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**WIPO'S LEGAL AND TECHNICAL ASSISTANCE TO DEVELOPING COUNTRIES  
FOR THE IMPLEMENTATION OF THE TRIPS AGREEMENT  
FROM JANUARY 1, 1996, TO MARCH 31, 1999**

*Prepared by the International Bureau*

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## **EXECUTIVE SUMMARY**

- (i) The TRIPS Agreement was concluded as part of the Marrakesh Agreement Establishing the World Trade Organization (WTO) and came into force on January 1, 1995. The Agreement is binding on all Members of the WTO, most of which are also Member States of WIPO, including the majority of developing countries, as an integral part of the multilateral trading system established under the WTO. The modernization of intellectual property systems and the strengthening of their legislative, administrative and enforcement infrastructures have become policy priorities in many developing countries owing to their impending obligations under the TRIPS Agreement. Annex I gives a listing of countries that are members of the WIPO Convention and/or the Paris Convention and/or the Berne Convention and WTO Members.
- (ii) The mandate for WIPO to provide legal and technical assistance in relation to the implementation of the TRIPS Agreement comes from decisions taken by the WIPO General Assembly in its 1994 and 1995 sessions and is reflected in the Agreement between the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO), of 1995, hereinafter referred to as the WIPO-WTO Agreement, which came into force from January 1, 1996. The Program and Budget for the 1998-1999 biennium, which was approved by the General Assembly in March, 1998, further elaborated the scope of WIPO's assistance in the implementation of the TRIPS Agreement.
- (iii) The WIPO-WTO Agreement provides three areas of cooperation between WIPO and the WTO, namely the deposit of laws and regulations, the implementation of Article 6<sup>ter</sup> of the Paris Convention for the purposes of the TRIPS Agreement and providing developing countries members of WIPO or the WTO or both, with legal-technical assistance relating to the TRIPS Agreement.
- (iv) Pursuant to the above-mentioned decisions of the WIPO General Assembly and the WIPO-WTO Agreement, the International Bureau re-oriented its cooperation for development programs. While it continued its assistance to developing countries through the traditional development cooperation activities, more focus was directed to assistance relating to the TRIPS Agreement. From January 1, 1996, the International Bureau carried out extensive programs of development cooperation activities relating to the TRIPS Agreement. The activities were organized in response to requests from the developing countries concerned.
- (v) The WIPO Program and Budget for 1998-1999 noted that the forthcoming biennium concludes with a crucial milestone when, on January 1, 2000, many developing and other countries will, as members of WTO, be due to bring their national legislative and administrative structures into conformity with the TRIPS Agreement. The Program and Budget also emphasized that the implementation of the TRIPS Agreement should not be viewed as an end in itself but that national administrations should be enabled to make optimum use of the opportunities created by TRIPS to ensure that a modernized intellectual property system contributed more effectively to national development and prosperity.
- (vi) In the joint initiative on technical cooperation launched by the Directors General of WIPO and WTO in July 1998, in order to assist the developing countries in meeting the deadline of January 1, 2000, for implementation of the TRIPS Agreement, both

organizations reiterated their commitment to use all available resources and to provide all technical cooperation, at the request of the developing countries, to enable them to fulfil their obligations.

- (vii) Overall, a total of 129 developing and least developed countries and one territory benefited from those development for cooperation activities of WIPO that either dealt entirely with the TRIPS Agreement or were undertaken with a view to facilitating the implementation of that Agreement.
- (viii) From January 1996 to March 1999 the International Bureau of WIPO provided assistance, in the form of legislative advice, for a considerable number of developing countries, as shown in more detail in the attached table (Annex II). The assistance was rendered by the WIPO Secretariat, at the request of the countries concerned, in the form of the preparation of 136 draft laws on intellectual property subjects (20 in 1996, 54 in 1997, 42 in 1998 and 20 in the first quarter of 1999) for 78 developing countries and regional organizations. It also contributed in the preparation of studies on the compatibility of existing intellectual property laws with TRIPS obligations, preparation of draft provisions to amend and modernize existing laws in the field of intellectual property, and in the preparation of comments and suggestions on 130 draft laws (30 in 1996, 40 in 1997, 47 in 1998 and 13 in the first quarter of 1999) prepared by and received from 84 governments of developing countries and secretariats of regional organizations in developing countries.
- (ix) In a number of cases, additional assistance was provided by the WIPO Secretariat in the form of further comments or clarifications following receipt of the reactions of the Governments concerned to the draft laws, studies and comments concerned. This assistance was provided in about 98 cases (27 in 1996, 23 in 1997, 37 in 1998 and 11 in the first quarter of 1999) for some 88 countries and regional organizations.
- (x) Furthermore, WIPO organized workshops specially designed for legislative draftsmen from Caribbean countries and a number of countries in Asia and the Pacific in order to familiarize them with the nature and main features of industrial property protection and legislation.
- (xi) WIPO's human resource development program has always been a central part of its cooperation for development program, but it has become even more important to developing countries in the wake of the TRIPS Agreement. Annex III provides details of such activities carried out in various countries (by region). Annex IV lists activities undertaken at the interregional level.
- (xii) These human resource development activities include, in particular organizing some 77 regional meetings, including eight (8) "Mega" meetings in various regions of the world, to familiarize policy-makers and government officials on the requirements under the TRIPS Agreement and on its implementation. Some 9,600 participants benefited from these meetings. One hundred and sixty-five subregional and national meetings (including training courses) for different target groups including policy-makers, legislators, the judiciary, customs and police officials, attorneys, IPR owners, the private sector, etc. were organized for the benefit of some 14,200 government officials and also representatives of the private sector and other interest groups. Around 60 interregional courses and seminars have been organized for conducting interregional introductory and specialized training courses for developing countries, resulting in the

training of some 250 people since 1996. Some 200 study attachments were arranged for the benefit of developing countries, and on-the-job training took place in 53 developing countries. Partnership arrangements for organizing various symposia and training workshops have been made with several regional and national intellectual property training institutions or centers, universities and research institutions. Preparation of periodicals, studies and reference materials to promote awareness of the protection of intellectual property in general and of the TRIPS Agreement in particular has been undertaken.

