

SUMMARY MINUTES (PLENARY)

PLENARY OF THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A REVISED TRADEMARK LAW TREATY

President: Mr. Ambassador Burhan Gafoor (Singapore)

Secretary: Mr. Ernesto Rubio (WIPO)

<p><u>First Meeting</u> <u>Tuesday, March 14, 2006</u> <u>Morning</u></p>

Opening of the Conference

1. Mr. IDRIS (Director General of WIPO) welcomed the participants and referred to the draft Agenda contained in document TLT/R/DC/1 Prov. He stated that the draft Agenda would serve as a guide until the meeting reached the point of the adoption of the Agenda, which was item 4 of the draft Agenda.

Consideration and Adoption of the Rules of Procedure

2. Mr. IDRIS (Director General of WIPO) drew the attention of the Conference to document TLT/R/DC/1 Prov. containing the draft Agenda of the Diplomatic Conference. He turned to item 2 of the draft Agenda (consideration and adoption of the Rules of Procedure) and recalled that the Rules of Procedure of the Diplomatic Conference had been approved by the Preparatory Meeting for the Diplomatic Conference and that those Rules followed precedents of rules of procedure of earlier diplomatic conferences organized by WIPO.

3. The Rules of Procedure of the Diplomatic Conference were adopted as included in document TLT/R/DC/2 Prov.

Election of the President of the Conference

4. Mr. IDRIS (Director General of WIPO) asked for proposals in respect of item 3 of the draft Agenda, regarding the election of the President of the Conference.

5. Mr. GHORBANI (Islamic Republic of Iran), speaking on behalf of the Asian Group, submitted the proposal of that Group to nominate Ambassador Burhan Gafoor of Singapore for the office of President of the Diplomatic Conference.

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6. Mr. ADDOR (Switzerland), speaking on behalf of Group B, expressed support for the proposal made by the delegation of the Islamic Republic of Iran on behalf of the Asian Group.
 7. Mr. TOPIĆ (Croatia), speaking on behalf of the Group of Central European and Baltic States, expressed support for the proposal made by the delegation of the Islamic Republic of Iran on behalf of the Asian Group.
 8. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, said that the African Group seconded and endorsed the proposal to elect Ambassador Burhan Gafoor for the office of President of the Diplomatic Conference.
 9. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Central Asian, Caucasus and Eastern European Group, expressed support for the proposal made by the delegation of the Islamic Republic of Iran on behalf of the Asian Group.
 10. Mr. ACHYUT PRASAD POUDEL (Nepal) supported the election of Ambassador Burhan Gafoor for the office of President of the Diplomatic Conference.
 11. El Sr. MEJÍA GUEVARA (Honduras) indicó que la Delegación de Honduras así como las otras delegaciones de la región del GRULAC apoyaban la moción para la presidencia de la Conferencia de S. E. el Señor Embajador Burhan Gafoor, Representante Permanente de Singapur en Ginebra.
 12. Mr. IDRIS (Director General of WIPO) noted that no other delegation wished to make a proposal.
 13. The Conference adopted by acclamation the proposal of the Delegation of the Islamic Republic of Iran, speaking on behalf of the Asian Group, to have Ambassador Burhan Gafoor of Singapore elected as President of the Diplomatic Conference.
 14. Mr. IDRIS (Director General of WIPO) asked Mr. Burhan Gafoor to take his seat on the podium.
 15. The PRESIDENT thanked Dr. Kamil Idris, Director General of WIPO, for being with the Conference in Singapore. He said that the presence of Dr. Idris at the opening of the Conference was a signal of the importance of the Conference to WIPO and all Members of WIPO. He thanked the participants at the Conference, and all members of the regional groups and delegations that had expressed their support, for the confidence they had shown in him by entrusting him with the presidency. By way of introduction, he highlighted three points.
 16. First, he announced that he would listen carefully to the views expressed by participants and that he would be guided by these views in building a consensus. He pointed out that, ultimately, the Conference belonged to the Member States of WIPO. The task of the presidency was to facilitate and lead the process of consensus

building. The outcome of the Conference, however, depended on each individual participant. He therefore stated that he counted on the support of the participants at the Conference and thanked in advance for the cooperation he was confident to receive.

17. He then emphasized that the participants had to pursue a clear objective for the Conference. The objective was to bring the Conference to a successful conclusion by adopting, in Singapore, a Revised Trademark Law Treaty, as expected by the international community. He stressed the need to work together to accomplish this task for the benefit of all stakeholders in the trademark system – brand owners, consumers and Member States alike.

18. Finally, he expressed his attention to ensure an efficient work during the Conference.

Consideration and Adoption of the Agenda

19. The PRESIDENT opened the discussion on item 4 of the draft Agenda, regarding the consideration and adoption of the Agenda.

20. The Agenda of the Diplomatic Conference was adopted as proposed in document TLT/R/DC/1 Prov.

Election of the Vice-Presidents of the Conference

Election of the Members of the Credentials Committee

Election of the Members of the Drafting Committee

21. The PRESIDENT turned to items 5 to 8 of the Agenda concerning the election of the officers of the Diplomatic Conference.

22. Mr. KWAKWA (WIPO) indicated that the informal consultations in respect of the composition of the Credentials Committee, the Drafting Committee, as well as Main Committees I and II were not yet complete. He proposed to return to items 5 to 8 of the Agenda a future plenary meeting of the Conference.

23. The PRESIDENT concluded that the Conference was not yet in a position to consider and make decisions on Agenda items 5 to 8. He proposed to move to Agenda item 10 regarding the opening declarations by Delegations and by representatives of Observer Organizations, if there were no objections.

Opening Declarations

24. The PRESIDENT turned to item 10 of the Agenda (Opening Declarations by Delegations and by representatives of Observer Organizations).

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25. Mr. AYALOGU (Nigeria) asked for a short postponement of the hearing of opening declarations in order to complete consultations within the African Group.
26. The PRESIDENT proposed to begin with one or two opening declarations from those delegations which were ready to make them.
27. All delegations and representatives of Observer Organizations that took the floor expressed their gratitude for the enormous efforts undertaken by the government of Singapore in hosting the Diplomatic Conference and for the kind hospitality extended to them. They expressed their warm congratulations to Mr. Burhan Gafoor for his unanimous election as President of the Diplomatic Conference, and their confidence that, thanks to his competence and experience, he would lead the Conference to a successful result. In addition, they congratulated Dr. Kamil Idris, Director General of WIPO, and the staff of the International Bureau for the quality of the documents and the conference services.
28. Mr. GHORBANI (Islamic Republic of Iran), speaking on behalf of the Asian Group, stated that the Group attached particular importance to the Diplomatic Conference, the work of which would have specific long-term implications on each Member State. He recalled that, because of the flexibility shown by Member States, the deliberations in the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) had led to agreement on new measures responding to technological developments and facilitating the work of national offices, and on the proposal to establish an Assembly of Contracting Parties.
29. He indicated that, notwithstanding the limited number of Contracting Parties to the Trademark Law Treaty 1994 (TLT), a broad number of countries were attending the Diplomatic Conference. He believed that this, in turn, would send out the message that, regardless of the interests in the issues raised by the Revised Trademark Law Treaty (Revised TLT), the negotiations at the Diplomatic Conference should be pursued in a manner that balanced the interests of all stakeholders involved. He underlined that the optional nature of many provisions of the Basic Proposal offered flexibility and room for policy decisions to be taken by developing countries in order to be able to develop compatible systems and narrow the existing gap between developing and developed countries. He believed that the strengthening of IP infrastructures was one of the options which developing countries had at their disposal to enhance their involvement in the process. He stressed that the provision of assistance to developing countries through WIPO, or other possible alternatives, would contribute to close the gap between developed, developing countries and least-developed countries.
30. The delegate noted the necessity for all Member States and, in particular, developing countries, to balance their commitment to the current trademark system in order to encourage a more active participation in the development of the system. He held the view that, in view of the crucial role of trademarks in the economic development of Member States, the Basic Proposal should be reviewed in a way that facilitated the work of national offices in developing countries.

