhaustive list of issues attached to the report on the international patent system provided a good basis for such discussions as it was of interest for all levels of development. The Delegation of the United States of America supported further studies of those issues in a balanced manner to reach consensus that would

take into account the range of interests represented by all Member States. The Delegation further stated that it did not support continuing work in the SCP that was heavily tilted towards the erosion of patent rights. In particular, it did not support a work program focused on exceptions and limitations of patent rights without also having a tangible work program on substantive patent law. The Delegation was mindful of the projects being undertaken in other WIPO Committees, especially the CDIP, as well as in other international bodies such as WHO and WTO. In its view, work undertaken in the SCP should not be duplicative of work being done in those other bodies. It also expressed its concern regarding the continuing lack of balance in the SCP work program, and by attempts of some Member States to have the Committee focus excessively on exceptions and limitations to patent rights at the expense of substantive patent law topics. The Delegation further expressed its concern at the inability of the Committee to carry out tangible steps in furthering a work program that addressed matters of substantive patent law. It was of the opinion that addressing topics of substantive patent law, such as the topic of quality of patents, would be of interest to all Member States. In particular, the Delegation welcomed continuing discussions and additional concrete proposals from Member States regarding work programs on the topic of the quality of patents. However, the Delegation expressed its disappointment concerning the very limited progress that had been achieved on that topic, in particular, on the work aimed at practical ways to improve the operation of patent offices, for example, taking as a starting point quality programs that had been shown to be effective. The Delegation stated that those effective programs included quality management programs implemented by patent offices of all sizes, as well as work sharing initiatives. The Delegation noted that one example of a very successful and effective work sharing program was the Patent Prosecution Highway (PPH) which, in its view, was beneficial to both the offices and to the applicants, in terms of efficiency and quality. The Delegation stated that far from being a program that infringed on national sovereignty or that required offices to rubber stamp the patentability decisions of other offices, the PPH helped participating national offices to make their own speedy and correct patentability decisions according to national laws. The Delegation of the United States of America welcomed a further study in the SCP of international work sharing programs aimed at giving tools to national offices of the Member States for improving their quality systems. It also welcomed a section of the WIPO web site being dedicated to work sharing initiatives. The Delegation further expressed its disbelief that flexibilities were the exclusive solution to the public health problems faced by developing countries and LDCs. The Delegation supported a balanced approach to finding solutions to the public health challenges in those countries, which were not limited to flexibilities, such as compulsory licensing and exhaustion of patent rights, but also included the benefits of strong IPR regimes, and the effect of non-IPR barriers to delivering healthcare. The Delegation further stated that it did not support developing within WIPO a technical assistance module on TRIPS flexibilities. In its view, the WTO was the appropriate body with the mandate to determine compliance with the TRIPS Agreement. Therefore, the Delegation was mindful that such pronouncements on the TRIPS Agreement would be outside the scope of WIPO's mandate. The Delegation noted that an extensive review of exceptions and limitations, including compulsory licensing and exhaustion of patent rights, had been carried out within the SCP. Therefore, additional work on patent flexibilities, specific to patents in health, would be duplicative of that work and an inefficient use of scarce resources. The Delegation continued to note that the work done to date on exceptions and limitations provided useful information. However, it did not support further work on that topic because such information was already available to interested Member States without further use of WIPO resources. Noting that detailed studies on nine specific exceptions and limitations under the TRIPS Agreement had been completed or were about to be completed by the next meeting of the SCP, including an extensive questionnaire containing over 100 questions that had been compiled by Member States on flexibilities and published and presented in various formats by the Secretariat, the Delegation stated that those studies provided a comprehensive review of the topic and, therefore, it did not support additional work which would not add information to what was already available. In addition, the Delegation stated that it did not support conducting more studies or expanding the studies on technology transfer as a large amount of information had already been created by WIPO on that topic and

additional work would be duplicative of efforts carried out in other bodies such as the CDIP, as well as the SCP's own work.

180. The Delegation of Iran (Islamic Republic of) was pleased to see that the SCP had reached a balanced work program which provided the opportunity for fruitful exchanges of views on a wide range of topics related to patents. The Delegation noted that among the issues under deliberation in the Committee, exceptions and limitations to patent rights, technology transfer and patents and health were of particular importance for developing countries, since they assisted them to better deal with their economic and social development challenges. Those topics also explored ways to better adapt patent systems to meet the needs of national development. Regarding the subject of technology transfer, the Delegation sought a comprehensive work program in which the incentives for, and, at the same time, impediments of the patent system to the transfer of technology would be analyzed. Also, in its view, sufficient consideration should be given to patent law flexibilities and their possible role in the promotion of the transfer of technology. On the issue of quality of patents, the Delegation reiterated its concerns about the lack of a precise definition of that concept. The Delegation stated that in the absence of such clarity, it would be difficult to fully comprehend its scope and its possible implications for the patent system. Therefore, in the opinion of the Delegation, it would be useful to first reach an agreement on a definition of that term. In that context, it was of the view that the discussion on quality of patents should not result in international harmonization of patent laws or undermine the flexibilities of national systems in deciding on the issue of patentability. Furthermore, in addressing the issue of quality of patents, it would be important to study and evaluate the role of the requirement of sufficiency of disclosure. The Delegation further expressed its support for further discussion on the issue of opposition systems and preparing a compilation of models on opposition and administrative revocation systems. Turning to the issue of patents and health, the Delegation stated that having access to essential medicines with affordable prices was also an important issue for developing countries. Its expectation from inclusion of that item in the work of the Committee was to recognize the practical ways to respond to the challenges caused by the patent system in the field of health. Finally, the Delegation stated that the full use of flexibilities accorded under international agreements and their ineffectiveness was another issue which should be addressed in the SCP.

181. The Delegation of South Africa attached great importance to the work of the SCP, and was pleased to see the balanced work program for the next session, which contained issues such as patents and health, transfer of technology and exceptions and limitations to patent rights on the agenda of the Committee. The Delegation welcomed the organization of a sharing session on health-related patent flexibilities and a seminar on exceptions and limitations to patent rights during the previous session of the SCP, and expressed its commitment to engaging constructively in the discussions of the Committee. The Delegation noted that developing patent laws without giving due account to differences in levels of social, economic, and technological development would not benefit all the Member States. The Delegation further stated that IP rights related to patents had a direct and significant impact on innovation, economic growth and social development and, therefore, it required an equitable balance between the private interests of the right holders and the public, especially in the patent system. In its view, any legal norms should be seen in the context of their environment. The Delegation stressed its full support for the work program proposed by the African Group and the DAG contained in document SCP/16/7. It noted that the question of the effective use of compulsory licenses, government use, disclosure of International Nonproprietary Names (INN) in patent specifications and costs and benefits of allowing Markush claims, were extremely important, especially from the point of view of health and access to essential medicines. The Delegation considered that the time was ripe for the SCP to take concrete steps with a clear implementation plan, and adopt the joint proposal by the African Group and the DAG. The Delegation also supported the view that the protection and enforcement of patent rights should contribute to the promotion of technological innovation and the dissemination of technology, retaining the mutual advantage of producers and users of technological knowledge including in a manner conducive to social and economic welfare and to a balance of rights and obligations.