- (xiii) One concrete result of the above program and activities has been the creation of a core of national and regional resource persons, who serve as speakers at regional, subregional and national meetings and as experts during advisory missions. Some 150 such persons from developing countries have been invited by WIPO for such purposes.
- (xiv) The recent establishment of the WIPO Worldwide Academy (WWA) shows the importance of human resource development as a component of institution building in order to enable developing countries to meet their obligations under the TRIPS Agreement fully.
- (xv) Since January 1996, WIPO has been assisting developing countries in building up or upgrading their intellectual property offices with adequate institutional infrastructure and resources, qualified staff, modern management techniques and access to information technology support systems. In this connection WIPO's has sent advisory missions, on request, to intellectual property offices in 98 developing countries to give advice on modernizing management systems and streamlining administrative procedures, It has sponsored visits by some 300 officials of developing countries to offices in industrialized countries to study various aspects of modernization.
- (xvi) Some 90 countries have received computer equipment from WIPO, and, with the assistance of WIPO experts, 34 developing countries have developed the necessary software for the automation of their intellectual property offices. WIPO has provided national industrial property and copyright offices of developing countries with more than 250 CD-ROM workstations and has developed industrial property information services for the national industrial property offices in order to meet the needs of users in 76 developing countries. Strengthening the coverage and capacity of the present International Cooperation on the Search and Examination of Inventions (ICSEI), and assisting developing countries in the examination of patent applications, particularly in high-technology fields have been given due priority.
- (xvii) In order to build regional and national institutions for intellectual property teaching, research and training, WIPO has encouraged and collaborated in the setting up of such institutions or centers in a number of countries and promoted the introduction of intellectual property teaching in several universities and other teaching institutions. Further, WIPO assisted in establishing inventors' societies in a number of developing countries and encouraged inventors through various award schemes.
- (xviii) In the area of copyright and related rights, advice and assistance was given in connection with the setting up or strengthening of collective management societies in some 50 countries.

- (xix) WIPO has widely utilized regional, subregional and national projects to carry out its institution building and modernization activities. Since 1998 WIPO has been implementing 63 Nationally Focused Action Plans (NFAPs), for the benefit of 59 developing countries.
- (xx) Enforcement of intellectual property rights is an integral part of the TRIPS Agreement. Annex VI gives details of WIPO's assistance to developing countries in the area of enforcement. In order to create awareness of the importance and implications of the enforcement of intellectual property rights under the TRIPS Agreement, WIPO has organized 1 interregional, 6 regional, 4 subregional and 46 national meetings concentrating wholly or in part on the enforcement provisions of that Agreement. WIPO drew from a wide range of sources such as the WTO, the World Customs Organization (WCO), intellectual property offices, enforcement agencies in industrialized and developing countries, associations of holders of rights, industry representatives and the judiciary in order to present a clear and balanced view of the TRIPS enforcement provisions.
- (xxi) To enable developing countries to assess the conformity or otherwise of their existing enforcement mechanisms vis-a-vis the provisions of the TRIPS Agreement, a questionnaire was drawn up by the International Bureau and supplied to certain countries at their request. Legal and legislative advice was provided for strengthening and upgrading enforcement mechanisms in conformity with the TRIPS Agreement.
- (xxii) The human resource development and training activities of WIPO focused on creating a core of trained personnel and imparting the necessary skills to enforce intellectual property rights. Some developing countries took a lead in setting up or identifying special courts for trying intellectual property cases. WIPO arranged study visits and training for the judges of such courts and provided documentation and reading materials for libraries.
- (xxiii) Since 1996, a remarkable number of documents, including specially commissioned studies and papers, have been published by WIPO on the TRIPS Agreement provisions. WIPO published a study in June 1996 under the title "Implications of the TRIPS Agreement on the Treaties Administered by WIPO". Four studies from the Secretariat of the United Nations Conference on Trade and Development (UNCTAD) in Geneva, the Institute of Economic Research (IEO) in Munich and Brussels, Mr. Robert M. Sherwood (international business counsellor) in Alexandria, Virginia, and the Hungarian Ministry of Industry and Trade, were published by WIPO in September 1996.
- (xxiv) WIPO provides an information and documentation service which is in charge of responding to enquiries, concerning national legislation and treaties in the intellectual property field, and providing copies of the relevant texts. It maintains a paper collection of legislative texts. WIPO is in the process of establishing the Collection of Laws for Electronic Access (CLEA). CLEA so far covers the legislative texts of 35 countries and one intergovernmental organization (the European Communities) and the treaties administered by WIPO (a total of 15,347 pages). All legislative texts have embedded hyperlinks and are fully searchable. CLEA will be published on the Internet during 1999.