31. He pointed out that the Asian Group, considering the achievements made in the SCT, believed that the negotiations at the Diplomatic Conference – with the cooperation and flexibility of all Member States – would yield positive results. He expressed the readiness of the Group to participate constructively in the deliberations at the Diplomatic Conference and to present individually the national positions on technical articles.

32. El Sr. MEJÍA GUEVARA (Honduras) hablando en nombre del Grupo de Países de América Latina y del Caribe (GRULAC) indicó que se unía a otras delegaciones para ofrecer al Presidente de la Conferencia su total respaldo y colaboración para llevar adelante tanto la conducción como la discusión de los diferentes tópicos a tratar en esta Conferencia. También agradeció en nombre del GRULAC al honorable Gobierno de Singapur por su importante colaboración en llevar a cabo esta Conferencia Diplomática, y también por todos los gestos y atenciones recibidas para con los miembros de sus respectivas delegaciones.

33. El Sr. Mejía Guevara indicó que el GRULAC como grupo regional estaría atento a participar y colaborar en el marco de las discusiones y debates de esa Conferencia que conlleven como objetivo la finalización exitosa de la adopción del Tratado Revisado sobre el Derecho de Marcas. También señaló que el GRULAC estaba en la mejor disposición de contribuir con ese objetivo y competencia de la Conferencia que lleve a un resultado positivo y de mutuos beneficios para todos los países participantes y en general para todos los diferentes actores involucrados en el proceso. El GRULAC esperaba que este proceso de negociación genere resultados que reflejen el equilibrio y principalmente el beneficio equitativo y tangible para todos los países participantes, y principalmente para los países en desarrollo, del cual el GRULAC formaba parte.

34. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Central Asian, Caucasus and Eastern European Group, announced that the Group was prepared to cooperate actively with all countries in order to achieve effective results at the Diplomatic Conference.

35. Mr. ACHYUT PRASAD POUDEL (Nepal) said that, in Nepal, intellectual property issues had not fully emerged yet even though domestic patent, industrial design, trademark and copyright legislation had already been enacted in 1937 and 1965 respectively. Being a least-developed country, Nepal had lagged behind in adequate infrastructure, expertise and capability to understand, implement and enforce the intellectual property system. He pointed out that Nepal had had less access to financial and technical resources that were essential for the development of a functioning system. He indicated that a gradual increase in the number of patent, industrial design and trademark registrations had been observed in recent years and that it was the right time to develop institutions regarding intellectual property policy, programs and activities. He said that trainings for the advocacy and small and medium-sized enterprises, serving the dissemination of knowledge on matters and practices relating to intellectual property, had to be brought into focus. It was equally important to preserve and establish intellectual property databases. He informed the Conference that a proposal on intellectual property policies had already been prepared and submitted to the competent national authorities in Nepal for approval.

36. He expressed the view that the effective enforcement of actions relating to intellectual property was equally important. In Nepal, the Industrial Property Tribunal, the Copyright court, appellate courts, the District Administration Office, customs and the police were involved in intellectual property issues. He felt that these institutions would have to be equipped technically and financially for the effective and efficient enforcement of acts relating to intellectual property.

37. The delegate informed the Conference that Nepal had already become a Contracting Party to the Berne Convention and the Paris Convention. The country was in the process of joining the Madrid Protocol and the Patent Cooperation Treaty. He pointed out that Nepal had obtained technical assistance from several institutions including WIPO for training, observation tours and institutional support. Nepal felt the need for assistance from multilateral, regional and bilateral agencies in developing an appropriate intellectual property curriculum of training and academic courses, establishing institutions for creating and organizing trainings, formulating intellectual property policy and legislation, preparing guidelines and manuals and developing human resources. The delegate underlined that Nepal, being a Member of WIPO, had made tireless efforts for realizing the dynamic policies developed by that Organization. He believed that it was time for Nepal to vent its deepening concerns over the objectives of WIPO. He stated that Nepal would like to move ahead hand-in-hand with other Members for fulfilling collective hopes and aspirations for the common goal.

38. Mr. ADDOR (Switzerland), speaking on behalf of Group B expressed confidence that, under the Presidency of Ambassador Gafoor, this first Conference in an Asian country concerning the establishment of an intellectual property treaty would be a success.

39. He expressed appreciation for the preparatory work carried out by the International Bureau of WIPO and said that Group B fully supported the objective set out by the Chairman to conclude the Conference with the adoption of a Revised Trademark Law Treaty. Group B welcomed the text of the Basic Proposal for that treaty, which resulted from four years of hard work at the SCT.

40. The Basic Proposal reflected the intention to maintain the existing provisions of the TLT, while modernizing that text and including additional features to make the treaty more attractive to Member States. The text constituted a good basis for the work of the Conference. Therefore, he offered the full support of Group B towards constructive work at the Conference.

41. Mr. TOPIĆ (Croatia), speaking on behalf of the group of Central European and Baltic States, expressed confidence that the participating delegations would be able to reach in a timely and efficient manner the objective of the Conference and assured the full support and commitment of that Group to approach the discussions in an active and constructive manner.

42. Mr. ULLRICH (Austria), speaking on behalf of the European Community, its twenty-five Member States and the acceding States Bulgaria and Romania, expressed

their gratitude to the Government of Singapore for the generous offer to host the Diplomatic Conference – the first Diplomatic Conference under the auspices of WIPO ever held in Asia. This initiative demonstrated not only the strong commitment of Singapore to the important issue of intellectual property protection but also that the holding of the Diplomatic Conference and – hopefully the positive outcome – a “Singapore Treaty” – would be conducive to the awareness and promotion of trademark law and intellectual property, especially in the Asian region.

43. He said that the European Community had actively participated in the negotiations leading to the adoption of the Basic Proposal and the decision to convene a Diplomatic Conference, paying great attention to the harmonization of trademark law in general and especially to the simplification and streamlining of procedures for the benefit of users but also of offices.

44. In this regard he noted and appreciated that the European Community which maintains an office for the registration of marks – the Office for Harmonization in the Internal Market (Trademarks and Designs) in Alicante, Spain, was invited to participate in the Conference as a Special Member Delegation, and would also be entitled to become a party to the Treaty.

45. He added that the European Community, its Member States and the acceding States were looking forward to engaging and participating in a constructive, efficient and fruitful discussion. He also offered the European Community’s full commitment and cooperation for the success of the Diplomatic Conference.

46. Mr. PENN (Cambodia) said that Cambodia was pleased to have this opportunity to participate and contribute to the adoption of this international instrument. His delegation also appreciated the efforts made by the SCT during the negotiation and drafting of the text of the Revised Trademark Law Treaty. He held the view that participants were all aware of the significance of this hard work and strongly supported this revised treaty to be adopted as proposed.

47. As a least developed country and a recent member of the World Trade Organization (WTO), Cambodia’s intellectual property system was still far behind the system of other advanced countries in the Asia Pacific region. Cambodia was still in the stage of capacity building of its human resources and enhancing the effectiveness of its IP system to be integrated and standardized at the international level. Cambodia acknowledged and expressed gratitude for the assistance provided by WIPO and other international organizations and wished to request for further technical assistance for capacity building and IP public awareness, to be fully compliant with the TRIPS Agreement.

48. Cambodia realized the importance of trademark protection and its significance in business development. The Cambodian Trademark Law complied with the principles of the TRIPS Agreement. The Delegation of Cambodia had carefully studied the text of the Revised Trademark Law Treaty and found that it was of great importance, as it facilitated the administration of trademarks and provided trademark owners with more simplified procedures. He expected to make use of the principles

contained in this international legal framework for the adoption of national regulations dealing with the new and emerging trademark issues.

49. His delegation recognized and honored the work of the SCT over seven sessions, to produce this new international legal instrument. Cambodia hoped that member states would arrive to consensus in the discussion and adoption of the treaty, and reiterated its support for the treaty as an international legal framework for the protection of trademarks.

50. Mr. REN (China) expressed the hope that the Conference would be a full success. He indicated that the Delegation of China sought to participate actively in the discussions and to contribute to their success. He was looking forward to participating with the other delegations in the Conference and to actively discussing the Basic Proposal. He hoped that the new treaty would be adopted as soon as possible, since this would contribute to the harmonization and improvement of the protection of intellectual property.

51. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, recalled that the Member States of WIPO had decided at the 41st Series of their Assemblies in October 2005, to hold the present Diplomatic Conference the objective of which is to upgrade the existing Trademark Law Treaty (TLT). He believed that the TLT had greatly contributed to the harmonization and simplification of operations and procedures of trademark offices, especially relating to registration and renewal of marks.

52. He pointed out, however, that societies were dynamic and that the laws governing their arrangements should also be elastic. The passage of time and advances in technology had revealed that the TLT neither addressed nor envisaged the rapid pace of progress that would be made in just a few years after its adoption, and hence, failed to anticipate the necessity of electronic filing of applications and registrations in the trademark field. The TLT therefore, contained some inherent deficiencies that created a dichotomy between the paper-based application that it represented, and the new mode of electronic-based processing of registration that modern applications required. The attempt to resolve such deficiency therefore largely informed the necessity to adopt an updated treaty.

53. He noted that while they were participating in the Diplomatic Conference to negotiate a Revised Trademark Law Treaty (RTLTL), for them the issue was one of implementation. A broad implementation of the RTLTL would present new challenges to intellectual property (IP) offices in developing countries and least developed countries (LDCs). Amongst those challenges were the technical software applications, which highlighted the reality of the digital divide between developing countries and LDCs. Included in such divide for Africa was the mainstreaming of small and medium-size enterprises and the informal sectors.

54. He further observed that African countries had taken the first and viable step towards bridging the digital divide by launching of the Digital Solidarity Fund (DSF) in Geneva in 2005, and that while they appreciated the on-going technical assistance programs of WIPO, especially for developing and least developed countries, they called for the broadening of such assistance both in scope and content, to enable their

various countries to take advantage of the opportunities that were presented by the new challenges they faced.

55. The delegate also indicated that development and the absence of development were not subjects of conjecture or dispute; instead they were matters of reality. A basis for understanding and appreciating that reality should first be established as a prerequisite for its amelioration. For African countries to adopt the proposed treaty and apply it meaningfully and sustainably, they should be adequately empowered to do so. Hence, those countries proposed the following:

(a) provision of technical assistance in a targeted and sustained manner aimed at improving the infrastructures of national IP offices especially in the area of information and communications technologies (ICT);

(b) training of personnel to enable national IP offices to operate new systems and apply new technologies in order to improve efficiency and accommodate the requirements of users and demanders of their services;

(c) improving and upgrading of the trademarks capabilities of developing and least developed countries in order to enable them file applications and registrations of their nationals in the developed countries;

(d) granting of longer compliance periods to developing and least developed countries in the coming into force of the treaty, as well as the acceptance of the continued operation side by side of both paper-based applications and electronic-based transactions;

(e) building core capacities of developing and least developed countries in meeting the challenges posed to them by the adoption and application of other treaties relating to the intellectual property arena, both in terms of legal competencies and technical capabilities; and

(f) granting of access to technologies especially relating to software and databases to developing and least developed countries to enable them effectively to register trademarks emanating from their territories in the developed countries that would meet with the high standards of the latter.

56. The delegate noted that one notable feature of the RTLTT was the establishment of an assembly of Contracting Parties. This aspect of the treaty would enable Contracting Parties to adopt a flexible posture in the implementation mechanism of the treaty and decision-making process. In that regard the following issues were central:

(i) effective and efficient protection of the cultural and traditional assets of African societies; especially those represented in the field of the performing arts, folklore and traditional knowledge must be given priority by the international community;

(ii) protection of African countries' genetic resources within the context of the provisions of the Convention on Biological Diversity (CBD); and

(iii) comprehensive protection of traditional knowledge and folklore through the adoption of an international legal instrument as a basis for the development of the resources and assets of developing and least developed countries.

57. The African Group wished to assure the Chairman of its readiness to contribute constructively to the negotiation process with the aim of achieving a positive outcome and conclusions that would meet the expectations of all those present at the Diplomatic Conference.

58. Mr. KARUNARATNA (Sri Lanka) said that he wished to associate himself with the statement made by the Delegation of the Islamic Republic of Iran, on behalf of the Asian Group. Being a state party to the Trademark Law Treaty (TLT) 1994, and a country that attached great importance to the IP system, Sri Lanka considered the proposed revised treaty as an instrument that was capable of contributing to the enhancement of the trademark system, both nationally and internationally, as well as to commercial and economic development in general, and for developing and least developed countries in particular. He added that Sri Lanka committed its constructive participation in the deliberations and looked forward to the successful conclusion of the conference.

59. Mr. HEATH (Australia) said that the Diplomatic Conference represented the culmination of much dedication and hard work on the part of the International Bureau of WIPO, as well as its Member States. He noted that Australia was committed to a successful conclusion of the conference and, like all Member States, it realized its importance in bringing about the advantages of a Revised Trademark Law Treaty, not only for individual nations, but for the worldwide IP community. A strong, uniform trademark system would not just provide for the protection of brands, but would be equally important for economic development, by creating the right conditions for successful investment.

60. He noted that Australia's manufacturing sector was increasingly being driven by small and medium-sized enterprises. Changes in technology and transportation meant that these small businesses can be exporters. Foreign trade was no longer the preserve of the large multinationals. In such an environment, it was all the more important to have a strong international trademark system that was as simple as one could make it. In that way, regardless of their location, small businesses could take advantage of international opportunities as they arose, confident that they understood what was required from them.

61. He noted that the revised treaty furthered that aim. Moreover, it struck the right balance of interests: it promoted simplicity and clarity in what owners can be required to provide to an office; it provided offices with flexibility and the information they needed for efficient processing; it protected the public interest, in providing a system that third parties would find transparent, and it would finally give the flexibility to respond to the fast pace of change in the modern world, more easily accommodating further changes in market practice and technology as they arise.

62. The negotiated treaty proposal, which promised to meet well its intended purpose, reflected the agreed position, upon the maximum requirements allowable under simplified and uniform administrative procedures for obtaining and maintaining trademark registration. The simplification of the treaty text and movement of detail into the regulations would facilitate a process of adaptation to any future changes that would become necessary as technology progresses. It would support the growth of electronic commerce and enable electronic filing of trademark applications and associated communications.

63. The treaty proposal also provided, for the first time, for measures of relief when time limits have been missed, and uniform arrangements for the recordal of trademark licenses. It had been mentioned at the SCT that both of those provisions were vital to users of the international trademark system and Australia strongly supported them. Australia also welcomed the other significant change to the Treaty: broadening its scope to cover non-visible signs. It was worth noting that just as the treaty itself did not require the protection of any kind of mark, this change did not impose a requirement on members to extend their scope of trademark protection to non-visible signs. Rather, the new treaty merely stipulated that if Member States chose to protect those signs, then the provisions of the treaty should apply to them in the same way they apply to "traditional" signs.

64. He also said that members could now reap the benefits of the hard work that had already gone into the negotiations for the treaty proposal. On the table were texts for both the draft Revised Trademark Law Treaty, and the Regulations under the Treaty, completely free of reservations, agreed by all the parties involved. This was the result of hard work and carefully negotiated text. Australia believed that the importance of this achievement should not be overlooked as the Diplomatic Conference started. In the interests of fulfilling the objective of the conference, he considered that the complete and agreed proposal that was presented should be allowed to go forward with as little change as possible. Accordingly, he encouraged delegates to actively resist the temptation to propose changes to the text, other than those that clearly related to matters of substance and were of real importance to national systems.

65. M. DRISSI ALAMI (Maroc) indique que sa délégation se félicite sincèrement de l'aboutissement très prochain du Traité révisé sur le droit des marques qui viendra couronner un long processus, fruit de plusieurs débats constructifs et d'un engagement collectif aux efforts internationaux pour l'harmonisation et la simplification des procédures en matière de formalités relatives à l'enregistrement des marques. Il souligne par ailleurs que la délégation du Maroc, qui a activement pris part au processus préparatoire de la présente conférence, apprécie grandement la portée et l'opportunité de ce traité révisé qui vise à prendre en compte les avancées technologiques enregistrées tout au long de la dernière décennie, notamment dans le domaine des télécommunications et de l'informatique, et à créer un cadre institutionnel devant permettre l'adaptation de certains éléments administratifs régis par les dispositions du traité actuel.