It further stated that the analysis of the mechanisms of transfer of technology should also take into account the capacity of Member States to absorb and reproduce technologies. The Delegation expressed its wish to further highlight the importance of discussing the anti-competitive practices found in licensing agreements in relation to the transfer of technology. Noting that the SCP had started an important and necessary discussion on various development-related aspects of the patent system, the Delegation welcomed that positive step and looked forward to a meaningful translation of those discussions into concrete elements of a work program. Finally, the Delegation expressed its support for the traditional practice of having two sessions of the Committee per year, which would give the Committee sufficient time and opportunity to have a full discussion and to make better progress on the issues on the Committee's agenda.

182. The Delegation of India expressed its belief that the development of patent systems and the use of patent rights should operate in a balanced manner. It considered that they should meet the objective of providing incentives for the interests of inventors and the objective of promoting the enjoyment of the human rights of other members of society as well. The Delegation noted that the SCP was an important committee of WIPO, which provided opportunities to discuss all patent-related issues in depth. The Delegation attached great importance to the areas of patents and health, transfer of technology and exception and limitations to patent rights. It stressed that there was an urgent need not only to study flexibilities in the TRIPS Agreement and effective implementation or utilization of compulsory licensing provisions under patent law in order to provide the life-saving drugs at affordable prices, but also to study the impact of compulsory licenses and the consequential impact on the prices of patented drugs. The Delegation also supported discussions on the issues of sufficiency of disclosure and transfer of technology. The Delegation reiterated that evergreening policies, allowing patents for incremental innovations without substantial improvement, would have an adverse impact on healthcare services. Further, the Delegation expressed its belief that patent offices across the world would not be able to maintain the quality of patents without maintaining the quality of examination and sufficient staff. The Delegation was of the view that steps should be taken to build capacity among IP offices in developing countries in order to enable them to carry out their quasi-judicial functions in the best possible manner. The Delegation further stated that, from the public interest point of view, transfer of technology was a central theme of the patent system. In its view, the protection and enforcement of patent rights should contribute to the promotion of technological innovation and the dissemination of technology, in a manner conducive to social and economic welfare and also to a balance of rights and obligations.

183. The Delegation of Cuba expressed its belief that present negotiations in the SCP should be carried out in line with the DA recommendations made by Member States, while noting that a patent system could affect development as well as the use of flexibilities. The Delegation considered that, among the topics discussed in the Committee, the main issues were the continuation of studies on exceptions and limitations to patent rights and the proposals on patents and public health.

184. The Delegation of Trinidad and Tobago commended WIPO on the work of the SCP. It commended the Committee on taking the initiative of not trying to achieve consensus on all the issues at once, but to work with a phased approach. In its view, such an approach might lead to consensus among delegates with regard to the Substantive Patent Law Treaty (SPLT). The Delegation maintained its optimism that an agreement could be reached in all the sensitive areas. The Delegation expressed its view that the SPLT could be an answer to a universal patent system that would greatly benefit all the stakeholders, and might allow offices to reap tremendous benefits, although many offices still had not currently utilized the system. The Delegation noted that its country had greatly used the Patent Cooperation Treaty (PCT) System, and welcomed any system that would facilitate the prosecution of applications in Trinidad and Tobago. The Delegation expressed its hope that the end result of the deliberations would be the creation of an enabling commercial space, which would encourage inventors to continue to

innovate. The Delegation stated that Trinidad and Tobago continued to be an ardent follower of the SCP and its work. It endorsed progressive thinking in the hope that it would bring much needed change to the patent system.

185. The Delegation of Japan supported the statement made by itself on behalf of Group B. It welcomed the fact that progress had been made at the twentieth session of the SCP with respect to the future work plan that dealt with the quality of patents. The Delegation expressed its appreciation for the Secretariat's effort and Member States' flexibility in that regard. The Delegation attached great importance to the SCP as a place where Member States could discuss important patent issues. The Delegation was of the view that the agreement on the future work plan was a small but firm step in the right direction. The Delegation expressed its strong belief that Member States should continue to commit themselves to the important patent issues, including quality of patents, which brought benefits to all countries through assuring certainty of rights. The Delegation stressed that the issues addressed in the SCP sessions would contribute to the implementation of the WIPO DA recommendations. The Delegation maintained its position that the SCP should continue to consider critical issues in an efficient and updated manner, avoiding duplication within all the WIPO bodies.

186. The Delegation of China stated that the SCP was an extremely important platform for countries, which allowed them to discuss the development of the international patent system and to improve international cooperation in that area. The Delegation expressed its hope that the SCP could continue its work and continue to allow Member States to exchange information and experiences, particularly on exceptions and limitations, quality of patents and patents in general.

187. The Delegation of Brazil praised the Secretariat for presenting information on the implementation of the IP and Global Challenges program at the previous session of the SCP, and expressed its wish to continue that exercise in other sessions of the standing committees that dealt with the topic of Global Challenges. As regards the topic of exceptions and limitations to patent rights, the Delegation looked forward to the second part of discussions on the implementation of exceptions and limitations to patent rights. In its view, exceptions and limitations were an essential element of a balanced IP system. In that regard, the Delegation supported the discussions on exceptions and limitations without prejudice to discussions on other topics. With respect to discussions on patents and health, the Delegation welcomed the next new steps in that area. It considered that the debates could take Member States through a more useful discussion on examination of health-related patents. The Delegation noted that the relationship between patents and transfer of technology was also the subject of interest to Brazil and to more than two-thirds of the membership of the Organization. The Delegation considered that a different look on the effect of wider access to patent databases on transfer of technology could be a way forward, taking into account the capacity of countries to absorb technologies. Regarding the topic of quality of patents, the Delegation welcomed a deep debate on the concept of quality patents that would lead Member States towards a stronger IP system. It further noted that the Committee should also be able to address the different levels of development and the capacities of IP offices.

188. The Delegation of Venezuela (Bolivarian Republic of) expressed its belief that discussions in the SCP should continue to ensure that the impacts of patents on development were fully understood and that the patent system contained the flexibilities necessary to solve problems that were of concern to all Member States, according to the agenda of the SCP and the DA. The Delegation also highlighted access to knowledge, medicines, food, basic goods, transfer of technology and fair prices as some issues affecting developing countries around the world.

189. The Delegation of Djibouti congratulated the Chair on her conduct of the General Assembly. The Delegation expressed its gratitude to the Director General, Mr. Francis Gurry, for his work for developing countries, in particular African countries, and to the Deputy Director General, in charge of the Development Sector, for his work. The Delegation welcomed the

conclusions reached at the last SCP, in particular Agenda Items 6, 8 and 10 on exceptions and limitations to patent rights, patents and health and transfer of technology. It further noted that it especially welcomed those agenda items because of the two speeds at which the IP system was developing. In the view of the Delegation, some countries enjoyed the benefits of the IP system whereas others did not. The Delegation endorsed the statements made by the Delegations of South Africa, Egypt, Iran (Islamic Republic of), India and Brazil.

190. The Delegation of Colombia noted the importance of the work of the SCP. It stressed that the need for exceptions and limitations should be understood as very exceptional situations to industrial property rights, in order to facilitate trade and to ensure legal certainty for appropriate investments. The Delegation suggested that the Committee study not only exceptions and limitations but also the positive impact created by the patent system for developing countries within the framework of the DA.