- (xxv) Assistance in the translation of laws and regulations is given by WIPO to its Member States forming part of the Organization's ongoing programs. Between January 1996 and March 31, 1999, assistance in translation has been given to 139 countries, for which laws and regulations have been translated into English, French, Spanish, Arabic, German and Portuguese as required.
- (xxvi) Under Article 3 of the WIPO-WTO Agreement, the communication of emblems and transmittal of objections under the TRIPS Agreement are to be administered by the International Bureau of WIPO in accordance with the procedures applicable under Article 6*ter* of the Paris Convention.
- (xxvii) Numerous activities have been undertaken by WIPO and WTO under Article 4 of the WIPO-WTO Agreement concerning enhancing cooperation between the two organizations in rendering legal-technical assistance. These activities include attending each other's meetings as an observer, participating in each other's symposia, workshops and seminars and, in particular, jointly organizing symposia. Of the joint symposia, there have been three thus far.
- (xxviii) The joint WIPO-WTO initiative was in the form of a joint communication by the Directors General of the two Organizations, Dr. Kamil Idris of WIPO and Mr. Renato Ruggiero of WTO, which was sent to the ministers of each of the developing countries concerned. Letters of acknowledgement and requests for assistance had been received from 32 countries or territories. In response to the requests made under the joint initiative, the two Organizations have met on several occasions and discussed the coordination of efforts and, in some cases, the joint handling of specific requests by holding a joint consultation with the requesting country or territory.
- (xxix) Almost all developing countries have benefited from the legal-technical assistance programs and activities of WIPO. This is reflected in a number of such countries having upgraded their existing legislation or enacted new laws and revised or formulated implementing regulations for achieving conformity with the TRIPS Agreement. Most other developing countries have already set into motion the necessary legislative process for enacting or upgrading laws and regulations. There is widespread awareness not only of the legal implications of the TRIPS Agreement but also of its potential for beneficial use by countries. In order to do this, a number of countries have already strengthened or embarked upon modernization of their administrative infrastructures. A reservoir of trained manpower has been created to implement and use the upgraded intellectual property system. More attention to the protection and enforcement of intellectual property rights and better enforcement mechanisms are also noticeable in a number of countries.
- (xxx) The end of 1999 will require developing country members of WTO (other than least developed countries) to have their national laws and administrative practices in conformity with the TRIPS Agreement. the international bureau is fully aware of the paramount role to be played by it in assisting such countries in this process. the scope of such assistance will be expanded to respond to the requests of the developing countries in all matters connected with the implementation of the TRIPS Agreement and related matters. further, WIPO will certainly continue and further intensify its tailor-made assistance to the least developed countries for the implementation of the TRIPS Agreement.

## I INTRODUCTION

1. This document provides a detailed account of the legal and technical assistance rendered by the World Intellectual Property Organization (WIPO) to developing and least developed countries in relation to the implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) from January 1, 1996, to March 31, 1999.
2. The TRIPS Agreement was concluded as part of the Marrakesh Agreement Establishing the World Trade Organization (WTO) and came into force on January 1, 1995. The link between the intellectual property system and global trade has been brought into sharp focus by the TRIPS Agreement. The Agreement is binding on all Members of the WTO, most of which are also Member States of WIPO, including the majority of developing countries, as an integral part of the multilateral trading system established under the WTO. The modernization of intellectual property systems and the strengthening of their legislative, administrative and enforcement infrastructures have become policy priorities in many developing countries owing to their impending obligations under the TRIPS Agreement. Annex I gives a listing of countries that are members of the WIPO Convention and/or the Paris Convention and/or the Berne Convention and WTO Members.
3. The mandate for WIPO to provide legal and technical assistance in relation to the implementation of the TRIPS Agreement comes from decisions taken by the WIPO General Assembly in its 1994 and 1995 sessions and is reflected in the Agreement between the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO), of 1995, hereinafter referred to as the WIPO-WTO Agreement, which came into force from January 1, 1996. The Program and Budget for the 1998-1999 biennium, which was approved by the General Assembly in March, 1998, further elaborated the scope of WIPO's assistance in the implementation of the TRIPS Agreement.
4. In 1994, after the WTO Agreement was adopted in April, the fifteenth (fourth extraordinary) session of the WIPO General Assembly, held in Geneva from September 26 to October 4, decided that "the International Bureau should be at the disposal of any State that expressly asks for advice on questions of compatibility of its existing or planned national intellectual property legislation not only with treaties administered by WIPO, but also with other international norms and trends, including the Agreement on Trade Related Aspects of Intellectual Property Rights, and that the International Bureau should prepare studies on the implications of the said Agreement on the treaties administered by WIPO." "It was noted that, as was the practice in WIPO, any such advice or studies would not constitute an official interpretation of any international agreement" (document WO/GA/XV/3, paragraphs 74 and 75).
5. During its sixteenth (twelfth ordinary) session, held in Geneva from September 25 to October 3, 1995, the WIPO General Assembly agreed that the International Bureau should make arrangements so as to be able to respond to requests from developing countries to WIPO for legal and technical assistance relating to the TRIPS Agreement and should report to the sessions of the Governing Bodies in 1996 on the nature and recipients of these activities, including a study conducted by WIPO on financial and other implications of the implementation of the TRIPS Agreement for developing countries. The General Assembly also agreed that the International Bureau should expand the coverage of the



TRIPS Agreement in existing WIPO development cooperation activities (document WO/GA/XVI/7, paragraph 24).

6. The WIPO-WTO Agreement provides three areas of cooperation between WIPO and the WTO, namely the deposit of laws and regulations, the implementation of Article 6*ter* of the Paris Convention for the purposes of the TRIPS Agreement and providing developing countries members of WIPO or the WTO or both, with legal-technical assistance relating to the TRIPS Agreement.

7. Pursuant to the above-mentioned decisions of the WIPO General Assembly and the WIPO-WTO Agreement, the International Bureau re-oriented its cooperation for development programs. While it continued its assistance to developing countries through the traditional development cooperation activities, more focus was directed to assistance relating to the TRIPS Agreement. From January 1, 1996, the International Bureau carried out extensive programs of development cooperation activities relating to the TRIPS Agreement and continued to cooperate with the WTO. The activities were organized in response to requests from the developing countries concerned, account being taken of the time frame for meeting their obligations under the TRIPS Agreement. Many of the activities were entirely focused on the TRIPS Agreement, and others dealt with certain elements of that Agreement while covering traditional areas of WIPO's cooperation for development program.

8. The WIPO Program and Budget for 1998-1999 noted that the forthcoming biennium concludes with a crucial milestone when, on January 1, 2000, many developing and other countries will, as members of WTO, be due to bring their national legislative and administrative structures into conformity with the TRIPS Agreement. Compliance with the TRIPS obligations therefore acquired urgency and required an unprecedented effort on the part of WIPO in providing the necessary intensive and carefully focused technical assistance to the countries concerned.

