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20 September 2012

Dear Mr. Gurry,

On behalf of the Security Council Committee established pursuant to resolution 1718 (2006), I refer to your letters dated 19 July and 9 August 2012, requesting the Committee's advice on the second phase of technical advice and assistance that will be provided to the Democratic People's Republic of Korea (DPRK) as well as clarification regarding whether a technical assistance program the World Intellectual Property Organization (WIPO) carried out in the DPRK violated the Security Council resolutions pertaining to the DPRK. Your letter of 19 July explained that the implementation of the project had two main elements: (i) the installation of computing and printing hardware, one server with a disk storage array, one network router with firewall and one printer; and (ii) the installation and implementation of software. Your letter also noted that the hardware and the recommended infrastructure equipment is widely available, commercial-grade office equipment. Likewise, the letter noted that the program's software architecture plan was comprised of similarly widely-available elements that are not industrial or weapons-grade.

Resolutions 1718 (2006) and 1874 (2009) expressly prohibit the supply, sale or transfer to the DPRK of nuclear, missile and chemical and biological weapons, technology and specified related materiel (the complete list of such items can be found on the Committee's website); arms and related materiel (except small arms and light weapons); technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such prohibited items; and luxury goods. They also impose an asset freeze on certain designated persons and entities, obligating States to ensure that funds or other economic resources are prevented from being made available to or for the benefit of such persons or entities.

Mr. Francis Gurry
Director General
World Intellectual Property Organization
Geneva

I wish to convey the Committee's understanding that nothing in Security Council resolutions 1695 (2006), 1718 (2006) and 1874 (2009) prohibits the technical assistance program that WIPO has carried out in the DPRK, including the transfer of those items cited in your letters or its attachments related to the transfer of equipment and software aimed at assisting the DPRK in developing technical capacity for intellectual property rights protection. Likewise, the Committee does not consider the second phase of technical advice and assistance with the configuration of the equipment and database software that will be provided to the DPRK to be prohibited.

The Committee encourages WIPO to carefully review all activities, including this program and future transfers to the DPRK, to ensure that such activities do not involve individuals or entities designated by the United Nations Security Council for targeted sanctions (the complete list of such individuals and entities can be found on the Committee's website: <http://www.un.org/sc/committees/1718/>). The Committee notes that validation of the use of the supplied non-UN listed items equipment, as appears to be proposed in your letter of 19 July, are a useful tool for implementing this prohibition. The Committee also encourages review of the Implementation Assistance Notices issued by the Committee for a better understanding of the implementations of resolutions 1718 (2006) and 1874 (2009), including general obligations under the resolutions, guidelines for reporting, and information on the "luxury goods ban (the Implementation Assistance Notices can also be found on the Committee's website).

The Committee encourages UN and other international organizations to engage in a collaborative discussion about activities in the DPRK that may be relevant to resolutions 1718 (2006) and 1874 (2009). The Committee believes that it would have been advisable for WIPO to have consulted the Committee earlier. The Committee therefore welcomes WIPO's intention to provide information to the Committee on a regular basis, and whenever necessary, regarding its activities related to the DPRK. The Committee does not object if WIPO wishes to disclose to Member States and other interested parties the final outcome of WIPO's request for advice and clarification addressed to the Committee, as requested in your letter of 9 August. The Committee also stands ready to provide specific guidance on any future activities in advance in order to ensure that such activities are consistent with resolutions pertaining to the DPRK.

Yours sincerely,



José Filipe Moraes Cabral
Chairman

Security Council Committee established
pursuant to resolution 1718 (2006)