

Program and Budget Committee

Nineteenth Session Geneva, September 10 to 14, 2012

PROPOSAL BY THE CHAIR OF THE PROGRAM AND BUDGET COMMITTEE (PBC); DEFINITION OF “DEVELOPMENT EXPENDITURE” (AGENDA ITEM 9)

Document presented by the Chair of the PBC

1. Following concerns expressed by several delegations during the 18th session of the PBC, the definition of development expenditure in the Program and Budget 2012/13 was considered as an interim definition for purposes of the 2012/13 biennium Program and Budget. It was decided that this definition would be refined further, in informal consultations convened by the Chair of the PBC, with a view to evolving a more precise definition of ‘development expenditure’ in the context of the WIPO Program and Budget. It was also agreed that the revised definition should be submitted to the 19th session of the PBC for consideration and recommendation for approval by the General Assembly in 2012. The revised definition would be used for the preparation of the Program and Budget for the next biennium 2014/15.
2. Following the above decision, the Chair of the PBC convened two informal consultations on July 3 and August 24, 2012, on the definition of development expenditure in the context of the WIPO Program and Budget.
3. The present document consists of the following:
 - (a) Current definition of development expenditure (Program and Budget 2012/13);
 - (b) A revised definition of “Development Expenditure” as proposed by the Chair of the PBC;
 - (c) Q&A “Definition of Development Expenditure in the context of the Program and Budget”;

- (d) Comments received from Member States in time for the second informal consultation convened by the Chair of the PBC on the revised definition of “Development Expenditure”.
- (e) Comments from one Regional Group received following the two informal consultations convened by the Chair.

4. The Program and Budget Committee is invited to recommend to the Assemblies of the WIPO Member States the approval of the new definition of development expenditure for the purpose of preparing Program and Budgets in future biennia.

[Annexes follow]

**CURRENT DEFINITION OF DEVELOPMENT EXPENDITURE
(PROGRAM AND BUDGET 2012/13)**

(paragraph 30, page 23, English version)

Expenditure is qualified as “*development expenditure*”, only when the beneficiary is a developing country and the equivalent expenditure is not available for developed countries. These amounts exclude foregone revenues resulting from the fee reductions accorded under the international registration systems for applicants from developing countries. Consistent with past practice, countries with economies in transition are included for the purpose of the Program and Budget.

[Annex B follows]

REVISED DEFINITION OF “DEVELOPMENT EXPENDITURE” AS PROPOSED BY THE CHAIR OF THE PBC

Expenditure is qualified as “*development expenditure*” when it is used to finance development-oriented assistance provided by WIPO to developing countries and the equivalent expenditure is not provided to developed countries. In addition, the development activities financed by WIPO should directly contribute to:

- Enabling developing countries to derive benefits from the IP system, to reduce the costs of its use, and to better protect inventions and creations around the world; and,
- Reducing the knowledge gap between developed and developing countries by facilitating developing country access to knowledge and supporting their engagement in innovating, producing, using and absorbing technologies, new forms of expressions and creativity.

It is understood that the following activities should seek towards directly achieving the above impact:

- development of national intellectual property strategies, policies and plans in developing countries;
- development of national (and where relevant regional) legislative, regulatory and policy frameworks that promote a balanced IP system (including related research);
- support for the engagement of developing countries in global and regional decision-making and dialogue on IP;
- building modern state-of-the-art national IP administrative infrastructure;
- support-systems for users of the IP system in developing countries;
- training and human capacity building in developing countries;
- promotion of innovation and creativity, technology transfer and access to knowledge and technologies in developing countries (including related research).

It is further understood that “*development expenditure*” is not used to finance the Organization’s management, administrative and finance-related activities or functions.

[Annex C follows]

Q&A

“DEFINITION OF DEVELOPMENT EXPENDITURE IN THE CONTEXT OF THE PROGRAM AND BUDGET”

Q1: Of the CHF 137.9 million classified as development expenditure, how much refers to personnel and non-personnel expenditure?

A: The breakdown of the total of development expenditure to personnel and non-personnel expenditure follows roughly the same distribution as for the 2012/13 budget as a whole (i.e. approximately 65% of the total budget for 2012/13 refers to personnel resources and 35% to non personnel resources). Therefore, of the total of 137.9 million estimated development share, approximately 88 million refer to personnel resources and 50 million to non-personnel resources.