9. The Program and Budget also emphasized that the implementation of the TRIPS Agreement should not be viewed as an end in itself but that national administrations should be enabled to make optimum use of the opportunities created by TRIPS to ensure that a modernized intellectual property system contributed more effectively to national development and prosperity. This holistic approach has led to much emphasis being placed by WIPO on providing support for developing countries not only in the modernization of legislative and administrative infrastructures with the immediate aim of bringing them into conformity with the TRIPS Agreement and other international obligations, but also enabling the upgraded intellectual property system to serve the larger goal of nation building. The cooperation for development program and the activities undertaken in relation to the TRIPS Agreement have become more comprehensive, sophisticated and needs-oriented, making extensive use of the mechanism of Nationally Focused Action Plans (NFAPs) to deliver tailor-made assistance to developing countries. International and regional cooperation activities of WIPO and those aimed at strengthening links with NGOs, IGOs and various user interests have been made complementary to this process.

10. In the joint initiative on technical cooperation launched by the Directors General of WIPO and WTO in July 1998, in order to assist the developing countries in meeting the deadline of January 1, 2000, for implementation of the TRIPS Agreement, both organizations reiterated their commitment to use all available resources and to provide all technical cooperation, at the request of the developing countries, to enable them to fulfil their obligations. It was stressed that, as far as WIPO was concerned, the legal-technical assistance

provided for developing countries was well under way within the cooperation for development program of WIPO and included assistance in the preparation of legislation, the modernization of administrative infrastructures, human resource development and the improvement of enforcement capabilities.

11. Overall, a total of 129 developing and least developed countries and one territory benefited from those development for cooperation activities of WIPO that either dealt entirely with the TRIPS Agreement or were undertaken with a view to facilitating the implementation of that Agreement; they were: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China (including Hong Kong SAR), Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kiribati, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Republic of Korea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe, British Virgin Islands.

12. The following paragraphs of this document and its annexes provide a detailed (though not exhaustive) account of the legal and technical assistance provided by WIPO for the developing as well as the least developed countries, particularly in the areas of legislative advice, promotion of awareness building and human resource development, institution building and modernization of the intellectual property system, and enforcement of intellectual property rights. They also mention activities carried on cooperation with the WTO and those under the WIPO-WTO Agreement.

## **II. LEGISLATIVE ADVICE**

13. As mentioned, developing country Members of WTO (other than LDCs) are required to comply with obligations under the TRIPS Agreement by January 1, 2000. This has generated an immediate response in WIPO's program of cooperation for development, and for support to government efforts to undertake the legislative and administrative measures required for meeting TRIPS obligations.

14. From January 1996 to March 1999 the International Bureau of WIPO provided assistance, in the form of legislative advice, for a considerable number of developing countries, as shown in more detail in the attached table (Annex II).

15. The assistance was rendered by the WIPO Secretariat, at the request of the countries concerned, in the following forms:

- preparation of 136 draft laws on intellectual property subjects (20 in 1996, 54 in 1997, 42 in 1998 and 20 in the first quarter of 1999) for 78 developing countries and regional organizations covering, as required, the protection of patents, industrial designs, trademarks for goods and services (including collective marks), geographical indications, layout-designs or topographies of integrated circuits, utility model certificates (where requested) and copyright and related rights, and protection against acts of unfair competition;
- preparation of studies on the compatibility of existing intellectual property laws with TRIPS obligations;
- preparation of draft provisions to amend and modernize existing laws in the field of intellectual property;
- preparation of comments and suggestions on 130 draft laws (30 in 1996, 40 in 1997, 47 in 1998 and 13 in the first quarter of 1999) prepared by and received from 84 governments of developing countries and secretariats of regional organizations in developing countries.

16. In a number of cases, additional assistance was provided by the WIPO Secretariat in the form of further comments or clarifications following receipt of the reactions of the Governments concerned to the draft laws, studies and comments concerned. This assistance was provided in about 98 cases (27 in 1996, 23 in 1997, 37 in 1998 and 11 in the first quarter of 1999) for some 88 countries and regional organizations:

- in discussions with government officials in missions undertaken by WIPO staff members or WIPO experts to the countries concerned;
- in discussions with WIPO staff members during study visits to Geneva by government officials financed by the WIPO Secretariat;
- in the form of legislative advice given in discussions with government officials in Geneva on the occasion of their participation in WIPO activities including, in particular, WIPO committee meetings and conferences.

17. Furthermore, WIPO organized workshops specially designed for legislative draftsmen from Caribbean countries and a number of countries in Asia and the Pacific in order to familiarize them with the nature and main features of industrial property protection and legislation.

### **III. AWARENESS BUILDING AND HUMAN RESOURCE DEVELOPMENT**

18. The human element is crucial to the establishment and exploitation the intellectual property system. WIPO's human resource development program has always been a central part of its cooperation for development program, but it has become even more important to developing countries in the wake of the TRIPS Agreement. Implementation of the TRIPS Agreement requires a proper understanding of its provisions and their implications and an awareness of its role as a determinant of international trade and technology transfer on the part of governments as well as civil society. A reservoir of manpower is needed to implement

and work the Agreement. In addition, awareness and training programs have to be extended to a larger number of interest groups. WIPO therefore reoriented and expanded its human resource development and training program (content, facilities and mode of delivery) and aligned them with TRIPS requirements in order to take account of the specific needs of a diverse range of beneficiaries. Annex III provides details of activities carried out in various countries (by region). Annex IV lists activities undertaken at the interregional level.