191. The Representative of TWN stated that it attached great value to the work of the SCP. Noting that the SCP was expected to inform the needs of large sections of WIPO's Membership, the Representative pointed out that 20 years since the conclusion of the TRIPS Agreement, access to medicines continued to affect all. He further stated that there was no adequate investment that met the healthcare needs of developing countries. The Representative was of the view that the patent regime incapacitated the majority of the developing countries from fulfilling their obligation and right to health. The Representative noted that medicines to treat cancer and infectious diseases such as hepatitis C, were exorbitantly priced and, as a result, people were denied treatment which often resulted in death. The Representative further stated that patents posed a great threat to the right to enjoy the benefits of scientific progress and its applications under Article 15(b) of the International Covenant on Economic, Social and Cultural Rights. The Representative added that the failure of the patent system prompted two economists to state that public policy should aim to decrease patent monopolies gradually but surely, and that the ultimate goal should be the abolition of patents. In his view, there was an urgent need to integrate the international patent regime, especially in the context of the pharmaceutical sector, which did not reflect the health and development needs of people, especially those that lived in developing countries. The Representative stressed the need for the SCP to conduct a robust discussion on public health, transfer of technology and the disclosure of INN. It also noted a resistance to discussing those topics, which were of benefit to a large amount of people. The Representative hoped that the next SCP session would address some of those topics. The Representative further called upon Member States to discuss those issues on a priority basis rather than looking at patent harmonization. The Representative stated that patent harmonization, through direct or indirect means, was against the spirit of the WIPO DA, noting that unilateral initiatives such as work sharing programs (including the PPH) resulted in the indirect harmonization of substantive patent law and thus compromised flexibilities with regard to patentability criteria. The Representative called upon Member States to avoid including any issues in the SCP that aimed at the harmonization of substantive or procedural patent law. The Representative was of the opinion that the SCP should also look at enhancing the capabilities of developing countries to use the flexibilities in the TRIPS Agreement and facilitate technology transfer, noting their relevance and importance to enhancing WIPO's involvement in the post-2015 DA.

192. The Representative of HEP emphasized the importance to all of patent protection in the area of health, as well as exceptions and limitations and transfer of technology within the SCP, noting their importance in the context of development and the DA. The Representative also attached particular importance to the agenda item on patents and health. The Representative expressed her approval for the content of paragraph 8 on patents and health in the draft Report of the twentieth session of the SCP. The Representative also stated that it was important to improve the quality of patents by building capacity for NGOs so that information could be appropriately disseminated. The Representative hoped that an agreement could emerge in the SCP on that and other items.

193. The Representative of KEI referred to the 2001 Doha Declaration on the TRIPS Agreement and Public Health, which stated that patent laws could and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all. The Representative stated that the SCP should help Member States find a way to achieve the goal set forth in the Doha Declaration, one which had been reached by consensus by the Members of the WTO. The Representative noted that KEI was one among those exploring the delinkage of Research and Development (R&D) costs from drug prices. The Representative further stated that to that end, laws on patents and other IP rights needed to accommodate new business models for funding innovation, including those that featured innovation inducement prizes, rather than drug monopolies, as the reward for successful innovation, or measures such as patent buy-outs. The Representative noted that the United States of America Senate and the United States of America National Academies had proposed a study of full delinkage, as an alternative to drug monopolies. The Representative further stated that in September 2014, the White House had issued a statement asking to explore delinkage in the context of antibiotic drug development, which was an approach endorsed by some of the leading European R&D focused drug companies. The Representative indicated that WHO had also been experimenting with delinkage drug development models for a wide range of diseases for which market failures existed. The Representative suggested that the SCP undertake a review, or request a study, of national patent law provisions that would enable the full delinkage of drug prices and R&D costs. Finally, the Representative noted that some provisions in regional or bilateral trade agreements might present significant barriers to the introduction of full delinkage drug development models.

194. The WIPO General Assembly took note of the report on the work of the Standing Committee on the Law of Patents contained in document WO/GA/46/7 Rev.

ITEM 17(ii) OF THE CONSOLIDATED AGENDA

STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT)

195. Discussions were based on document WO/GA/46/7 Rev.

196. The Delegation of Iran (Islamic Republic of) was of the view that the work of the SCT should be in conformity with WIPO development objectives as well as with the requirements of the DA. The Delegation took careful note of the progress made in the negotiations on the draft text for the DLT and believed it was important to establish a balance between costs and benefits, in line with the study prepared by the Secretariat on the potential impact of the work of the SCT on industrial design law and practice. The study had acknowledged the need for technical assistance, legal skills, training and investment in infrastructure and the modalities of capacity building in developing countries. The Delegation considered that in line with Cluster B of the DA recommendations, it was necessary to include a provision on technical assistance as an article in the treaty, in order to ensure the effective and appropriate supply of such assistance to developing countries. The Delegation supported the idea of a Joint Recommendation concerning the protection of country names.

197. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, noted the progress made by the SCT in respect of the draft DLT and Regulations. It also took note of the proposal made by the Delegation of the United States of America for a new work plan exploring the feasibility of a geographical indications filing system. Taking into account the work currently undertaken by the Lisbon Union Working Group concerning the modernization and revision of the Lisbon System for the International Registration of Appellations of Origin as a means of international protection for geographical indications through a single registration system, the CEBS Group did not endorse such a proposal, which in its view would not provide any added value to the work of the Lisbon Union Working Group. The CEBS Group fully supported the

decision of the Lisbon Union Assembly to convene a Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications in 2015. Furthermore, the CEBS Group looked forward to working on the joint proposal made by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland, concerning the protection of geographical indications and country names in the Domain Name System (DNS), and which was presented during the last session of the SCT.

198. The Delegation of the Republic of Korea, speaking on behalf of the Asia and Pacific Group, supported the convening of a diplomatic conference to conclude the DLT. The Delegation said that including a legally-binding provision on technical assistance and capacity building in the text of the treaty would be the best approach for providing appropriate technical assistance and capacity building for developing and LDCs.

199. The Delegation of South Africa said that it had supported the proposal initially submitted in 2012 by the Delegations of Barbados and Jamaica concerning the protection of country names, since the envisaged outcome was a guide or a manual related to such protection, which in a non-exhaustive manner would serve as a reference to WIPO Member States. The Delegation held the view that a non-binding, non-prescriptive reference manual could serve as a useful tool for IP offices, in relation to the protection of country names. However, the extent to which such a reference document would be used by IP offices should remain within the sole discretion of the offices, it being understood that the document was non-binding and non-prescriptive. During the last session of the SCT, the discussion on this topic related to a Joint Recommendation and therefore, the Delegation expressed concern with respect to the mandatory nature of the language used throughout the Joint Recommendation. The Delegation looked forward to discussing the amended proposal to be submitted to the SCT, with a view to reverting back to a reference manual. Concerning geographical indications, the Delegation was prepared to engage constructively with other Member States in order to find a meaningful solution.

200. The Delegation of Trinidad and Tobago indicated that a new Trademark Bill would be brought to the Parliament of Trinidad and Tobago before the end of 2014. Shortly afterwards, the Government of Trinidad and Tobago would deposit its instrument of accession to the Madrid Protocol.