66. Sa délégation accueille avec satisfaction l'approche normative adoptée par ce traité révisé qui s'exprime par la création d'une assemblée des Parties contractantes et d'un règlement d'exécution, autant d'éléments qui constituent une valeur ajoutée et une force supplémentaire incontestables. Dans la même perspective, le délégué indique que la délégation du Maroc apprécie, à leur juste valeur, les nouvelles dispositions relatives au dépôt électronique des demandes d'enregistrement des marques et des communications connexes qui se rapportent aux formalités relatives à la présentation de tous les types de marques ainsi qu'à celles ayant trait aux mesures de sursis prévues en cas d'inobservation de certains délais. Il ajoute que c'est précisément dans le cadre de la mise en œuvre de ces dispositions que la loi relative à la protection de la propriété industrielle au Maroc a été amendée aux fins de la mettre en conformité avec les dispositions du TLT.

67. La délégation du Maroc souhaite faire part de certains développements majeurs survenus récemment dans ce pays en matière de propriété industrielle. L'un des faits saillants est notamment l'entrée en vigueur le 18 décembre 2004 de la nouvelle loi sur la propriété industrielle qui porte le n° 17/97. Avec l'entrée en vigueur de cette loi, la propriété industrielle au Maroc a entamé une nouvelle étape de modernisation assurant aux entreprises un cadre législatif de protection conforme aux standards internationaux, et notamment aux dispositions de l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce. L'année 2005 a été marquée par l'ouverture de nouveaux chantiers de modernisation du système de propriété industrielle au Maroc et que cela a abouti à un amendement de la loi 17/97 adoptée par le Parlement le 14 décembre 2005. Par ailleurs, la loi 31/05 modifiant et complétant la loi 17/97 comporte des dispositions qui renforcent le cadre juridique en matière de propriété industrielle au Maroc, et qu'il s'agit notamment de celles relatives au système d'opposition des marques, aux mesures aux frontières, et à la mise en place d'un registre national d'indications géographiques et d'appellations d'origine.

68. Par conséquent la délégation estime que l'orientation générale du présent traité révisé correspond parfaitement à l'esprit des réformes qu'entreprend le Maroc en vue de l'adaptation rapide de son cadre législatif et réglementaire aux nouvelles orientations de l'économie mondiale. Le délégué conclut en réaffirmant la détermination de sa délégation de contribuer positivement à faire de ces assises un véritable espace de dialogue constructif pouvant déboucher sur des résultats concrets.

69. Ms. THWE (Myanmar) expressed support for the opening declaration made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group. She pointed out that Myanmar was one of the least-developed countries and had been drafting new laws and regulations on the protection of intellectual property rights in conformity with the TRIPS agreement. She stressed that her country was in the process of adopting modern laws on trademarks as well as other areas with a view to the establishment of an efficient national intellectual property system.

70. She felt that, although Myanmar had not yet enacted specific legislation on the registration of trademarks, there was a Registration Act allowing national and foreign trademark owners to register at the Office of the Registrar of Deeds. The Procedure to register at the Registration Office was simple. Once Myanmar enacted a new

trademark law, a new procedure for the registration of trademarks would be implemented which was in line with the Paris Convention and the TRIPS Agreement. As Myanmar was currently receiving legislative advice on the drafting of intellectual property laws from WIPO, the delegate believed that her country would be able to consider the implementation of the provisions of the TLT into the draft law on trademarks.

71. She recalled that the TLT had only 33 Contracting Parties. The Basic Proposal before the Conference contained more flexible provisions regarding the formal registration requirements in all Member States and expressed the hope that the draft treaty would appeal to more Member States and believed that the negotiations leading to the adoption of a Revised TLT would offer a good opportunity to explore the contents as well as the benefits of the treaty. As the new treaty was intended to harmonize and simplify the laws and procedures with regard to the registration of trademarks in Contracting Parties, it should be borne in mind that the adoption of the treaty was a first step only and that universal participation to the treaty was more important. The delegate pledged the fullest cooperation and support of Myanmar with a view to the fruitful and successful completion of the Conference.

72. Mr. AL ANI (Syrian Arab Republic) expressed the hope that a Revised TLT would take into consideration the needs of developing countries. He supported the opening declaration made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group. The Syrian Arab Republic had taken many important steps to introduce new legislation on trademarks, industrial designs, and geographical indications, in addition to other initiatives taken with regard to international agreements concerning Intellectual Property and the Madrid Protocol. The delegate informed the Conference that, in the course of this year, his country would prepare its accession to the Hague Agreement on the international registration of industrial designs. He concluded by expressing the hope that the Conference would adopt a Revised TLT.

73. Mr. ALEINIK (Belarus) pointed out that, of the industrial property subject matter currently enjoying protection, the largest part was constituted by trademarks. In Belarus more than 7,000 applications were filed annually, in accordance with national and international procedures, for the registration of trademarks, and the number of applications filed increased by about nine per cent per year. Thus, trademarks were the most important component of industrial property and reliable protection for them was one of the priorities of the national protection system and intellectual property management.

74. The delegate explained that since 1993 a Law on Trademarks and Service Marks had been in force in Belarus and legal protection was granted for a trademark on the basis of its registration with the national authority or under international agreements to which Belarus was a party. The scope of the law also extended to service marks and collective marks. Belarus closely followed the development of the system of international intellectual property protection and participated actively in international cooperation in that sphere. Based on the importance of the unification of the formal requirements for trademark registration, as established by national

legislation, and also the simplification and harmonization linked to registration procedures, the legislation of the Republic of Belarus on trademarks was implemented in full compliance with the TLT.

75. He added that, taking into account the last ten years of development in digital technologies and technical and telecommunication means, the Delegation recognized the need to revise the TLT and fully supported the Basic Proposal. He was sure that as a result of the Conference, a new “Singapore Treaty” would be approved and would become a reference point for further improvement of the system of trademark protection at both the national and international level.

76. Mr. OTIENO-ODEK (Kenya) said that Kenya recognized and underscored the role of trademarks in the trade relations between producers and consumers of goods and services. The role of branding and franchising in trade constitute a valuable tool in the use of trademarks. Due to the importance of trademark protection, the delegation of Kenya supported the initiative for the adoption of the Revised Trademark Law Treaty.

77. He noted that the proposed revised treaty would facilitate electronic filing of trademark applications. This would require the automation of national trademark offices and capacity building to enable such offices to have adequate infrastructure to implement the provisions of the treaty. In this respect he expected that WIPO would continue its technical assistance and capacity building activities in Kenya.

78. He also indicated that Kenya was a founding member of the Digital Solidarity Fund and was committed to ensuring the establishment of the necessary infrastructure to realize and implement the provisions of the Revised TLT. He expected that all delegations would engage in fruitful and successful deliberations.

79. Mr. KHAN (Pakistan) said that he expected that the Conference could consider the issues contained in the revised TLT, a treaty that ensured the simplification and harmonization of trademark procedures, and looked forward to arriving at consensus solutions on controversial issues if any.

80. Mr. GABUNIA (Georgia) commended the SCT for its work to complete the basic proposal for the draft revised TLT. He noted that, in the conditions of globalization of the modern world, the unprecedented growth of trade between states and the removal of practically all barriers for the circulation of goods, highlighted the importance of intellectual property issues, and particularly, trademark protection. In the framework of WIPO, the Madrid Agreement for the International Registration of Marks, and at the regional level the European system have largely harmonized national legislations, so that they do not differ significantly from one another, making those systems more user friendly to the applicants. In this context his delegation welcomed the initiative to adopt the revised TLT.

81. Mr. ČADA (Czech Republic) said that the Czech Republic welcomed the adoption of the revised Trademark Law Treaty. He expressed the conviction that the revised treaty would further contribute towards worldwide harmonization and simplification of procedural rules for obtaining and administering trademark rights in the interest of all users of the trademark system.