Q2: In the “External Review of WIPO Technical Assistance in the Area of Cooperation for Development” the authors pointed out that “*there is no systematic tracking of WIPO’s development expenditure by sector, Program, country, activity, objectives, expected results, or impact*”. What is the mechanism that has been put in place to track development expenditure in the biennium 2012/13?

A: The scope of the external review report included the biennia 2008/09 and 2010/11 and does therefore not fully acknowledge improvements made in preparation for, and in the biennium, 2012/13.

Reference is made to the PPR 2010/11 (WO/PBC/19/2) which provides a brief summary of the evolution of the estimation of development expenditure at WIPO:

“A comprehensive estimation of development expenditure was introduced for the first time in the revised Program and Budget 2008/09. During the past biennia, the Secretariat has continued to refine the development expenditure methodology and to work on establishing appropriate expenditure tracking mechanisms. The 2010/11 methodology was, as in 2008/09, based on high level estimations at the Program level, whereas the approach has been considerably refined in the Program and Budget 2012/13 based on a detailed bottom-up activity-level approach. This revised approach for 2012/13, complemented by the establishment of development expenditure tracking mechanisms through the ERP, is expected to lead to a more refined reporting on development expenditure in the upcoming biennia as compared to the high level estimations at the level of Programs applied in 2010/11”.

Q3: Is it possible to have a breakdown of the CHF 137.9 million classified as development expenditure in terms of regions and countries?

A: Biennial planning focuses on results and the resources required to achieve those results. As the preparation of the Program and Budget commences more than a year before implementation - and more than three years before the end of implementation of any given biennium - biennial planning does not include detailed country level planning. Activities at the country level are detailed in the

annual workplans (without the associated resources by country), once the biennial results framework and the associated resources have been approved.

“Country” is not currently a dimension on which expenditure is tracked. The Secretariat is currently investigating the possibility of adding this functionality in the ERP.

A breakdown of the budget by region is therefore equally not feasible. In some cases, the performance indicators have been broken down by region and therefore reflect the breakdown of planned achievements by region. It is not possible to associate the resources accordingly to regions.

Q4: Is it possible to have a presentation of the development expenditure Table 9 (Development Activities in 2012/13) (on page 23) broken down by cost category?

A: With the improvements of the tools (ERP) in the biennium 2012/13, the Secretariat will investigate the possibility of providing such a detailed breakdown within the context of the preparation of the Program and Budget 2014/15.

Q5: The current proposed draft definition is very detailed. Would it be more appropriate to have a high level definition?

A: The level of detail in the definition is entirely up to the Member States. A more detailed definition, including a list of the strategies to achieve the desired development impact, presents the advantage of serving as a better guidance for the Secretariat for estimating the development share (“counting”).

Q6: Is the list of activities contained in the proposed definition intended to be exhaustive or non-exhaustive?

A: The Secretariat understands the “list of activities” in the definition proposed by the Chair to rather reflect main implementation strategies. It understands that the aim is not to be exhaustive but rather to provide sufficient guidance for the “counting” which needs to take place as part of the preparation of the Program and Budget.

Q7: Should "management, administrative and finance-related expenditures" be excluded from future estimations of development expenditure altogether or should those directly related to development activities be included?

A: It is recalled that in the Program and Budget 2012/13 all management, administrative and finance-related expenditures”, i.e. all resources associated with Strategic Goal 9 have been excluded from the development share of the Program and Budget 2012/13, with two exceptions only: CDIP RBM project (which facilitates the planning, monitoring and implementation of development related activities and therefore the overall quality of the outcomes achieved) and country evaluations conducted by IAOD (identifying lessons learned to improve developing country programs).

For future biennia, the Secretariat would be guided by the Member States as to whether to include or exclude "management, administrative and finance-related expenditures".

Q8: The proposed definition excludes (as does the current one) expenditures for activities which are also undertaken in developed countries. Should such broader technical cooperation activities (which serve both developed and developing countries) be included?

A: Further clarification of what is meant by “broader technical cooperation activities” which serve both developed and developing countries, including examples, would be useful to inform further discussion on this issue.

Q9: Could the concept of "equivalent expenditures" be further clarified?