201. The Delegation of the European Union, speaking on behalf of the European Union and its member states, stressed that it attached great value to harmonizing and simplifying design registration procedures. The European Union and its member states believed that the texts under consideration were at a special level of maturity for a diplomatic conference paving the way for a DLT. In addition, the Delegation supported the statement made by the Delegation of the Czech Republic on behalf of the CEBS Group, and welcomed the joint proposal presented at the thirty-first session of the SCT by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland with regard to country names in the DNS.

202. The Delegation of Indonesia expressed the view that a legally binding provision in the text of the treaty would be the better way of providing appropriate technical assistance and capacity building to developing countries and LDCs. The Delegation supported the convening of a diplomatic conference to conclude the DLT.

203. The Delegation of Venezuela (Bolivarian Republic of) noted that the studies carried out by the SCT showed a lack of international protection for country names against registration as trademarks and supported the proposal submitted by the Delegation of Jamaica on this matter, as the Intellectual Property Law of Venezuela already prevented this practice.

204. The Delegation of Hungary supported the statements made by the Delegations of the Czech Republic on behalf of the CEBS Group and the European Union on behalf of the European Union and its member states. The Delegation recognized the importance of the work

carried out by the SCT over the last period and attached great importance to adopting a positive decision during the General Assembly to convene a diplomatic conference for the adoption of the DLT in 2015. The Delegation recalled the proposal put forward at the thirty-first session of the SCT by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland on geographical indications and country names in the DNS, as contained in document SCT/31/8 Rev. The proposal suggested opening a discussion on the limited nature of the list of important geographical names administered by ICANN and the possible extension of the scope of the WIPO Uniform Domain Name Dispute Resolution to country names and geographical indications. In order to create a solid basis for discussion and make updated information available for delegations and observers on these complex matters, the text also proposed that the SCT request the Secretariat to conduct studies on both items. The Delegation of Hungary looked forward to fruitful discussions during the next session of the SCT in November 2014.

205. The Delegation of Italy supported the statements made by the Delegations of the Czech Republic on behalf of the CEBS Group and the European Union on behalf of its member states, and reiterated its position regarding the work of the SCT on geographical indications. The Delegation also recalled the proposal made jointly with the Delegations of the Czech Republic, Germany, Hungary, Republic of Moldova and Switzerland, with the aim of improving protection to geographical indications and country names in the DNS, and addressing the issue of the limited nature of the ICANN list concerning important geographical names. The Delegation supported the adoption of a Joint Recommendation on the protection of country names that would be easily used by member States and their national authorities while taking into account legitimate business practices.

206. The Delegation of China recognized the important progress made by the SCT with regard to the DLT. The Delegation believed the Treaty was important for all Member States and hoped that discussions in the SCT would result in increased flexibility of the relevant articles, so that the DLT could be adopted.

207. The Delegation of the Russian Federation recognized the importance of all issues that were being discussed in the SCT, in particular the preparation of the treaty on industrial designs. The Committee should concentrate on concluding the draft articles and regulations. The Delegation supported the holding of a diplomatic conference in the nearest possible future and considered it important to resolve the issue of how to reflect technical assistance for developing countries, independently of the finalization of the text.

208. The Delegation of Brazil expressed satisfaction on the fact that an important part of the DA recommendations were reflected in the contribution of the SCT to the implementation of the respective recommendations, and at the time of discussing the parts of the DLT text dealing with technical assistance. Concerning geographical indications, the Delegation considered it important to keep in mind that the SCT was the forum for discussions on this topic, although these were sometimes transferred to the meetings of the Lisbon Union, which dealt with a similar, albeit different matter (appellations of origin), and did not include all Member States. The Delegation welcomed the discussions held on this topic at the last session of the SCT, as they helped to reach a better understanding on the subject.

209. The Delegation of Germany aligned itself with the statements made by the Delegations of the Czech Republic, the European Union and its member states, Hungary and Italy, concerning the joint proposal made at the thirty-first session of the SCT by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland on geographical indications and country names in the DNS. The Delegation appreciated the ongoing drafting of articles and regulations on industrial design law and practice, harmonizing and simplifying the design registration formalities and procedures. The Delegation noted that a multilateral agreement could consolidate the strengthening of design protection and said that the study on the potential impact of the work of the SCT on industrial design law and practice was sufficient

and should not be kept open. Therefore, the Delegation supported the convening of a diplomatic conference in 2015. However, in the event that the Assembly could not reach an agreement on convening such a conference, it would not be desirable to hold further meetings of the SCT dealing with the DLT. The Delegation noted that decisions concerning the future work of the SCT and the IGC should be taken separately, as any link between them could risk slowing down or even postponing the negotiations.

210. The Delegation of France considered that a study on new methods of protection for geographical indications was not necessary for countries using a *sui generis* protection system and therefore it did not support the proposal made by the Delegation of the United States of America at the last session of the SCT. The Delegation however supported the proposal presented by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland, as it constituted an opportunity to look at the way in which geographical indications could be better managed on the Internet.

211. The Delegation of Senegal aligned itself with the statement made by the African Group and encouraged the convening of a diplomatic conference.

212. The Representative of TWN expressed concern with regard to trademarks and public policies. Brand-oriented marketing and advertising strategies often resulted in adverse implications on public health. Often, pharmaceutical companies pushed doctors to write medical prescriptions using brand names and not the names of the medicines themselves. This practice compromised the health of patients. Promotion of certain products like alcohol, tobacco and processed foods could result in non-communicable diseases (NCD) as well as antibiotic resistance. The Representative was of the view that public health strategies could conflict with trademark protection and considered it important that the SCT discuss the implications of trademarks on public policies. The Representative recalled that WIPO was a member of UN Task Force on NCD, and hence, it was imperative that the SCT discuss the promotion of plain packaging of tobacco or other harmful products like alcohol, children's food, etc.

213. The Representative of HEP agreed with the statements made by the Delegation of South Africa and other Member States concerning the issue of geographical indications and Internet domain names. The Representative believed that the decision with regard to technical assistance was vital in order to convene a diplomatic conference for the adoption of the DLT in 2015.

214. The WIPO General Assembly took note of the report on the work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications contained in document WO/GA/46/7 Rev.

ITEM 17(iii) OF THE CONSOLIDATED AGENDA

COMMITTEE ON WIPO STANDARDS (CWS)

215. Discussions were based on document WO/GA/46/7 Rev.

216. The Chair invited the Secretariat to introduce sub-item (iii), the report on the Committee on WIPO Standards (CWS).

217. The Secretariat reported that the CWS had met in May 2014 in order to discuss primarily technical standards and that good progress had been made. It was indicated that the Committee had reached an agreement on a new WIPO Standard concerning XML-based data of nucleotide and amino acid sequence listing for machine-readable and searchable patent applications. Good progress had been made towards a new standard on legal status of patents which should enhance the clarity of patents' validity in various countries. The CWS additionally

held a first round of consultations on whether the existing WIPO XML standards could give any guidance to the data formatting structure of copyright orphan works. Finally, the CWS also dealt with the maintenance and the updating of existing WIPO standards.

218. The Secretariat indicated that the CWS had not been able to agree on pending matters such as the coordination mechanism and the implementation of DA recommendations in the area of CWS. Consequently, the CWS agreed to adjourn its fourth session on the last day of the meeting. The Secretariat asked the Assembly to recall that these pending matters and outstanding issues were dealt with and discussed by the General Assembly in December last year and that the General Assembly had requested the CWS to continue its work to find a solution for those pending matters. To this end, the CWS agreed to request the International Bureau of WIPO to organize informal consultations on the outstanding issues so that the Secretariat might issue the invitation to the next meeting of the CWS.