82. He added that trademark protection enjoyed a long-standing tradition in the Czech Republic. In view of the growing importance of trademarks in international trade, the Czech Republic had always supported any initiative of WIPO to harmonize trademark laws at worldwide level. The Czech Republic was a member of all major international treaties in the field of trademark protection, including the TLT of 1994. The national trademark law fulfilled the commitments arising from those international treaties, as well as those in force in the European Community. However, the Czech Republic was willing to further harmonize its trademark legislation in accordance with international developments in this area. Therefore, his delegation was ready to cooperate in a constructive spirit to achieve the aim of the Conference.

83. Mr. ELJMAZI (the Former Yugoslav Republic of Macedonia) noted that during seven sessions, SCT members and observers invested great efforts in preparing numerous documents and made a significant contribution to the drafting of the Basic Proposal for a Revised Trademark Law Treaty. The result of all these efforts was the draft for a Revised Trademark Law Treaty, the adoption of which would be a step forward in the simplification and harmonization of the formal requirements for filing of national and regional applications. This agreement will be expected to contribute to the promotion and facilitation of the protection of trademark rights in the national and international framework.

84. He noted that the Former Yugoslav Republic of Macedonia was not a member of the TLT of 1994. However, its national trademark legislation was largely harmonized with the proposed revised TLT, which was another reason for it to quickly join the revised TLT. This was envisaged in the National Program for the Approximation of country's legislation to the *acquis communautaire* of the European Community.

85. The PRESIDENT adjourned the meeting.

Second Meeting
Tuesday, March 14, 2006
Afternoon

Election of the Vice-Presidents of the Conference
Election of the Members of the Credentials Committee
Election of the Members of the Drafting Committee

86. The PRESIDENT asked the Secretariat to announce the outcome of the informal consultations which had taken place the various elections.

87. Mr. KWAKWA (WIPO) announced that the results of such consultations were the following:

For Vice-Presidents of the Conference: Mr. Robert Ullrich (Austria), Ms. Ho Liyie (China), Mr. Jairo Rubio Escobar (Colombia), Mr. Željko Topić (Croatia), Ms. Lynne Beresford (United States of America), Mr. Fumihiko Hayakawa (Japan), Mr. Roman Omorov (Kyrgyzstan), Mr. Mhamed Sidi El Khir (Morocco), Mr. Usman Sarki (Nigeria), Ms. Branka Totić (Serbia and Montenegro).

For the Credentials Committee, the proposed members were the following delegations: Australia, China, Ghana, Honduras, Islamic Republic of Iran, Kyrgyzstan, South Africa.

For the Officers of the Credentials Committee: for President Mr. Hekmatollah Ghorbani (Islamic Republic of Iran), and for Vice-Presidents Mrs. Grace Issahaque (Ghana) and Mr. Francisco Javier Mejia (Honduras).

For the Officers of Main Committee I: for President Mr. Li Feng Schrock (Germany), and for Vice-Presidents Mr. Volodymyr Zharov (Ukraine) and Mr. Mihály Ficsor (Hungary).

For the Officers of Main Committee II: for President Mr. James Otieno-Odek (Kenya), and for Vice-Presidents Mr. Robert Shorthouse (United Kingdom) and Mr. Hossein Panahi Azar (Islamic Republic of Iran).

For the Members of the Drafting Committee: Mr. Michael Arblaster (Australia), Ms. Wang Wei (China), Mr. Ragui El-Etreby (Egypt), Ms. Victoria Dafaue (Spain), Ms. Lynne Beresford (United States of America), Ms. Liubov Kiriy (Russian Federation), Ms. Anne Coleman-Dunne (Ireland), Mr. Jacky Deromedi (Monaco), Mr. Duncan Wearmouth (United Kingdom), Mr. Emmanuel Piaget (Switzerland), Ms. Graciela Road D'Imperio (Uruguay).

For the Officers of the Drafting Committee: For President Ms. Graciela Road D'Imperio (Uruguay), and for Vice-President Mr. Michael Arblaster (Australia) and Mr. Emmanuel Piaget (Switzerland).

88. The PRESIDENT declared the proposals adopted by acclamation.

Opening Declarations (continuation)

89. The PRESIDENT explained that he would turn to item 9 of the agenda (consideration of the first report of the Credentials Committee) after the Credentials Committee had undertaken the examination prescribed in Rule 9 of the Rules of Procedure. He then returned to item 10 of the agenda (Opening Declarations by Delegations and by representatives of Observer Organizations).

90. All delegations and representatives of Observer Organizations that took the floor expressed their gratitude for the enormous efforts undertaken by the government of Singapore in hosting the Diplomatic Conference and for the kind hospitality extended to them. They expressed their warm congratulations to Mr. Burhan Gafoor for his unanimous election as President of the Diplomatic Conference, and their confidence that, thanks to his competence and experience, he would lead the Conference to a successful result. They also congratulated Dr. Kamil Idris, Director General of WIPO and the staff of the International Bureau for the quality of the documents and the conference services.

91. La Sra. MENJIVAR CORTÉS (El Salvador) recordó que el proyecto de TLT Revisado que se estaba examinando era el producto de un largo proceso de trabajo técnico en el seno del Comité Permanente de Marcas. El Gobierno de El Salvador, a través de sus autoridades competentes y de su sector privado de abogados marcarios, había encontrado en ese proyecto un documento altamente técnico y con vocación de armonización. La delegada expresó en nombre de la Delegación de El Salvador su sincero agradecimiento a la dirección internacional de marcas de la OMPI cuyo jefe es el Dr. Ernesto Rubio y a todo su equipo técnico. Asimismo manifestó un especial agradecimiento al Dr. Octavio Espinosa por la asistencia técnica brindada a lo largo de todo ese período. Finalmente, indicó que la contribución de El Salvador en este proyecto de tratado sería en todo caso de carácter constructivo pues su texto permite aprovechar las flexibilidades que el proyecto de tratado ofrecía.

92. Mr. FICSOR (Hungary) said that Hungary fully associated itself with the opening declaration made by Croatia on behalf of the Group of Central European and Baltic States and with the opening declaration made by Austria on behalf of the European Community, its Member States and the acceding States. He informed the Conference that Hungary had become a Contracting Party to the TLT in 1998 and had actively participated in the preparation of the Basic Proposal for the Conference and the overall process leading to the convening of this Diplomatic Conference. He underlined the importance of revising the TLT and expressed his belief that the simplification of procedural and formal requirements would further promote trademark protection on a global scale. Hungary therefore welcomed the convening of the Conference and hoped that it would lead to the adoption of a new treaty.

93. Ms. KADIR (Trinidad and Tobago) expressed support for the statement made by the Delegation of Honduras on behalf of GRULAC. She pointed out that Trinidad and Tobago aimed to establish a knowledge-based society by the year 2020. There had been an active diversification of its economic basis which had allowed an expansion of its manufacturing and service sector, as well as its energy sector. As these sectors continued to grow and expand, enterprises had learnt where their true value lay, namely in their intellectual capital. They had learnt that their identity and reputation was becoming focused and encapsulated in their trademarks and other advertising imagery.

94. The delegate said that there was a real interest in seeking trademark protection in foreign markets, as relatively small enterprises sought to carve out their own market spaces and compete abroad. As many of them were relatively new to the strategic use of intellectual property, a further major encouragement was needed, such as the promotion of the strategic use of intellectual property through the streamlining and simplification of trademark procedures which was the very purpose of the Revised TLT. She noted that technology and even societal shifts may prompt further updates which she saw as underscoring the interdependence of treaties built ultimately for the benefit of mankind.

95. The delegate said that Trinidad and Tobago, being aware of the difficulties faced by the users of trademark systems attempting to obtain registrations in other countries, welcomed the initiative to adopt a Revised TLT. The Basic Proposal envisaged the inclusion into the treaty of some important provisions, such as norms on electronic filing of trademark applications and associated communications and provisions concerning the recordal of trademark licenses. She noted that consensus had already been achieved on a range of articles and rules. At present, Trinidad and Tobago was engaged in a revision of its trademark legislation. The present package of laws on trademarks would be repealed and replaced by a new trademark act. The delegate informed the Conference that Trinidad and Tobago was a Contracting Party to the TLT. She felt that the revision of the TLT came at an appropriate time for her country. Trinidad and Tobago was committed to supporting the objectives of harmonization and sincerely hoped that these objectives would be achieved. She felt that, after years of discussions and hard work of WIPO and its Member States, a stage of negotiations had been reached which allowed for the successful conclusion of a new treaty and pledged her country's support to achieve that purpose.