A: Equivalent expenditure not being available for developed countries would mean, for example, that “financing participants from developing countries to participate in the WIPO Standing Committees” is counted as development expenditure as it benefits developing countries only and a similar expense is not available for developed countries.

Q10: Has the Secretariat undertaken a survey of definitions of development expenditure in other international organizations? To what extent are existing definitions relevant in the context of WIPO’s mandate?

A: The Secretariat has conducted research on development tracking mechanisms in other agencies, including both those focused entirely on development and specialized agencies. The Secretariat has found no agency with a similar situation as at WIPO, where development is mainstreamed throughout the Organization and with similar reporting requirements for development expenditure. Based on the said research, it therefore appears that experience from other agencies is not directly relevant and applicable to the WIPO context.

Q11: Can “assistance” be replaced with “activities” in the second line of the proposed definition? Can “LDC” be added after “developing countries”? Can “their” be added before “inventions and creations around the world” in the first bullet point?

A: The Secretariat will be guided by the Member States in the fine-tuning of the wording of the definition.

Q12: What would be the financial impact of applying the proposed definition to the 2012/13 Program and Budget? Could a comparative table be made available?

A: The estimated total development share of the 2012/13 budget applying the new definition amounts to 19.2% (including Development Agenda projects). The difference is due to the exclusion of the development share for the following expected results as a result of applying the proposed new definition:

- Enhancement of overall PCT system
Proposed Budget 12/13:3,225
Development share: 250
- Better operations of the Madrid & Lisbon systems
Proposed Budget 12/13:43,445
Development share: 730
- DA principles further mainstreamed into the Organization’s programs and activities
Proposed Budget 12/13:4,199
Development share:4,199
- Effective planning, implementation, monitoring, evaluation and reporting on the DA recommendations
Proposed Budget 12/13:1,220
Development share: 1,220

- Enhanced understanding of the DA by Member States, IGOs, civil society and other stakeholders
Proposed Budget 12/13:1,523
Development share:1,523
- Increased extra-budgetary resources available for IP for development, either through direct contributions to WIPO or access to other external funding mechanisms
Proposed Budget 12/13:1,769
Development share: 1,429
- Timeliness of PATENTSCOPE updates regarding PCT applications
Proposed Budget 12/13:2,159
Development share: 540
- Systematic and effective cooperation and coordination between the work of WIPO and other international organizations in the field of building respect for IP
Proposed Budget 12/13:785
Development share: 589
- More effective communication to a broad public about intellectual property and WIPO's role
Proposed Budget 12/13: 13,664
Development share: 5,974
- Improved service orientation and responsiveness to inquiries
Proposed Budget 12/13: 2,935
Development share: 1,402
- WIPO effectively interacts and partners with UN and other IGO processes and negotiations
Proposed Budget 12/13: 3,652
Development share: 65
- Efficient and effective results-based programmatic and financial planning, processing, implementation, assessment and reporting
Proposed Budget 12/13:18,901
Development share: 605
- Evidence-based evaluative information available to senior management, program managers and Member States for decision making
Proposed Budget 12/13:2,321
Development share: 1,741

The 2012/13 results framework table (Program and Budget 2012/13, page 12, English version) with an estimation of the development share in the Program and Budget 2012/13 when applying the proposed new definition (relevant expected results highlighted in green) will be made available to Member States at the PBC.

Q13: How can Member States assess the extent to which the strategies listed in the proposed definition contribute to development?

A: The annual and biennial Program Performance Reports (PPRs) provides a regular assessment of results achieved by the Organization. In addition, independent evaluations are systematically conducted for all Development Agenda projects. Other independent evaluations are conducted by the Independent Audit and Oversight Division (IAOD), including country evaluations.

Q14: Are there any overlaps between the strategies listed in the proposed definition which would result in some development expenditure being double-counted?