219. The Secretariat reported that such an informal consultation had been organized once, prior to this Assembly, among the regional coordinators and facilitated by the Vice-Chair of the CWS, Ambassador Suescum of Panama. The Secretariat hoped that the invitation to the next meeting of CWS would be issued at the beginning of next year so that at the next session, the fifth session of the CWS, the CWS could resume its fourth session in order to formalize the results and outcome of the fourth session.

220. The Delegation of Japan, speaking on behalf of Group B, thanked the Chair of the CWS for her organized chairing of the fourth session of the Committee, and the Facilitator of the discussion on agenda adoption, for the effort to seek a solution. The Delegation also thanked the Secretariat for the hard work over the past year, including the preparation for this General Assembly. Serious regrets were expressed that the technical work was disturbed and its outcome was not formalized, due only to one new agenda item, which was raised on the first day of the session. Substantive progress to achieve the objective of the Committee should not be held hostage to achieving another purpose not linked to the mandate of the Committee. All Member States should bear in mind that the linkage of the whole package could be used as an effective tool to make progress in some contexts in multilateralism but wrong usage of that concept would just put multilateralism, namely, ourselves, at crisis of *raison d'être*. Development of standards was one of the essential aspects of effective and efficient information dissemination from which both developed and developing countries could benefit. Group B strongly called upon all Member States to fulfill their responsibilities by letting this Committee do its technical work in a normal manner, in line with its mandate. The Delegation did not intend to repeat its position on the issue in question here, because it believed that it should not be left to the General Assembly. The CWS should continue its efforts to seek a solution on this issue in order to have the next session at an appropriate time and in healthy circumstances.

221. The Delegation of South Africa, speaking on behalf of the DAG, indicated that it attached great importance to the work of the CWS. It had been stated in the CWS and in the General Assembly. The Delegation did not see any merit to the view that the CWS was a purely technical committee, and that therefore it could not join the coordination mechanism as it had no relationship with the DA recommendations. In its mandate, the CWS provided for the development of standards to be implemented by IP offices. Also, the CWS provided technical assistance and capacity building to IP offices of developing countries to implement the said standards. The question that needed to be answered was why the CWS could not have any relationship with the DA recommendations as it clearly contributed to Cluster A of the DA recommendations which was technical assistance. The Delegation called on all of those Member States in opposition to the CWS forming part of the coordination mechanism, to reconsider the stance, to allow the CWS to reconvene and to continue with its work. The Delegation would participate constructively in the consultation to be conducted by the Ambassador of Panama after the General Assembly with a view to seeing the CWS provide a report to the 2015 General Assembly on its contribution to the DA recommendations.

222. The Delegation of Iran (Islamic Republic of) wished to highlight that since the establishment of the CWS, its meetings had turned into controversial meetings. It was unfortunate that after so many efforts and endeavors of the Member States and the Secretariat to mainstream development in all WIPO works and activities, some countries were still in denial of the CWS's nature of work and mandate that required the Committee to take into account the development concerns in its work in the area of technical assistance and standard setting. The nature and the sensitivity of the tasks of the CWS required that it should be bound by Cluster B of the DA recommendations, namely taking into account the needs and priorities of developing countries and different levels of development. In other words, the issue of development standards for the benefit of IP offices should be development-oriented rather than development-neutral. In this context, the Delegation believed that for several reasons, the coordination mechanism should be incorporated as an important element in CWS' agenda. First of all, as a matter of principle, the DA was and should be at the core of all WIPO activities and, to this end, the coordination mechanism for the implementation of DA recommendations had been established in 2010. Secondly, the mandate of CWS as adopted at the fortieth session of the General Assembly in 2011, contained important development oriented elements, particularly on providing technical assistance. This indicated that the CWS should be considered as a relevant committee in the context of the coordination mechanism. The Delegation had always been of the view that the CWS was amongst the most relevant committees in this regard and should report on its contribution to the effective implementation to the General Assembly, particularly with regard to technical assistance and capacity building and recommendations concerning norm setting. The DA was a fact and a necessity. The Delegation wished to encourage all Member States to engage constructively in negotiations in line with the DA recommendations and to show flexibility in this process in order to agree on an effective process that would allow the CWS to develop its work in full compliance with the DA recommendations.

223. The Delegation of Japan, speaking in its national capacity, reiterated that the Committee played a very important role in developing WIPO standards that enabled information to be effectively passed on all over the world, such as in developing countries. In addition, the standards formed a very important part of the global IP infrastructure. At the same time, WIPO standards were very technical, so it was very important to secure the place for experts to discuss them. In this regard, it was very regrettable that even the agenda item of the fourth session of the CWS had not been adopted. It was clear from the decision by the General Assembly in 2011 that the CWS was a standard-setting body and the Secretariat provided technical assistance. In this sense, the Delegation strongly believed that the Committee should focus on technical tasks and properly advance them in accordance with the original aim of the Committee. The Delegation expressed the hope that all Member States and the Secretariat would cooperate with each other so that the great efforts would produce an effective outcome in the resumed session.

224. The Delegation of Brazil thanked the Secretariat for the report on the Committee of WIPO standards. The CWS was an important body in the Organization. Even though a significant part of its work, mostly through its task forces, was of a technical nature, it was undeniable that it was related to subject matters addressed in the DA recommendations. The fact that one of its activities was the provision of technical advice and assistance for capacity building was a case in point. Thus, for Brazil, it was unfortunate that the last session had to be adjourned because some delegations had refused to acknowledge the relevance of this Committee for the purposes of reporting to the General Assembly on its contribution to the implementation of the DA recommendations. Brazil strongly wished that the impasse that led to this situation could be overcome soon and that the Committee could restart its relevant work for the Organization.

225. The Delegation of Mexico expressed concern at the lack of agreement between Member States regarding the adoption of the Work Program of the CWS in the light of the introduction of a new agenda item on the DA coordination mechanism. The Delegation noted that Committee-level discussions on the coordination mechanism had led to differences of opinion

during previous sessions; however, disagreement in that respect had never reached such a level that it prevented the CWS from holding its sessions. The main purpose of the coordination mechanism was to ensure that, at the sessions preceding the General Assembly, the “relevant bodies” of WIPO presented a report containing a description of their contribution to the DA. The mandate adopted by the General Assembly must be fulfilled and the members of WIPO must be provided with feedback on how the DA recommendations had been implemented as a part of the Organization’s work. However, a number of Member States had voiced the opinion that, owing to the technical nature of the Committee, that body should not include a discussion on the coordination mechanism on its agenda. Other Member States maintained that the Committee was a relevant body of WIPO and that it must, therefore, report under the coordination mechanism. Nevertheless, in the view of the Delegation, the decision as to whether a committee, working group or group of experts should be deemed to be a “relevant body of WIPO” within the framework of the coordination mechanisms must only be discussed in the CDIP, in order to avoid duplication of work in the other WIPO committees. Should it be decided, following discussions in the CDIP, that the CWS (or any other committee) was a “relevant body of WIPO”, then, upon finalizing the substantive work of each session, those Member States who so wished could be given the opportunity to discuss any activities of the Committee that had contributed to the implementation of the DA recommendations. The relevant agenda item should be entitled “Contribution of the Committee to the Implementation of the Respective Development Agenda Recommendations”, in line with the wording adopted in other committees and working groups, such as the SCP and the PCT Working Group. The abovementioned agenda item would be declaratory in nature and would not be open to discussion by the Member States. The report presented to the General Assembly must include an account of events prepared by the Committee’s Chair without any prior work or commitment on the part of the Member States. The Delegation endorsed the view that the CWS should be considered to be one of the “relevant bodies of WIPO”, provided that: the above comments were taken into account; its next session was held in good time and in an appropriate manner, and; issues of substance were discussed in line with its mandate. The Delegation recommended that efforts to ensure that the CWS resumed its sessions continue, given that constraints on the exchange of experiences and the creation of international standards hindered industrial property development.”