96. Mr. OMOROV (Kyrgyzstan) noted that Kyrgyzstan had become party to many treaties administered by WIPO, including the TLT. Kyrgyzstan attached great importance to the protection of intellectual property rights, in particular, trademark rights. He expressed the view that the Basic Proposal was extremely important for his country, as a new treaty would make it possible to harmonize legislation in the digital technology age. On the whole, Kyrgyzstan approved the Basic Proposal because the main provisions were fully in line with its domestic legislation. The delegate pointed out, however, that he might wish to make a small elaborations on some parts of the proposed texts. He welcomed the cooperation for the adoption of a Revised TLT.

97. Mr. MARKOVIĆ (Serbia and Montenegro) expressed the belief that the Conference would considerably advance the effective protection of important industrial property rights, such as trademarks. He explained that Serbia and Montenegro had joined the TLT in 1998. In consequence, his country benefited from the positive effects of simple and uniform model international forms, and the simplification of formalities relating to trademark applications, the recordal of changes and the renewal of registrations. He felt that the further harmonization of trademark formalities was of utmost importance to trademark owners, their professional representatives and national and regional trademark offices. Since the opening of the market and the privatization of domestic firms in Serbia and Montenegro, increasing importance had been attached to trademarks. The permanent increase in the number of trademark applications which had been filed by national and foreign applicants since 2000 reflected this trend.

98. The delegate pointed out that Serbia and Montenegro had completed the process of bringing major intellectual property laws in line with the legislation of the European Community and the TRIPS Agreement. Accordingly, Serbia and Montenegro supported the harmonization of trademark formalities as well as the future harmonization of substantial requirements of protection. The delegate believed that the Diplomatic Conference would be successful and expressed his determination to make substantial efforts to contribute to this success.

99. Mr. GHORBANI (Islamic Republic of Iran) informed the Conference that his country had undertaken considerable work to update its national intellectual property laws, in particular trademark laws. The Islamic Republic of Iran, recently, acceded to the Lisbon Agreement. A draft bill on patents, industrial designs and trademarks was under consideration in parliament. Its ratification was expected for the near future. The delegate pointed out that his country was an active member of the Madrid Agreement Concerning the International Registration of Marks and the related Madrid Protocol, as well as the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods. Accordingly, the Islamic Republic of Iran attached great importance to the Revised TLT. In view of its implications, it was of the opinion that the resulting text should be a balanced one.

100. The delegate stressed that the protection of trademarks was an essential requirement for the economic development of Member States. It was quite clear that trademarks, like any other intellectual property rights, were an integral component of economic development, the protection of which had to be considered a *conditio sine qua non* for sustainable economic development. This correlation was not a linear one, as there were a large number of variables, such as, in particular, different levels of development that gave the relation a particular dynamism. He held the view that any norm setting and standardization of laws and regulations by WIPO in the field of intellectual property rights, accordingly, should be done following a holistic approach ensuring that resulting protection systems would not hinder development programs in developing countries. He explained that, for this reason, his country believed that due consideration had to be paid to unequal levels of economic development in any campaign for the harmonization of laws and regulations through the adoption of

universal documents. Otherwise, the whole process may prove to have limited effect or even be counterproductive. It was unfortunate that developing countries were less active users of marks.

101. The delegate added that, regardless of the interrelation between trademarks and general public policies, a developed intellectual property infrastructure had to be established at the national level to allow Member States to make use of the system. The draft treaty under discussion should not only provide for such capacity-building assistance to developing countries and least-developed countries but also avoid imposing any extra expenses on these countries in connection with its implementation. Social and economic costs arising from enforcement of any new international regulation in the field of intellectual property rights, even if merely being of a formal nature, had to be minimized so that developing countries were assured that advantages of the enforcement of new regulations outweighed their disadvantages.

102. He clarified that the general objective of harmonization and the present draft treaty in particular were based on the notion of the facilitation and simplification of the work of national offices with regard to the registration of trademarks. He expected that the draft treaty would accelerate and facilitate the work of offices in developing countries. The provisions of the draft treaty should have an encouraging rather than a deterring effect. The substance of the draft treaty, accordingly, should be balanced so that it would facilitate the work of developing countries with regard to their interactions with the offices in other Member States.

103. He saw the Conference as a turning point in many respects. It was for the first time that an assembly would be established in the context of the TLT. Provisions concerning new types of marks, as well as electronic filing, were introduced, and the recordal of licenses was incorporated into the draft treaty as well. He considered the recognition of electronic filing, regardless of its optional nature, as a step towards the establishment of a system that was more cost-effective and less time-consuming than paper-based systems. He emphasized that the technical needs of national offices in developing countries and least-developed countries, as well as applicable bureaucratic procedures, required that necessary assistance be provided in order to enable these countries to keep pace with new developments and to meet their commitments. Side effects of norm setting in this area should also be balanced. The delegate pointed out that many new types of marks evolving from advanced technologies were quite new to most developing countries and least-developed countries. He thus warned of difficulties in the process of harmonizing trademark laws and pointed out that the particularity and optional nature of such types of marks should be highlighted in the outcome of the Conference. He highly appreciated the commitment of WIPO to assist Member States in the promotion of their intellectual property infrastructures, and to ensure that developing countries would be provided with adequate technical assistance, commensurate with their national development needs and requirements.

104. The delegate said that, considering the low percentage of developing countries and least-developed countries having participated in the course of negotiations in the SCT, all attending delegations should show flexibility during the deliberations at the Conference in order to achieve the maximum result and a balanced text. As the Rules

of Procedure had clarified the process of negotiation, the work should be managed in a way that small delegations had the chance to follow the deliberations in parallel sessions. He expressed the hope that the Conference, taking into account the basic challenges faced by developing countries, would yield fruitful results for all.

105. Le délégué de la Tunisie indique que la propriété intellectuelle occupe une place de plus en plus importante en Tunisie en raison de son impact sur le développement économique, industriel, social et culturel du pays. Il ajoute que la nouvelle législation tunisienne en matière de propriété industrielle a marqué d'importants effets positifs, ce dont témoigne l'évolution notable enregistrée ces dernières années au niveau de la protection des brevets d'invention et des marques. Il précise que le système d'opposition et de conciliation en matière de dépôt et d'enregistrement des marques, mis en place en vertu de cette nouvelle législation, a généré d'importants avantages en faveur des parties au litige, en particulier, en ce qui concerne l'économie de temps, d'énergie et les frais inhérents à un éventuel recours à une procédure judiciaire. A cet effet, il indique que la Tunisie réserve un rang de priorité à la promotion de cette activité par la mise en œuvre des traités afférents et par l'adoption des mesures adéquates et ce, par la mise en place d'une stratégie globale visant notamment au développement et à la promotion des activités des différents partenaires dans le domaine de la propriété intellectuelle tel que le secteur de la recherche scientifique, le secteur de l'artisanat, et les petites et moyennes entreprises opérant dans tous les domaines d'activités.

106. Le délégué de la Tunisie note que ces changements nouveaux apparus en Tunisie durant ces dernières années en matière de propriété intellectuelle ont créé une nouvelle dynamique auprès de tous les intéressés, et de ce fait il souligne qu'il est devenu nécessaire de préserver ces acquis et de développer d'avantage cette activité. Il formule par conséquent le vœu d'inscrire un programme de coopération et d'assistance dans le cadre des activités de l'OMPI pour le développement économique en faveur des pays en voie de développement. Pour conclure, il manifeste la volonté de sa délégation de participer activement aux travaux de la conférence diplomatique et l'espoir d'aboutir à un consensus pour la mise en œuvre du traité.

107. Le délégué de la Tunisie ajoute que la délégation de son pays appuie la déclaration faite par la délégation du Nigéria au nom du groupe africain.