19. A major part of WIPO's assistance to developing countries for the implementation of the TRIPS Agreement relates to the promotion of public awareness of the importance and implications of that Agreement and its crucial role in international trade, and also to the development of human resources and training of personnel for its implementation. Since January 1996 WIPO has been carrying on a broad range of activities to cater to the urgent needs of the developing countries in the areas concerned. Those activities include, in particular:

- organizing meetings of policy-makers and senior officials at the regional level to discuss the implications of the TRIPS Agreement for developing countries and to explore appropriate measures for its implementation. For example, some 77 regional meetings, including eight (8) "Mega" meetings in various regions of the world, were held to familiarize policy-makers and government officials on the requirements under the TRIPS Agreement and on its implementation. Some 9,600 participants benefited from these meetings.
- organizing subregional and national meetings (including training courses) for different target groups including policy-makers, legislators, the judiciary, customs and police officials, attorneys, IPR owners, the private sector, etc. During the period under review, 165 such meetings were organized for the benefit of some 14,200 government officials and also representatives of the private sector and other interest groups.
- conducting interregional introductory and specialized training courses for developing countries. Around 60 interregional courses and seminars have been organized for that purpose, resulting in the training of some 250 people since 1996.
- arranging study attachments for government officials from developing countries to WIPO and selected developed and developing countries, to learn from and exchange experience with other countries on the implementation of the TRIPS Agreement. During the period under review, some 200 such study attachments were arranged for the benefit of developing countries.
- conducting on-the-job training for officials of the developing countries during WIPO-sponsored advisory missions on various subjects relating to the implementation of the TRIPS Agreement. During the period under review, such training took place in 53 developing countries.
- making use of national and regional institutions in developing countries for awareness-building and training purposes. During the period under review, partnership arrangements for organizing various symposia and training workshops have been made at regional and national intellectual property training institutions or centers, universities and research institutions in many countries of the world.

- preparing periodicals, studies and reference materials to promote awareness of the protection of intellectual property in general and of the TRIPS Agreement in particular. One example is the publication of the quarterly “Intellectual Property in Asia and the Pacific” (IPAP), which is widely distributed in the region and is highly valued by its readers.
- Promoting intellectual property teaching and research in universities, tertiary institutions, training centers and associations of various users of the intellectual property system.

20. Experts from WTO, other international organizations and intellectual property offices of industrialized countries were invited to participate, at WIPO’s expense, in a large number of meetings or training courses organized by WIPO.

21. WIPO’s cooperation for development activities were organized in close cooperation and consultation with a number of regional and subregional offices (such as ARIPO and OAPI) and economic or political groups (such as ASEAN, BIMSTEC, Mercosur, SADC, SAARC and OAU) covering common areas of concern and sharing experiences and resources.

22. One concrete result of the above program and activities has been the creation of a core of national and regional resource persons, who serve as speakers at regional, subregional and national meetings and as experts during advisory missions. Some 150 such persons from developing countries have been invited by WIPO for such purposes.

23. The recent establishment of the WIPO Worldwide Academy (WWA) shows the importance of human resource development as a component of institution building in order to enable developing countries to meet their obligations under the TRIPS Agreement fully. The TRIPS Agreement has been included as a topic in all WWA training activities, making for greater outreach and a broader range of beneficiaries, including decision-makers, policy advisers, development managers, administrators, law enforcement officers and others. In this connection the WWA will not only provide appropriate training but also deliver more sophisticated and tailor-made training services for a broader range of recipients, including by remote access.

#### **IV. INSTITUTION BUILDING AND MODERNIZATION OF THE INTELLECTUAL PROPERTY SYSTEM**

24. A modern and well-functioning intellectual property system is an essential element for developing countries not only for effectively implementing the TRIPS Agreement but also for successful participation in the increasingly globalized economy and world trading system. National capacity for protection, management and use of intellectual property rights needs to be built up and sustained. The required administrative and institutional infrastructure entails forging functional linkages between intellectual property administrations and other national institutions in several areas such as research and development, industry, commerce, finance, teaching and enforcement. In providing legal-technical assistance for developing countries, WIPO attaches the utmost importance to institution building and modernization of the intellectual property administration. Annex V provides details of such activities undertaken in various countries, by region.

25. Since January 1996 WIPO has been assisting developing countries in building up or upgrading their intellectual property offices with adequate institutional infrastructure and resources, qualified staff, modern management techniques and access to information technology support systems. In this connection WIPO's assistance covered the following aspects among others:

- sending advisory missions, on request, to intellectual property offices in developing countries to give advice on modernizing management systems and streamlining administrative procedures; during the period under review, advisory missions of this kind were sent to 98 developing countries;
- sponsoring visits by the officials of developing countries to offices in industrialized countries to study various aspects of modernization. Some 300 officials benefited from such visits;
- formulating automation plans for intellectual property offices to deal with the administration, acquisition and maintenance of intellectual property rights, and providing the necessary hardware and software to support the implementation of such plans; during the period under review, some 90 such countries have received computer equipment from WIPO, and, with the assistance of WIPO experts, 34 developing countries have developed the necessary software for the automation of their intellectual property offices;
- to initiate and strengthen the modernization process, WIPO has provided national industrial property and copyright offices of developing countries with more than 250 CD-ROM workstations; the workstations have been used for the purposes of patent and trademark search and examination, the storage of databases, the issuance of intellectual property titles and certificates and also for providing industrial property information services;
- developing of industrial property information services for the national industrial property offices in order to meet the needs of users in developing countries better; during the period under review, 76 developing countries benefited from this activity;
- strengthening the coverage and capacity of the present International Cooperation on the Search and Examination of Inventors (ICSEI), to assist developing countries in the examination of patent applications, particularly in hightechnology fields.

26. In order to build regional and national institutions for intellectual property teaching, research and training, WIPO:

- encouraged and collaborated in the setting up of such institutions or centers in a number of countries, e.g. China, India and Malaysia. It also strengthened its cooperation with existing institutions such as the International Intellectual Property Training Institute (IIPTI) in Daeduk, Republic of Korea, and the Sri Lanka Foundation Institute in Colombo, Sri Lanka;

- promoted the introduction of intellectual property teaching in several universities and other teaching institutions, and also assisted in the training of teachers and the building up of libraries.

27. In order to create and strengthen national capacity for promoting invention and innovation and for exploiting indigenous creations and innovations, WIPO assisted in establishing inventors' societies in a number of developing countries and encouraged inventors through various award schemes. Activities were carried on concerning licensing and technology transfer arrangements, valuation, commercialization and exploitation of intellectual property in close cooperation with intellectual property offices, universities, chambers of commerce and industry and financial and R & D institutions.

28. In the area of copyright and related rights, advice and assistance was given in connection with the setting up or strengthening of collective management societies in some 50 countries.