226. The Delegation of the United States of America aligned itself with the statement made by the Group B Coordinator as well as the Delegation of Japan in its national capacity. The Delegation noted the unfortunate adjournment of the fourth session of the CWS. Important work had been accomplished and was continuing under the CWS, which was formally known as the Standing Committee on Information Technologies (SCIT). Important work was also being conducted by the International Bureau to improve, develop, and help implementation of WIPO standards that enabled IP institutions to work more efficiently, to collaborate more effectively, and to provide better services of high quality to their stakeholders and users. As indicated in previous decisions of the General Assembly, the parties should honor the agreements made relating to the CWS mandate clarification in 2011. It was unfortunate and troubling that the fourth session was adjourned with no official conclusions and that some delegations refused to fully comprehend the nature of the Committee. Not all committees in this Organization were relevant for the purpose of the coordination mechanism. However, despite the attempt by some to politicize the CWS, the technical experts were able to hold productive informal consultations. The informal conclusions of those consultations on the technical activities were waiting to be officially confirmed once the CWS was reconvened. To be clear, the United States of America opposed the view that the CWS should fall under the category relevant WIPO bodies, which would subject it to the DA reporting mechanism.

227. The Delegation of Venezuela (Bolivarian Republic of) asked for clarification on the coordination mechanism, stating that in 2007, the coordination mechanism had been proposed and it had been said that it would be applied to relevant committees. In 2010, the decision was ratified by the General Assembly and once again it had been said that it would be applied to the relevant committees. The Delegation believed that until there was clarity as to what relevant

bodies meant, the Member States would constantly attempt to impose their positions on others without being able to make headway. This was why clarity was needed as to which committees or what was referred to by the category relevant committee.

228. The Secretariat was pleased to take note that all delegations who spoke underlined the importance of the CWS and its work. Since the creation of CWS, these outstanding issues, such as coordination mechanism and the implementation of DA recommendations in the area of CWS had adversely affected the work of CWS. This was a Member State-driven process. The Secretariat had been requested by the CWS to organize informal consultations which had been done before these Assemblies; it was truly in the hands of Member States and delegations to find a solution and to resolve these outstanding issues which it was high time to resolve. The Secretariat sincerely hoped that the Member States would continue consultations after the Assemblies and that, before the end of this year, all outstanding issues should be resolved so that the invitation to the next meeting, the fifth session of the CWS, could be issued.

229. The Representative of HEP paid tribute to the work of the CWS. Technical assistance and standard-setting, which was a relevant committee of WIPO, should be part of the mandate and should operate with a constructive spirit. CWS should make some headway in drawing up the implementation of standards and provide technical assistance in adopting and implementing recommendations from the DA and participate in the coordination mechanism. The HEP wished the CWS to give priority to the different levels of development, in particular, for the development of Africa, and in particular for Cameroon.

230. The WIPO General Assembly took note of the report on the work of the Committee on WIPO Standards contained in document WO/GA/46/7 Rev.

ITEM 17(iv) OF THE CONSOLIDATED AGENDA

ADVISORY COMMITTEE ON ENFORCEMENT (ACE)

231. Discussions were based on document WO/GA/46/7 Rev.

232. The Secretariat introduced paragraphs 43 to 52 of Annex I of the document, which reported on the ninth session of the Advisory Committee on Enforcement (ACE), which had taken place from March 3 to 5, 2014, and had been chaired by Ambassador Thomas Fitschen. Member States had agreed that that session would address two topics, namely "Practices and operation of alternative dispute resolution (ADR) systems in the IP areas", as well as "Preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view of reducing the size of the market for counterfeited goods". The Committee had heard a number of presentations, including introductory presentations by experts and the Secretariat as well as presentations on national experiences and pilot projects that had been carried out in cooperation with the Secretariat. The topics of all presentations were listed in document WO/GA/46/7 Rev., and the presentations themselves could be accessed on the web site of the ACE. In addition, an exhibition by Member States and the League of Arab States had been organized and had portrayed experiences, in particular relevant projects, in the area of building respect for IP. The session had been conducted as a "marketplace of ideas" allowing for an interactive exchange of views and experiences among Member States. The session had provided helpful feedback for the Secretariat in guiding its future work in that specific area. In closing, the Secretariat thanked, the Chair of the ACE for his leadership, the presenters, and the participants in the meeting.

233. The Delegation of Japan, speaking on behalf of Group B, thanked Ambassador Fitschen for his chairing of the ACE and the Secretariat for its hard work over the last year. The Group stated that enforcement was an essential element for a well-functioning IP system that provided an enabling environment for business and investment. Group B strongly believed that WIPO

had to continue to actively contribute to that aspect in order to achieve the objective of the Organization. Borrowing a phrase used by the Chair of the ACE, the Group noted that the last session had functioned well as a “marketplace of ideas”, where everyone had been able to find at least one good idea to take home and reflect upon. Group B expected that the ACE would continue to provide a place for sharing experiences and lessons learned and for exploring how to deal with challenges relating to enforcement, which could form a basis for further work. The Group looked forward to further discussion on the practices and operation of alternative dispute resolution systems in IP areas and preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view to reducing the size of the market for counterfeited or pirated goods, and to agreement on the addition of new items to be discussed in the future.

234. The Delegation of the United States of America thanked the Secretariat for the report and its important work. The Delegation stated that the United States of America was fully committed to working closely with WIPO and to assisting developing and LDCs in improving their enforcement of IP rights. The ACE provided a valuable forum in which to exchange information and best practices concerning the enforcement of IP rights. The Delegation mentioned that experiences of individual countries shared in prior ACE meetings had been informative and useful in providing Member States with information on developing awareness-raising, training, and education programs in the field of IP enforcement. Moreover, the Delegation hoped that the Committee would maintain its focus on the objective set forth in its mandate, namely coordination with certain organizations and the private sector to combat counterfeiting and piracy activities, public education, assistance and coordination to undertake national and regional training programs for all relevant stakeholders, and exchange of information on enforcement issues. In that respect, the Delegation had found that the presentations and interchange over the course of the previous ACE sessions on such issues had been fruitful and informative. The Delegation would also like to see the ACE remain dedicated to being a forum to discuss best practices on IPR enforcement and did not support work that detracted from that mandate and duplicated work being handled in other WIPO bodies. The Delegation looked forward to the tenth session of the ACE and to learning of the work of Member States in the thematic areas of ADR and preventive measures. In closing, the Delegation congratulated WIPO’s efforts to coordinate and enhance the enforcement aspects of its technical assistance efforts and fully supported WIPO’s work in reinforcing cooperation among enforcement authorities and relevant organizations in that field.