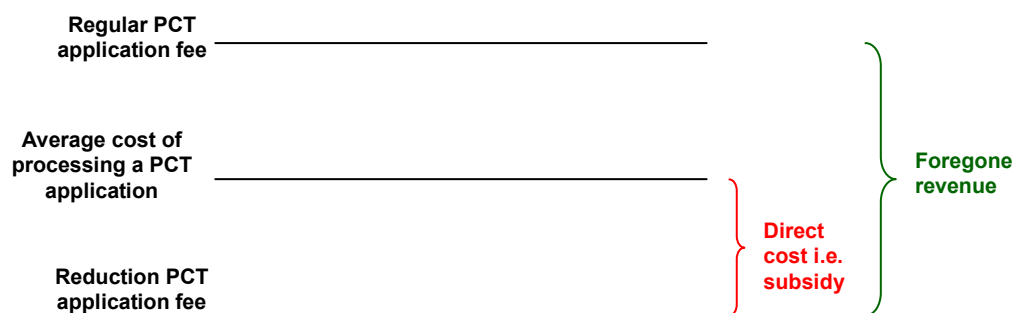
A: Each of the listed strategies can be mapped to distinctive expected results in the 2012/13 results framework chart. The development share for each expected result is therefore only counted once.

Q15: Are the funding of participants from developing countries and LDCs counted as part of the development share in the Program and Budget 2012/13?

A: Yes, the financing of participants from developing countries and LDCs is part of the estimated development share for 2012/13 as it is considered support for the engagement of developing countries in global decision-making and dialogue on IP.

Q16: Are the PCT fee reductions for applicants from developing countries counted as part of the development share in the Program and Budget 2012/13?

A: No, the PCT fee reductions are not counted as part of the development share in the Program and Budget 2012/13 (please refer to paragraph 30, page 23, of the Program and Budget 2012/13 (English version)).



Foregone revenue is estimated at 13 million Swiss francs in the biennium 2012/13. The estimate of the direct costs, i.e. subsidy, is currently in progress.

[Annex D follows]

COMMENTS RECEIVED FROM MEMBER STATES ON THE REVISED DEFINITION OF
DEVELOPMENT EXPENDITURE

From: 王宜 [mailto:wang_yi1@mfa.gov.cn]

Sent: Monday, July 16, 2012 02:37 PM

To: chair pbc; Sundaram, Ambi

Dear Colleagueus,

Sorry for the late response. China agrees with the definition of Development Expenditure in the context of the Program and Budget 2014/15.

Best Regards,

Wang Yi

First Secretary

Chinese Mission

10.08.2012

From: mokhtar warida [mokhtar.warida@gmail.com]
Sent: lundi, 30. juillet 2012 14:55
To: Sundaram, Ambi
Cc: chair pbc
Subject: Re: Defininition of Development Expenditure in the Context of the Program and Budget 2014/15

Dear Mr. chairman of PBC

Kindly be informed that the preliminary comments received so far from african group on the definition are the following:

- 1) replace "assistance" with "activities" in the second line.
- 2) add "least developed countries" after "developing countries".
- 3) add "their" before "inventions and creations around the world" in the first bullet point.

Best regards

Mokhtar

From: Reves, J. Todd [mailto:RevesJT@state.gov]
Sent: Friday, August 10, 2012 03:30 PM
To: Sundaram, Ambi
Subject: RE: Definition of Development Expenditure in the Context of the Program and Budget 2014/15

Dear Ambi,

It appears that Group B's comments were not received by the July 31 deadline. I apologize for that. Please find below our comments.

Members of Group B have some concerns about the content and scope of the proposed definition. The current draft is very detailed and it may be more appropriate to have a high level definition. It is not clear whether the list of activities is intended to be exhaustive or non-exhaustive. If a list were to be included, this would need to be clarified. Some Group B members have questioned whether "management, administrative and finance-related expenditures" should be excluded altogether or whether those directly related to development activities should be included. In this respect, we would be interested to obtain more information about existing practices in WIPO and more broadly in other international organizations. The proposed definition excludes (as does the current one) expenditures for activities which are also undertaken in developed countries. We are not convinced that broader technical cooperation activities (which serve both developed and developing countries) should be excluded. We would welcome a clarification of the meaning of "equivalent expenditures".

Group B also considers that it would be useful to have more information on which to progress our discussion on this issue. For example, are there differences in terms of coverage between the current and the new definition? If so, what activities/expenditures would be excluded and/or included? We welcome the advice of the Secretariat on this issue. A comparative table would be a useful way present this information. Further, we would be interested to know whether the Secretariat has undertaken a survey of definitions of development expenditure in other International Organizations. We would then need to consider the extent to which existing definitions are relevant in the context of WIPO's mandate.