29. WIPOnet, which will be operational by the beginning of the next biennium, will contribute significantly to developing national ability particularly that of developing countries, to use information technology in intellectual property offices, assist them in building up the necessary infrastructure and provide training in the use of the systems.

30. WIPO has widely utilized regional, subregional and national projects to carry out its institution building and modernization activities. Since 1998 WIPO has been implementing 63 Nationally Focused Action Plans (NFAPs), for the benefit of 59 developing countries. The objective of these NFAPs is to help national intellectual property administrations meet national development objectives, and assist in meeting immediate TRIPS-related requirements. Activities implemented under the NFAPs include training, expert missions, study attachments, seminars and provision of equipment.

## **V. ENFORCEMENT**

31. Enforcement of intellectual property rights is an integral part of the TRIPS Agreement. Part III of the Agreement lays down general principles for the enforcement of intellectual property rights and also specific procedures and remedies both civil and criminal, including border measures that must be available so that the holders of rights can effectively enforce those rights. The method of implementation of these provisions is left to each country, to allow for differences in their national legal systems. The TRIPS Agreement also provides that the enforcement provisions should be applied in such a manner as to avoid the creation of barriers to legitimate trade and provide safeguards against their abuse.

32. The enforcement obligations under the TRIPS Agreement have resulted in a large number of requests from developing countries to WIPO to advise and assist them in understanding the implications of the TRIPS enforcement provisions, establish and upgrade enforcement mechanisms, particularly with respect to border measures, and devise special programs for judges, prosecutors, customs and police officials, attorneys, holders of rights and user interests. Annex VI gives details of WIPO's assistance to developing countries in the area of enforcement. It may be mentioned that many activities listed in Annex III also broadly dealt with enforcement provisions of the TRIPS Agreement.

33. WIPO has expanded and adjusted its program and activities to respond effectively to such requests. In order to create awareness of the importance and implications of the enforcement of intellectual property rights under the TRIPS Agreement, WIPO has organized 1 interregional, 6 regional, 4 subregional and 46 national meetings concentrating wholly or in part on the enforcement provisions of that Agreement. Many such meetings brought together a cross-section of intellectual property interests, including policy makers, government officials, enforcement agencies, judiciary, attorneys, holders of rights and consumer interests. Several other meetings focused on specific target groups such as administrators, judges, customs and police officials and other enforcement agencies. As well as using internal experts, WIPO drew from a wide range of sources such as the WTO, the World Customs Organization (WCO), intellectual property offices, enforcement agencies in industrialized and developing countries, associations of holders of rights, industry representatives and the judiciary in order to present a clear and balanced view of the TRIPS enforcement provisions.

34. To enable developing countries to assess the conformity or otherwise of their existing enforcement mechanisms *vis-a-vis* the provisions of the TRIPS Agreement, a questionnaire was drawn up by the International Bureau and supplied to certain countries at their request. Also expert missions were sent to some countries for the above purpose. Legal and legislative advice was provided for strengthening and upgrading enforcement mechanisms in conformity with the TRIPS Agreement. The review process under the TRIPS Council and proceedings under the dispute settlement mechanism of the WTO were fully kept in view while guidance was provided on this subject.

35. The human resource development and training activities of WIPO focused on creating a core of trained personnel and imparting the necessary skills to enforce intellectual property rights. This was done in the form of the following action in particular:

- organizing a number of training courses and special meetings concerning the enforcement provisions of the TRIPS Agreement;
- convening a special WIPO Academy for enforcement officials;
- arranging orientation and study programs for senior customs officials of 15 countries to act as trainers and resource persons; this was done in cooperation with the WTO, WCO, the offices of industrialized countries and associations of holders of rights;
- organizing a number of colloquia for judges, and arranging interaction among judges, prosecutors and attorneys;
- promoting contacts among national focal points for enforcement;
- facilitating interaction among the associations of holders of rights, industry representatives and enforcement officials;
- providing documentation, equipment and training materials.

36. Some developing countries took a lead in setting up or identifying special courts for trying intellectual property cases. WIPO arranged study visits and training for the judges of such courts and provided documentation and reading materials for libraries. Similarly, whenever national mechanisms for coordination among various agencies were set up by



countries, including intellectual property offices, enforcement agencies, judiciary, holders of rights and other interest groups, WIPO encouraged the move and provided such assistance and advice as was requested.

37. The Nationally Focused Action Plans (NFAPs) of several developing countries contain specific activities in the area of enforcement, including human resource development and modernization of administrations.

38. In the area of dispute settlement and resolution, all countries, including the developing countries, were encouraged to make use of the WIPO Arbitration and Mediation Center. The Center has a number of mediators and arbitrators from developing countries on its panel of specialized neutrals. An on-line dispute facility has also been provided by WIPO for expeditious electronic resolution of intellectual property disputes. Several regional consultations have been held in developing countries in connection with the WIPO Internet domain name process.

## **VI. STUDIES AND PUBLICATIONS ON THE IMPLICATIONS OF THE TRIPS AGREEMENT**

39. Since 1996, a remarkable number of documents, including studies and papers, have been published by WIPO on the TRIPS Agreement provisions. Those documents, prepared by WIPO experts and officials, are mainly intended to be distributed among participants in WIPO-organized seminars, symposia, courses and workshops.

40. In addition, the International Bureau has undertaken and commissioned the preparation of special studies and publications assessing the implications of the TRIPS Agreement.

- In October 1994 the WIPO General Assembly decided that the International Bureau should prepare a study on the implications of the TRIPS Agreement for the treaties administered by WIPO. The study takes the articles of the TRIPS Agreement one by one and, where the article seems to have “implications” for any WIPO-administered treaty, dwells longer on the article and points out, unless it is obvious, any possible change in the obligations of a State which is party to the treaty in question but also a Member of the WTO and therefore is or will be bound by the TRIPS Agreement.

41. WIPO published the study in June 1996 under the title “Implications of the TRIPS Agreement on the Treaties Administered by WIPO”—available in Arabic, Chinese, English, French, Russian and Spanish—and distributed it widely among WIPO and WTO member States.