235. The Delegation of China appreciated the positive results achieved at the ninth session of the ACE. It believed that the ACE provided a good platform for Member States to engage in discussions and exchange on IP law enforcement and building respect for IP. The Delegation was pleased that, at the ninth session, contributions were made by China as well as a Chinese enterprise in the area of IP enforcement. In the future, the Delegation would continue to take an active part in the work of the ACE.

236. The Delegation of Italy passed the floor to the Representative of the European Union and its member states.

237. The Representative of the European Union, speaking on behalf of the European Union and its member states, welcomed the previous fruitful discussions of the ACE, looked forward to further productive exchanges during the tenth session, and stated that intensified efforts of the ACE to build a shared understanding of the impact of IPR infringements were a key driver for effective prevention and enforcement strategies. The Representative noted that to that extent, an additional standing agenda item on voluntary presentations of respective national IP enforcement frameworks would further promote the exchange of views and best practices on that key issue. The Representative was confident that the fruitful collaborations would continue between delegations in order to combat more effectively IPR infringements which affected everybody.

238. The Delegation of Mexico attached great importance to copyright and believed that it was a very useful tool in terms of fostering economic, scientific, cultural, and social development in its country. Mexico had implemented a clear policy (primarily targeting youth), which had been devised to promote a culture of respect for intellectual creators and to enforce copyright and related rights. That policy contained an educational component on civic and ethical behavior that was delivered in schools to 10-year olds and that focused, *inter alia*, on compliance with copyright rules and the fight against piracy. Furthermore, a book had been published on that subject, more than 3 million copies of which were distributed every year. Moreover, a children's game had been developed, called "My First Work, My First Registration", which taught children about registration and showed them, in a very simple way, how to register a work with the National Institute of Copyright. In addition, an interactive workshop, entitled "The Day of Creativity for Children", had been organized as a part of "The Day of the Child". The aim of the workshop had been to encourage children to take an interest in the creation of literary works and to increase the number of copyright registrations in Mexico, which currently stood at over 50,000 per year. A guide had also been prepared on the registration of literary works; entitled "Little Author", that text had been devised to show young children how to register works. Communication campaigns had been carried out, involving the use of environmentally friendly buses and publicity material targeting universities, with the aim of strengthening compliance with copyright law, encouraging creativity and the registration of works, and fostering an attitude of prevention. The Delegation reiterated its support for the ACE; an excellent forum for the exchange of information and experiences and a very useful tool in terms of supporting all members of WIPO in their efforts to contribute to the Organization's work on IP compliance and enforcement. Thanks to the national and international experiences presented at the Ninth Session, Mexico had been exposed to the best practices of other WIPO Member States. The insight provided during that session had been extremely useful, as the various approaches showcased could be used as models by other countries. The WIPO technical assistance and training activities carried out as a part of the work of the ACE were of vital importance to the Member States. Such activities helped to raise public awareness of the role played by IP in national economic, scientific, cultural and social development and consequently contributed to the promotion of compliance and enforcement in terms of copyright rules. Lastly, the Delegation expressed the hope that a regular schedule of ACE meetings would be agreed on, preferably involving two sessions per year.

239. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, stated that the CEBS Group continued to place great value on the work on building respect and raising public awareness for IPRs, and looked forward to intensifying the work in that area, where the ACE could add value and where WIPO Member States could learn from one another and share practices. It noted that one of the most important goals of the Organization should be cross-border exchange of information about the socio-economic impact of IPR infringements. In that regard, the CEBS Group supported the suggestion made by the Representative of the European Union and its member states of an additional standing agenda item on voluntary presentations of respective national IP enforcement frameworks. The Delegation was of the view that such item would further improve the work of the ACE as a platform for distributing knowledge of best practices involving enforcement and the raising of public awareness. The Delegation expressed, with regret, dissatisfaction with the fact that the work of the ACE had been negatively influenced by artificial discussions outside the scope of its main mandate. The Delegation remained committed to the work of the ACE in the most active and constructive manner and called on all delegations to consider the potential of the Committee.

240. The Delegation of Trinidad and Tobago thanked the Secretariat for its support and assistance to Trinidad and Tobago in developing a 'building respect for IP' project. It was also grateful for the invitation to share experiences in developing and executing parts of the project at the ninth session of the ACE. The forum had been extremely useful for sharing creative ways of addressing similar challenges to IP enforcement. Even though the ACE was not norm setting, it provided advance notice of possible new challenges and avenues to solutions and respective expertise. More importantly, it provided hope that inroads could be made in the

sometimes overwhelming scourge of IP piracy. That hope was almost as important to right holders as to the economic interests secured by IPR. In that regard, the Delegation encouraged further opportunities for Member States to share their experiences in building respect for IP and to address enforcement creatively by crowdsourcing solutions tapped into cumulative wisdom.

241. The Delegation of Brazil believed that the ACE had an important role in promoting international cooperation on building respect for IP, as stated in the outcome indicators defined for Strategic Goal VI of the WIPO Medium Term Strategic Plan (MTSP) for 2010-2015. The Delegation emphasized that building respect for IP went beyond the mere enforcement of IP rights. In that sense, the Delegation regretted that the report was not detailed enough regarding the discussions that had taken place during the ninth session of the ACE on the future work of the Committee. It noted that, unfortunately, the two proposals that had emerged from the informal consultations facilitated by the Chair, notably to take stock and analyze what had been done in the area of technical and legislative assistance and to promote awareness-building activities as a means of building respect for IP, had not been accepted by one delegation. The Delegation believed that those proposals struck a good balance between the activities that could help build respect for IP and would go a long way in fulfilling the mandate of the Committee. The Delegation sincerely hoped that the proposals could be accepted at the tenth session.

242. The Delegation of Iran (Islamic Republic of) regarded the ACE as a valuable forum for exchange of experiences and best practices in the area of IP enforcement. All topics and presentations in the past sessions had been valuable and informative. The ACE should be bound by DA recommendation 45 which stipulated: “to approach IP enforcement in the context of broader societal interests and especially development-oriented concerns, with a view that ‘the protection and enforcement of IPR should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations’, in accordance with Article 7 of the TRIPS Agreement”. The Delegation noted that it would be important that the ACE in its future activities explored enforcement of IP rights in the area of TK, TCEs and GRs, which could enrich future deliberation in the ACE.

243. The Delegation of Congo noted, in the context of the promotion of IP and the implementation of the DA by the ACE, that, since 2010, several delegations had made presentations on the economic and social consequences of piracy and counterfeiting and their practices to counter such infractions. Those practices aimed to enhance the fight against counterfeiting and piracy, utilize non-constraining legal provisions, reinforce cooperation in order to better filter the offer of counterfeit goods, and conceive certain types of voluntary dispute resolution mechanisms. Those extra-judicial mechanisms had an essential role to play in implementing IP rights and could serve as models upon which future initiatives could build. With regard to the recent activities of WIPO in the area of building respect for IP, the Delegation was of the view that technical and legislative assistance as well as training were needed. However, those activities had declined considerably for developing countries. With regard to the DA, the Delegation was of the view that the ACE should base itself on recommendation 45 so that international cooperation could fulfill its objective of ensuring a balanced approach between developed and developing states – a harmony that, although long awaited, was not yet perceptible. Finally, the Delegation was of the view that DA recommendation 45 should guide WIPO’s approach toward IP enforcement, so that it was consistent with public interest and, in particular, development considerations.