Best regards,

Todd

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This email is UNCLASSIFIED.

From: Gamble, Elizabeth [mailto:elizabeth.gamble@wipo.int] **On Behalf Of** Sundaram, Ambi
Sent: Friday, August 10, 2012 4:58 PM
To: 'mokhtar.warida@gmail.com'; 'mission.egypt@ties.itu.int'; 'anasimi@yahoo.com'; 'ekipiani@mfa.gov.ge'; 'vhalgand@kum.gov.hu'; 'wang_yi1@mfa.gov.cn'; Reves, J. Todd; 'tiberio.schmidlin@esteri.it'; 'luigivargas40@hotmail.com'; 'misionperu@onuperu.org'; 'imayaute@onuperu.org'
Cc: PRASAD Naresh
Subject: Definition of Development Expenditure in the Context of the Program and Budget 2014/15

Dear Group Coordinator,

From: Leandro Alves da Silva [leandro.silva@delbrasgva.org]
Sent: mardi, 31. juillet 2012 19:37
To: chair pbc
Cc: Sundaram, Ambi
Subject: Defininition of Development Expenditure in the Context of the Program and Budget 2014/15
Attachments: Development Expenditure - DAG.doc

Dear Sirs,

Please find attached comments from the Development Agenda Group (DAG) on the Defininition of Development Expenditure in the Context of the Program and Budget 2014/15.

Best regards,

Leandro Alves da Silva
Secretary
Permanent Mission of Brazil to the World Trade Organization and other economic organizations in Geneva
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Development Agenda Group (DAG)

Program and Budget Committee

Comments on the Chair's Consultations regarding the definition of Development Expenditure

July 31, 2012

On the current definition:

- DAG considers that the current definition of development expenditure is not accurate. It does not address the nature of the activities being carried out. It simply states that "the beneficiary is a developing country and the equivalent expenditure is not available for developed countries";
- WIPO has currently 185 Member States. The vast majority are developing countries, economies in transition and LDCs. It is only natural that a substantial amount of expenses is directed at providing services to these Member States. Regular expenses should not be included in the "development expenditure" share, because they would occur under any circumstance. The current definition does not make it clear if regular expenses are being accounted for as development expenditure. That is why it is necessary to address the nature of said expenditure.

On the understanding of 2012/2013 figures:

- Total expenditure of WIPO for the 2012-2013 biennium is estimated at CHF 647 million. Personnel expenditure is estimated at CHF 413 million. This is equivalent to approximately 64% of total. Of the CHF 137.9 million classified as development expenditure, DAG would like to know how much refers to personnel expenditure and how does the Secretariat calculate that. A spreadsheet with detailed information in this regard is also required.
- Non-personnel expenditure is calculated at CHF 234 million. This represents approximately 36% of total. In the same manner, of the CHF 137.9 million classified as development expenditure, DAG would like to know how much refers to non-personnel expenditure and how does the Secretariat calculate that. A spreadsheet with detailed information in this regard is also required.
- In the "External Review of WIPO Technical Assistance in the Area of Cooperation for Development", prepared by Dr. Carolyn Deere Birkbeck and Dr. Santiago Roca for the CDIP (Document CDIP/8/INF/1), the authors pointed out that "there is no systematic tracking of WIPO's development expenditure by sector, Program, country, activity, objectives, expected results, or impact. As a result, there is no sound basis for estimating development-related expenditure or to assess its cost-efficiency." (Page 165). In this regard, and as a starting point, a

proper breakdown of Table 7 of the Program and Budget for 2012/13 (by Object of Expenditure) (Page 18) into “Proposed Budget” and “Development Expenditure” is needed. This would allow verifying, on a global basis, how the Organization views the allocation of resources to development activities, as per the interim definition.

- As the basis for the classification made by the Secretariat is the recipient country, it would be also necessary to have a breakdown of the CHF 137.9 million classified as development expenditure in terms of regions and countries.
- The DAG would also like to see Table 9. (Development Activities in 2012/13) (on page 23) in the same format of Table 7. In other words, a proper breakdown of the utilization of program resources in terms of the main components of personnel and non-personnel expenses is needed.