108. Mr. ALEMU (Ethiopia) stated that Ethiopia fully endorsed the importance that the adoption of a revised TLT would have for brand owners, intellectual property offices and national economies. However, he shared the concern expressed by the delegation of Nigeria on behalf of the African Group with regard to the implementation of the treaty. Ethiopia recognized the importance of intellectual property as a tool for economic development. It had succeeded in setting up a relatively comprehensive and functional national intellectual property framework in less than a decade. Ethiopia also acknowledged the importance of linking national and international intellectual property systems. The delegate referred to studies that had already been conducted with regard to a number of international instruments to which his country sought to accede. Ethiopia closely followed developments occurring at the international level and benefited from the international work when drafting domestic intellectual property legislation. The delegate gave the example of

the work in the SCT leading to a revised text of the TLT. This work had been used while drafting trademark legislation that, presently, was under consideration before the parliament of Ethiopia.

109. The delegate emphasized that Ethiopia faced a number of challenges. These included the building of appropriate administrative and enforcement capacity for the effective protection of intellectual property rights as well as compliance with obligations that the country may assume when joining international intellectual property instruments, such as a revised TLT. The delegate thus wished to request WIPO and its developed Member States to render assistance in building the necessary capacity. Ethiopia had already witnessed the potential of such assistance when establishing its domestic intellectual property system in less than a decade. He pointed out that this goal could not have been achieved without the generous assistance from WIPO and other regional and national intellectual property offices.

110. The delegate was confident that further capacity building support would enable his country to effectively link its national system with the international system and to fulfill obligations, such as those envisaged under the Basic Proposal now before this Conference.

111. M. AMOUSSOU (Bénin), s'exprimant au nom du Groupe des pays les moins avancés (PMA), indique que ce Groupe est reconnaissant aux Etats membres de l'OMPI qui ont accepté d'approuver la proposition visant à réduire les coûts supportés par les déposants des pays les moins avancés, lors de la présentation des demandes d'enregistrement international des marques, qui est entrée en vigueur depuis le 1er janvier 2006 dans le système de Madrid. M. Amoussou souligne l'importance que revêt la présente conférence diplomatique étant donné le grand rôle que joue la propriété intellectuelle dans le développement économique, social et culturel d'un pays, ainsi que dans l'attraction des investissements étrangers. De ce fait l'adoption d'un traité sur le droit des marques est primordiale pour les pays les moins avancés.

112. M. Amoussou estime que la conférence arrive à point nommé au moment où l'environnement international est de plus en plus axé sur la technologie et où l'adaptation même des structures juridiques des pays les moins avancés au contexte actuel s'avère indispensable. La révision du traité en vigueur sur le droit des marques a précisément pour objet de l'adapter le traité aux progrès technologiques réalisés au cours des dix dernières années. A cet égard, au nom des pays les moins avancés, il salue les efforts fournis par le Comité permanent du droit des marques, des dessins et modèles industriels et des indications géographiques. Ces efforts ont en effet abouti à l'élaboration des propositions de base sur le traité révisé sur le droit des marques soumises à l'examen des Etats membres.

113. M. Amoussou déclare que les pays les moins avancés appuient ces propositions de base mais qu'ils se réservent toutefois le droit de faire des amendements, étant donné qu'ils doivent tenir compte de leur spécificité respective, notamment pour la mise en œuvre du traité. Il indique enfin que le groupe des pays les moins avancés appuie la déclaration faite par le Nigéria au nom du groupe africain et il réaffirme son attachement aux travaux qui sont menés dans le cadre des négociations en cours relatives au Traité révisé du droit des marques.

114. Mr. SIMONOV (Russian Federation) indicated that his Delegation was ready to participate actively in the work undertaken in this Diplomatic Conference. He recalled that the Basic Proposal for the Conference had been prepared as a result of three years' work done by the SCT. The Committee Members were specialists in the field of legal protection of trademarks coming from many countries in the world, including the Russian Federation. As was known, a particular contribution had been made to the work by the representatives of intergovernmental and international non-governmental organizations.

115. The delegate pointed out that the TLT, to which the Russian Federation had been a party for almost ten years, influenced the improvement of its domestic legislation and the harmonization of the legislation of countries which were party to the TLT. In 2002, amendments had been made to the Russian law on trademarks and provisions from the TLT had been incorporated including those relating to the division of trademark applications and registrations, the possibility of providing a general power of attorney for the conduct of office procedures, and the possibility for an applicant, prior to a refusal decision being taken by the office, to submit comments which may influence that decision.

116. He explained that, in the Russian Federation, more than 40,000 trademark registration applications were filed annually, of which 15,000 were by applicants from countries which were party to the Treaty. A Revised TLT would surely have even greater practical significance as a regular stage in the harmonization of national trademark legislation in relation to administrative procedures. In the context of market globalization, a new treaty would help to reduce expenses incurred in administrative procedures for entrepreneurs, trademark owners and consumers, which on the whole would have a positive effect on the development of international trade and serve the advancement of innovation processes.

117. The delegate underlined that it was very important to include in a Revised TLT the provisions concerning the establishment of the Assembly of Contracting Parties. The creation of the Assembly would simplify the procedure for introducing amendments into the regulations, without the need to hold a Diplomatic Conference. That would provide an opportunity to reflect in operational terms, in the regulations, the provisions dictated by the practical application of the Treaty. In conclusion, he expressed certainty that the Conference would be successful.

118. Mr. KOJIMA (Japan) pointed out that, with economic globalization and increasingly competitive international markets, companies had to conduct business activities at a faster pace. He informed the Conference that the number of trademark applications in Japan had been increasing since 2003. In 2005, there had been an increase of five percent and a total number of about 135,000 applications. Filings by foreign applicants had increased recently. Last year, Japan had received about 20,000 applications from foreign applicants which constituted about fifteen percent of all applications filed with the Japanese Patent Office in that year. The number of applications filed by Japanese with other countries had been growing at about eight percent. This growth rate was larger than the growth of domestic application filings. One fourth of the applications filed by Japanese applicants served the purpose of obtaining a trademark right in another country. The large number of such applications

seemed to indicate that more Japanese and foreign users were actively trying to establish high-value international brand names and to obtain protection under different national trademark systems.

119. In Japan, the relevant government ministries and agencies had been working together to enhance the protection of intellectual property rights and to enhance the industry's global competitiveness through the creation, protection, and exploitation of intellectual property. Japan viewed the trademark system as an important intellectual property system which could allow a company to acquire distinctiveness in order to attract customers and dispense information. The role of the trademark system in the development of branding strategies was currently under discussion in Japan.

120. The delegate informed the Conference that, in 2005, Japan partially revised its Trademark Law to introduce a regionally-based collective mark system aiming to promote local speciality products. Under this system, domestic as well as foreign local associations could register trademarks combining a regional name with a product name. The trademark needed to be well-known to some extent and had to be recognized as having distinctive features in Japan. He said that Japan sought to finalize the implementation of this system by April 1, 2006.

121. He explained that, in 1990, the Japanese Patent Office had introduced a paperless system aiming to simplify the filing of applications, reducing costs and shortening the average examination period. At present, 83 percent of all trademark applications were filed electronically. In 2005, the Office of Japan had begun to accept applications filed via the Internet.

122. The delegate added that, due to economic globalization, it was essential to help users to quickly obtain trademark protection in various areas of the world. He felt that the best way to simplify application procedures in different countries was to conclude a harmonization treaty and promote accessions to that treaty. The TLT constituted such a user-friendly treaty. Japan had been the seventh Contracting Party to the TLT.

123. The delegate stated that, in principle, Japan supported the Basic Proposal for a Revised TLT to be adopted at the Conference because it enhanced user-friendliness and served the simplification and harmonization of procedures. He expressed the hope that a new treaty would be adopted at the Conference.

124. Mr. LOVE MTESA (Zambia) expressed his delegation's support for the opening declarations made by Nigeria on behalf of the African Group and by Benin on behalf of the Group of least-developed countries. Being a least-developed country, Zambia appreciated the support received from WIPO and, as its development partners, hoped that this support would continue so that the use of patents and trademarks for the economic and social development of the country could quickly be perfected. The delegate expressed his willingness to participate in the deliberations of this Conference in order to ensure the successful conclusion and adoption of a new treaty.