42. In October 1995 the WIPO General Assembly agreed that the International Bureau should conduct a survey of the financial and other implications of implementation of the TRIPS Agreement for developing countries. Accordingly, WIPO commissioned four studies on the matter from the following:

- Secretariat of the United Nations Conference on Trade and Development (UNCTAD) in Geneva;
- Institute of Economic Research (IEO) in Munich and Brussels;

- Mr. Robert M. Sherwood (international business counsellor) in Alexandria, Virginia;
- Hungarian Ministry of Industry and Trade.

These studies, which are available in English, were published by WIPO in September 1996 and widely circulated to interested parties.

43. In 1996 WIPO published a single booklet containing the texts of the Agreement between WIPO and the WTO and the TRIPS Agreement and also the texts of other agreements or parts of agreements that are directly or indirectly referred to in the TRIPS Agreement.

44. In March 1998 WIPO published the revised edition of Intellectual Property Reading Material. This publication, which is available in English, gives information on the main fields of intellectual property protection; the international treaties and the administration of intellectual property and its role in development, including the TRIPS Agreement.

## **VII. ACTIVITIES UNDER THE WIPO-WTO COOPERATION AGREEMENT**

45. The WIPO-WTO Agreement as mentioned above entered into force on January 1, 1996, and contains three substantive areas, namely laws and regulations, implementation of Article 6ter of the Paris Convention and legal-technical assistance to developing countries. The relevant activities undertaken by WIPO under the WIPO-WTO Agreement in helping developing and least developed countries to implement the TRIPS Agreement are classified in this section and elaborated on below under appropriate subheadings:

### **A. Laws and Regulations**

#### **Providing an information and documentation service in the field of intellectual property legislation**

46. Within its Collection of Laws Section, WIPO provides an information and documentation service which is in charge of responding to enquiries, which may originate in-house or outside, concerning national legislation and treaties in the intellectual property field, and providing copies of the relevant texts. An average of 90 requests for information per month are dealt with, approximately 40 of them from outside WIPO and the remainder from WIPO officials. To this end, it maintains a paper collection of legislative texts.

#### **Establishment and development of the Collection of Laws for Electronic Access (CLEA)**

47. WIPO is in the process of establishing CLEA. It contains:

- bibliographic data entries concerning legislative texts and treaties communicated to WIPO by member States under the Paris and Berne Conventions or notified to the TRIPS Council and communicated to WIPO by WTO under the above-mentioned agreement;
- full texts of legislative texts and treaties in electronic form.

48. CLEA so far covers the legislative texts of 35 countries and one intergovernmental organization (the European Communities) and the treaties administered by WIPO (a total of 15,347 pages). All legislative texts have embedded hyperlinks and are fully searchable.

CLEA will be published on the Internet during 1999.

### **Publishing texts of laws and treaties**

49. In its monthly periodical “Intellectual Property Laws and Treaties” (in English and French) WIPO publishes two legislative inserts, *Industrial Property Laws and Treaties* and *Copyright and Neighboring Right Laws and Treaties*, in which texts of national laws and treaties are published in English and French. They incorporate the most recent versions of the relevant laws, and whenever possible they are published in a consolidated version.

50. The following legislative texts have been published in the inserts.

- in 1996, 102 in English (1,715 pages) and 97 in French (1,642 pages);
- in 1997, 72 in English (1,484 pages) and 95 in French (1,592 pages);
- in 1998, 81 in English (1,188 pages) and 68 in French (1,261 pages);
- in 1999 (January to March), 19 in English (326 pages) and 18 in French (345 pages).

### **IPLEX**

51. WIPO is in the process of resuming the publication of IPLEX CDROMs (containing the texts of laws and treaties published in English and French in the IPLT legislative inserts) in a new version, which should be more user-friendly and functional.

### **Assistance in the translation of laws**

52. Assistance in the translation of laws and regulations is given by WIPO to its Member States forming part of the Organization’s ongoing programs. Under Article 2(5) of the WIPO-WTO Agreement, this service was made available to developing countries Members of WTO but not Member States of WIPO to enable them to fulfill their obligation to notify their laws and regulations to the TRIPS Council.

53. Between January 1996 and March 31, 1999, assistance in translation has been given to 139 countries, for which laws and regulations have been translated into English, French, Spanish, Arabic, German and Portuguese as required.

### **B. Article 6ter of the Paris Convention**

54. Under Article 3 of the WIPO-WTO Agreement, the communication of emblems and transmittal of objections under the TRIPS Agreement are to be administered by the

International Bureau of WIPO in accordance with the procedures applicable under Article 6*ter* of the Paris Convention.

55. Since the entry into force of the WIPO-WTO Agreement on January 1, 1996, the International Bureau has made the following communications under Article 3 of the Agreement:

- Communication to WTO Members not party to the Paris Convention of all the emblems so far communicated to the States party to the Paris Convention. Communications have been sent to the following 31 WTO Members: Antigua and Barbuda, Bahrain, Belize, Botswana, Brunei Darussalam, Colombia, Djibouti, Dominica, Ecuador, Fiji, Guatemala, India, Jamaica, Kuwait, Maldives, Mozambique, Myanmar, Namibia, Nicaragua, Pakistan, Qatar, Sierra Leone, Thailand, the European Communities, Hong Kong SAR of China, Macao, Grenada, the United Arab Emirates, Papua New Guinea, the Solomon Islands, Angola.
- Communication of emblems for which protection has been requested since January 1, 1996, by States or intergovernmental organizations. Thirty-four such communications were sent to WTO Members not party to the Paris Convention between January 1996 and December 1998.

56. It should be noted that such communications are without prejudice to the date on which WTO Members are bound, under the TRIPS Agreement, to protect the emblems that were the subject of the communication.