On a new definition

- In the “External Review of WIPO Technical Assistance in the Area of Cooperation for Development”, prepared by Dr. Carolyn Deere Birkbeck and Dr. Santiago Roca for the CDIP (Document CDIP/8/INF/1), the authors provide a definition of development-oriented assistance that should guide the PBC when defining development expenditure. The Deere-Roca contribution provides specific guidance in the context of the activities carried out by WIPO, and details the profile of development activities. From a substantive view point, according to the authors, development-oriented assistance is that which:
 - *Reduces the knowledge gap between developed and developing countries so that developing countries are more actively involved in innovating, producing, using and absorbing technologies as well as propelling new forms of expressions, creativity and knowledge;*
 - *Enables greater participation of developing countries in deriving broader benefits and reducing the costs of using the IP system at the global, regional and national level;*
 - *Helps countries devise coherent national IP strategies, policies, laws and regulations that are linked to broader development and public policy objectives and tailored to respond to specific needs and problems.*
 - *Aligns national or regional demands for support and activities with development needs as well as national IP strategies/policies;*
 - *Takes into consideration the social and economic context and the regulatory and institutional environment of the country;*
 - *Takes into account the priorities and special needs of developing countries ...as well as the different levels of development...” (DA Rec. 1)*
 - *Facilitates access to knowledge and technology for developing countries and LDCs to foster creativity and innovation” (DA Rec. 19);*
 - *Enables developing countries to fully understand and benefit from different provisions, pertaining to flexibilities provided by international agreements...” (DA Rec. 25);*
 - *Builds national and regional capabilities of IP offices to administer the protection and enforcement of rights in ways that advance development goals and meet international obligations where they exist; and*

- *Enables developing countries (including all relevant stakeholders) to make use of IP and the IP system to boost local development as a tool to contribute to protect their own inventions and creations on the international market and enforce their rights.*

- From the perspective of the Development Agenda Group, the guidelines elaborated by the authors of the external review should serve as a basis for the definition of “Development Expenditure” for the PBC.

- In this context, without prejudice to further analysis and comments, the Development Agenda Group supports the Chair’s proposal for a revised definition of development expenditure, as circulated to Group Coordinators on July 6, 2012.

[Annex E follows]

**COMMENTS RECEIVED FROM ONE REGIONAL GROUP FOLLOWING THE TWO
INFORMAL CONSULTATIONS CONVENED BY THE CHAIR**

Definition of Development Expenditure

- There's not a clear definition in the first paragraph about "development expenditure". What it's defined/suggested in the Chair's proposal is its utility. So, it's still necessary to define properly this term.
- A proposal of definition would be as follows: Expenditure qualifies as "development expenditure" when it is used to finance development-oriented assistance/activities provided by WIPO to developing countries, according to the priorities identified by the own countries, in order to enable them to derive benefits from the IP system, to reduce the costs of its use and to better protect their (proposal by the African Group) inventions and creations and reducing the knowledge gap between developed and developing countries by facilitating developing country access to knowledge and supporting their engagement in innovating, producing, using and absorbing technologies.
- We agree with the Group B that the following reference in the first paragraph should be removed: "... and the equivalent expenditure is not provided to developed countries." We think it's unnecessary because there must be other activities in this specific area that WIPO undertakes for developed countries.
- The list of activities for achieving efficiency in development expenditure that figures in the Chair proposal is not exhaustive, but only indicative.
- Finally, in the last part of the definition proposed by the Chair it is said that "development expenditure" is not used (or should not be used) to finance the organization's management, administrative and finance-related activities of functions. We are not quite sure about this because the size (in number of people working in a specific area and the budget assigned) of the different cooperation's bureau (for example LAC, Africa, PMA, etc.) it's a way to make a prioritisation of the different importance that WIPO assign to the different regions. Maybe this statistics won't have to be in the development statistics but we consider necessary to know more about it.
- In this order of ideas at the end of May there was a regional meeting in Bayahibe and Santo Domingo where all the Directors of Intellectual Property from Latin America participate. An issue that is important to us, as GRULAC, is the offering –that was made during that meeting - to increase the representativity of the GRULAC (numbers of Officials from the region in WIPO and in the LAC Bureau). After 3 months of having this regional meeting little has changed. We would like to know more information about it.
- Finally, we think it's important to know the disaggregated budget used to cooperation by WIPO specifically in our region comparing to other different regions.

[End of Annex E and of document]