244. The Delegation of Sudan paid tribute to the efforts carried out by the ACE. It stated that those efforts would put all the WIPO treaties on examination, in a direction to follow up with the new inventions as far as enforcement was concerned, namely new technologies, particularly databases and smart technologies. The efforts carried out by the Member States presented during the exposés during the ninth session of the ACE showed some successes. Those

should be looked at, as far as the DA was concerned, so that some countries which fell within the LDCs might benefit from those exposés. The Delegation stated that there was also another very important aspect, namely, the efforts exerted through the TRIPS Agreement, particularly since not all countries had signed it or had completed their papers for the WTO. That was a burden on those countries that would like to implement the WIPO treaties as far as TK was concerned. The Delegation noted that innovative industries fell within the purview of those countries and also their national legislation, but they were not able to find a way to reach new technologies. Therefore, there were instruments that WIPO could develop with various countries in order to allow access to the market. The Delegation thanked WIPO and the ACE for how they had responded to part of those demands. The Delegation also thanked the Director General, who had referred to it in his opening statement to the Assemblies, and wished him every success. The Delegation stated that there were also other questions where progress was required, namely in the area of exceptions and limitations. The Delegation noted that there should be a profile for the countries so that they could benefit in such respect, in particular, as far as development was concerned. The Delegation further noted that some of those developments that had been referred to had become treaties or conventions for the benefit of the general public – such as the Marrakesh Treaty for the visually impaired. The Delegation hoped that there would be further progress towards the actions that could be profitable to the general public and towards understanding as far as access was concerned. The Delegation explained that there were countries, such as the United States of America and European countries, that had knowledge and implementation. Exchange of legislation and lessons learned should be encouraged and experiences should be shared. That would help countries to access those technologies and methods. The Delegation stated that the criterion was in the application itself, not just the words.

245. The Representative of the League of Arab States (LAS) was grateful for the efforts undertaken by the ACE and its results. The Representative was pleased to have participated in the meeting as the LAS had put forward a working document on IPR and combating counterfeiting. The LAS had a four-minute film which explained how to respect copyright. That film involved Egyptian actors, including a very well-known Egyptian actor, who participated on a voluntary basis, and were not paid for their work. The film was broadcast in all Arab channels in order to promote the respect of IPR. The actors who participated in the film received prizes, and the participating Arab broadcasting organizations were supporting the film. The Representative noted that significant effort by all was called for, particularly in understanding the importance of IP on the whole and the strategic goals of WIPO, as well as the international cooperation in the area of IP. The LAS supported all efforts undertaken by WIPO.

246. The Representative of TWN called upon the Secretariat to respect the DA in its activities on IP enforcement. IP enforcement could often result in the denial of access to medicine as well as access to knowledge. Various national courts had refused to issue preliminary injunction in patent infringement cases. Courts had even allowed the so-called infringer to continue to use the patents even after there was a court finding of patent infringement. The Representative stated that even in the previous year, President Obama had used his veto power against an order by the Federal Trade Commission to seize the Apple products in an infringement case with Samsung. He was of the view that it was important for Member States to discuss those developments related to IP infringement in the ACE. The Secretariat should also provide technical assistance to developing countries to use the flexibilities available related to IP enforcement. However, the Representative was of the view, that the activities of the Secretariat often went overboard and suggested a maximalist approach to IP enforcement. The national IP policy toolkits suggested both explicitly as well as implicitly a maximalist agenda on IP enforcement. In the opinion of the Representative, that document advocated for comprehensive border measures covering all IP infringement goods, which went beyond the TRIPS requirement. The TRIPS Agreement prescribed border measures only in case of trademark counterfeit goods and copyright pirated goods. Further, the Representative remarked that the document also advocated for special courts and specialized enforcement agencies for IP enforcement, which went against the letter and the spirit of the DA. The Representative called

upon the Secretariat to not pursue a maximalist agenda with regard to the protection and enforcement of IP rights.

247. The Representative of HEP appreciated the exchanges made in the area of respecting IP in the ACE with a view to prevention. Transparent and exemplary practices remained a major challenge in the work on conformity and prevention, in particular with regard to benefit sharing. The Representative believed that there was a need to contribute continuously to the ongoing question to fight biopiracy at the international level. There was also a need to promote awareness and education through training seminars. Knowledge sharing would allow for combating piracy on copyright and related rights.

248. The Secretariat explained that it had taken careful note of the comments and suggestions. It stressed that the DA and in particular recommendation 45 guided the work of the program that dealt with the ACE and related technical assistance activities and that countries with whom the program had collaborated could testify to that. The Secretariat thanked Member States for the expressions of support for the work of the ACE and invited all Member States to actively participate in its work as the ACE was the only international intergovernmental forum in which issues with regard to building respect for IP could be discussed.

249. The WIPO General Assembly took note of the report on the work of the Advisory Committee on Enforcement contained in document WO/GA/46/7 Rev.

ITEM 23 OF THE CONSOLIDATED AGENDA

WIPO ARBITRATION AND MEDIATION CENTER, INCLUDING DOMAIN NAMES

250. Discussions were based on document WO/GA/46/8.

251. The Chair raised Agenda Item 23 on the WIPO Arbitration and Mediation Center (Center), including Domain Names. The Secretariat noted that the document for the General Assembly provided an overview of the work of the Center over the last year, in three parts. The first part, paragraphs 3 to 10, reported on the activities of the Center in the area of alternatives to court litigation, specifically arbitration, mediation, and expert determination of disputes submitted under WIPO Rules. The Secretariat highlighted the activities reported in paragraphs 6 and 7 concerning the Center's cooperation with IP Offices in establishing optional alternative dispute resolution (ADR) procedures for opposition and other disputes before these Offices.

252. The second part of the document, paragraphs 11 to 17, reported on the Center's domain name case administration. The Secretariat noted that in 2013, a further 2,585 cases were filed with the Center under the Uniform Domain Name Dispute Resolution Policy (UDRP), for a total of more than 29,000 WIPO cases covering more than 54,000 domain names since 1999.

253. The Secretariat further noted that paragraphs 18 to 44 of the document addressed policy developments in the DNS, notably with regard to the introduction of new generic Top Level Domains (gTLDs) by the Internet Corporation for Assigned Names and Numbers (ICANN), the authority charged with overseeing the DNS. The introduction of up to 1,400 new gTLDs which commenced late last year raised IP protection issues notably in relation to trademarks. The Secretariat noted that the document provided an overview of the mechanisms that rightsholders

had at their disposal to address these concerns, including the Legal Rights Objection procedure under which the Center completed the administration of 69 cases in 2013. The Secretariat noted that it would report on further developments to the General Assembly next year, and that the agenda of the SCT included relevant updates on trademark-related aspects of the DNS.

254. The Chair noted that there were no comments on the document.

255. The WIPO General Assembly took note of the contents of document WO/GA/46/8.

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