### **C. Joint Activities of WIPO and WTO**

57. The two Organizations are committed under the WIPO-WTO Agreement to provide certain legal-technical assistance and to enhance their technical cooperation activities under Article 4. Specifically, each Organization agrees to make available to developing country Members of the other Organization “the same legal-technical assistance relating to the TRIPS Agreement as it makes available to [its own] Member States” under paragraph (1). They further agree in paragraph (2), to “enhance cooperation in their legal-technical assistance and technical cooperation activities relating to the TRIPS Agreement for developing countries, so as to maximize the usefulness of those activities and ensure their mutually supportive nature.” Lastly, they specify in paragraph (3), that the two Organizations “shall keep in regular contact and exchange non-confidential information” for the purposes of legal-technical assistance to developing countries.

58. Numerous activities have been undertaken by WIPO and WTO under Article 4 of the WIPO-WTO Agreement. These activities include attending each other’s meetings as an observer, participating in each other’s symposia, workshops and seminars and, in particular, jointly organizing symposia. Of the joint symposia, there have been three thus far.

59. The first symposium took place at WIPO for a half-day on September 17, 1996, and was entitled “Workshop on the Border Enforcement Provisions of the TRIPS Agreement.” The second was on “Technical Cooperation Aimed at Improving Human Resources and Institutional Capacity Required to Implement the TRIPS Provisions on Domestic Enforcement,” which took place at WTO, also for a half-day, on July 14, 1997, and the third,

“The Process of Implementation of the TRIPS Agreement,” was held at WIPO during the whole of September 16, 1998.

60. In addition, WIPO has jointly organized a symposium with WTO and UPOV, which was followed by three regional workshops on “The Protection of Plant Varieties under Article 27.3(b) of the TRIPS Agreement.” The joint symposium took place on February 15, 1999, and the three workshops took place in the same year in Bangkok (March 18 and 19), Cairo (May 3 and 4) and Nairobi (May 6 and 7).

#### **D. WIPO-WTO Joint Initiative**

61. In furtherance of the cooperation specified in the WIPO-WTO Agreement, WIPO launched a joint initiative with WTO in July 1998. The purpose of the joint initiative was to assist developing country Members of WTO meet the January 1, 2000, deadline for conforming to the TRIPS Agreement.

62. The joint initiative was in the form of a joint communication by the Directors General of the two Organizations, Dr. Kamil Idris of WIPO and Mr. Renato Ruggiero of WTO, which was sent to the ministers of each of the developing countries concerned. Its aim was for WIPO and WTO to maximize their use of available resources in the coming critical period by improved planning and coordination of technical cooperation activities, with an understanding that the bulk of the assistance would be coming from WIPO.

63. Many responses have been received from developing and least-developed countries since the launching of the joint initiative. In particular, letters of acknowledgement and requests for assistance had been received from 32 countries or territories. The requests received were comprehensive yet general in nature, and in most cases the assistance they sought did not differ from that already provided under the ongoing programs of WIPO, which should, therefore, be noted for a more complete view. As specified in this document, countries or territories that have received or are receiving assistance under the ongoing programs of WIPO, in the area of TRIPS implementation, include 129 developing and least-developed countries.

64. In response to the requests made under the joint initiative, the two Organizations have met on several occasions and discussed the coordination of efforts and, in some cases, the joint handling of specific requests by holding a joint consultation with the requesting country or territory. The assistance requested has in most cases been given to the Member concerned, and in few cases it will be provided in the course of 1999. In particular, a number of WIPO and WTO missions took place in the early part of 1999, including a joint symposium on “Implementation of the TRIPS Agreement” in Bangui, Central African Republic, for French-speaking sub-Saharan African countries from March 23 to 26, 1999. Several national seminars are being planned jointly by WIPO and WTO for the latter part of 1999.

### **VIII. CONCLUSION**

65. Since the beginning of 1996 WIPO has offered intensive and carefully focused legal-technical assistance to developing countries, including the least developed countries, to enable them to fulfil their obligations under the TRIPS Agreement. In doing so WIPO has shown full organizational commitment: not only were its cooperation for development program activities adjusted and reoriented to deliver a comprehensive package of assistance needed by the developing countries in a timely and cost-effective manner, but also adequate professional

and financial resources were allocated for the purpose. Each and every request from a developing or a least developed country received detailed and prompt attention from WIPO. WIPO cooperated fully with the WTO and other intergovernmental and non-governmental organizations (IGOs and NGOs) and all relevant interest groups in providing such assistance. Above all, the paramount development objective, namely, that the modernized intellectual property systems created in the process of TRIPS compliance should serve national economic, social and cultural goals, was always kept in view.

66. Almost all developing countries have benefited from the legal-technical assistance programs and activities of WIPO. This is reflected in a number of such countries having upgraded their existing legislation or enacted new laws and revised or formulated implementing regulations for achieving conformity with the TRIPS Agreement. Most other developing countries have already set into motion the necessary legislative process for enacting or upgrading laws and regulations. There is widespread awareness not only of the legal implications of the TRIPS Agreement but also of its potential for beneficial use by countries. In order to do this, a number of countries have already strengthened or embarked upon modernization of their administrative infrastructures. A reservoir of trained manpower has been created to implement and use the upgraded intellectual property system. More attention to the protection and enforcement of intellectual property rights and better enforcement mechanisms are also noticeable in a number of countries.

67. Much work still remains to be done, however. The end of the current year will require developing country Members of WTO (other than least developed countries) to have their national laws and administrative practices in conformity with the TRIPS Agreement. The International Bureau is fully aware of the paramount role to be played by it, and is therefore prepared to continue and to intensify its legal-technical cooperation to assist the countries concerned in close cooperation with WTO. The scope of such assistance will be expanded to respond to the requests of the developing countries in all matters connected with the implementation of the TRIPS Agreement and related matters, including the review process.

68. As far as assistance to the least developed countries is concerned, following a decision of the WIPO General Assembly, the International Bureau established a Least Developed Countries Unit in October 1998. The Unit is devoted to dealing with the special needs of those countries, and WIPO will certainly continue and further intensify its tailor-made assistance to the least developed countries for the implementation of the TRIPS Agreement.

[Annexes follow]