125. Mrs. EL TINAY (Sudan) expressed her delegation's support for the opening declaration made by the Delegation of Nigeria on behalf of the African Group. She indicated that the adoption of a new treaty aiming to facilitate procedures for applicants, was a great challenge for developing and least-developed countries in view of the progress made in communication technology in the last ten years. If the new treaty became binding within a prescribed period of time, Member States might need to make reservations that might help them to implement the treaty into their national legislation. In this respect, the digital divide between developed countries and the developing countries, especially the African countries facing many obstacles and difficulties, should be taken into account.

126. The delegate underlined that Sudan was trying to overcome these obstacles. Considering the limited resources available to the country, however, she felt a need for assistance, for instance, with regard to office equipment and the adoption of strategies for setting up successful, independent national offices taking on the various responsibilities accounted upon them. She stressed that, in order to further increase the capabilities of developing countries, present assistance programs should be continued. Her aim was to bring about a gradual change leaving sufficient flexibility for the Sudan Intellectual Property Office which still worked on the basis of paper documents.

127. La Sra. RÍOS DE DAVIS (Panamá) declaró que su delegación esperaba ver que el fruto de este esfuerzo colectivo produzca resultados que generen beneficios para todos los involucrados. Añadió que, en particular, las mejoras al sistema de marcas en lo referente a su modernización a través de la presentación electrónica de solicitudes y lo relativo a la simplificación de los trámites y procesos, harían que los procedimientos sean más expeditos y eficientes. Panamá, acorde con las tecnologías de información, avanzaba con pasos firmes para permitir la presentación de solicitudes en línea, aprovechando al máximo las ventajas que ofrece tal tecnología. Sin embargo, su delegación tenía conciencia de que aún subsisten diferencias en la práctica de los Estados miembros de la OMPI por lo cual se debía dar las flexibilidades necesarias y el acceso a los países que lo necesiten para que en un plazo cercano puedan ajustarse a las nuevas tendencias de la tecnología gracias al apoyo y a la asistencia técnica que se les pueda brindar. Recordó que en la actualidad se daba paso a nuevas ideas y tenían gran importancia los activos intangibles como eran los recursos humanos, el trabajo colectivo y el conocimiento, entre otros. La delegada añadió que las oficinas de propiedad intelectual eran centros de conocimiento que tienen pasión por lo que hacen, además de compartir sus ideas con fines empresariales tangibles.

128. El Sr. RAMÍREZ (República Dominicana) indicó que para la República Dominicana la discusión y adopción del Tratado Revisado sobre el Derecho de Marcas significaba un gran avance dentro de la propiedad intelectual ya que tenía un mensaje y un significado importante para los propietarios o futuros propietarios de registros marcarios. Añadió que el concierto de las naciones celebraba la convocación de esta reunión de los países miembros de la OMPI y sobre todo las decisiones que podrían tomarse en el marco de la Conferencia. La delegación de la República Dominicana deseaba que la presidencia de esta Conferencia cuente con su colaboración y apoyo para lograr una armonización y consenso que favorezcan a

todos los países y en especial a los países en desarrollo. También expresó que la transparencia, la simplificación y celeridad de los procedimientos, así como la garantía de los derechos de propiedad intelectual, significaban desarrollo y confianza y por lo tanto se discutiría con miras a retener lo mejor de ese tratado.

129. El Sr. SADER (Uruguay) dijo que el Uruguay apoyaba la propuesta básica de Tratado Revisado sobre Derecho de Marcas. Añadió que el contenido del proyecto que fue consultado extensamente con el sector privado nacional era congruente y complementario con su legislación doméstica. La delegación del Uruguay consideraba que el tratado revisado sería un instrumento internacional relevante y efectivo por varias razones: primero, se trataba de un instrumento moderno y flexible que tomaba en cuenta las legislaciones nacionales de los Estados. Segundo, fortalecía más el sistema de marcas simplificando y uniformando los requisitos de forma que en la actualidad dificultaban los trámites administrativos, y sin duda a través de ello facilitaría el intercambio comercial internacional y sería un instrumento de desarrollo. En tercer lugar, el proyecto trataba de mantenerse a la par de los avances tecnológicos que se producían en el ámbito de la tecnología de la información y de las telecomunicaciones abordando disposiciones sobre la presentación electrónica de solicitudes de registro de marcas y de comunicaciones relacionadas, y también incorporaba disposiciones con respecto a las medidas de subsanación en caso de incumplimiento de plazos. En cuarto lugar, establecía por primera vez requisitos relativos al registro de marcas de distintas naturalezas, visibles y no visibles. Finalmente, el nuevo tratado preveía la creación de una asamblea con lo cual se colmaba un vacío importante del TLT siguiendo la estructura de otros tratados administrados por la OMPI. Para concluir, el delegado aseguró que el Presidente podía contar con el apoyo de su delegación para la generación de los consensos necesarios para adoptar el tratado.

130. M. MATONDO MA MUANDA (République Démocratique du Congo) déclare que sa délégation fait également siennes les stipulations et autres propositions pertinentes contenues dans les déclarations faites respectivement par les délégations du Nigéria et du Bénin au nom des Groupes africain et des pays les moins avancés (PMA). Il ajoute que la République Démocratique du Congo souhaite renouveler une nouvelle fois son intérêt évident pour les activités de l'OMPI étant donné que la propriété intellectuelle constitue également une préoccupation quotidienne de l'action de son Gouvernement, cela en dépit de problèmes majeurs et autres difficultés multisectorielles liées au processus de reconstruction nationale en cours.

131. Le délégué précise que dans la République Démocratique du Congo la matière inhérente à la propriété intellectuelle est régie par la Loi n° 82/001 du 7 janvier 1982 sur la propriété industrielle et par l'Ordonnance n° 89/173 du 7 août 1989 portant mesures d'exécution de ladite loi. Ces textes ont été conçus en conformité avec les dispositions pertinentes des instruments juridiques internationaux de l'OMPI régissant la propriété intellectuelle. Ces deux textes juridiques nationaux sont à présent inadaptés à l'évolution technologique du moment, cela en dépit de l'institution ultérieure du Fonds de promotion industrielle. Cette inadaptation justifie d'autant plus la nécessité d'adopter un traité international révisé sur le droit des marques.

132. Il indique que la délégation de la République Démocratique du Congo est disposée à apporter sa modeste contribution pour un aboutissement heureux des débats y relatifs, à savoir l'adoption effective du traité révisé sur le droit des marques, en tenant dûment compte des intérêts évidents des uns et des autres et surtout des réalités concrètes de chaque partie contractante. Sa délégation croit fermement qu'au moment où la contrefaçon est en passe de constituer une source de frictions, voire de tensions, entre des partenaires membres de la communauté internationale, l'adoption effective à l'issue de la présente conférence diplomatique d'un Traité révisé sur le droit des marques devrait être perçue comme étant une perspective d'espoir devant permettre aux uns et aux autres de faire protéger, ainsi que de bénéficier dans la légalité et d'une manière loyale, du fruit du travail de leurs inventeurs et autres innovateurs respectifs, au sein d'une économie mondialisée.

133. Mr. DANILIUC (Republic of Moldova) said that the Republic of Moldova supported the objective of the revised TLT to achieve the modernization and simplification of administrative procedures for the registration of trademarks and thus guarantee an effective and equal involvement of states in the field of new technologies. He welcomed these new provisions which constituted effective instruments for the economic development of states. The harmonization of IP rules encourages investment, by reducing the risk of having to face different rules in different jurisdictions. In addition, the proposed treaty included harmonized rules regarding the formalities for the recording of trademark licenses, which made it more attractive both for users and for national offices.

134. He recalled that the Republic of Moldova was one of the first signatories of the TLT and therefore its national trademark law was harmonized with that instrument. He noted that more than eighty percent of trademark applications received by the national office came from foreign applicants. This reflected the importance of having national trademark laws harmonized with international standards, such as the TLT. Therefore, he hoped that the proposed revision of the treaty could be achieved by this Conference.

135. Mr. HYON IL (Democratic People's Republic of Korea) referred to other WIPO treaties in the area of trademarks, such as the Madrid Agreement for the International Registration of Marks and to the current initiative for the harmonization and simplification of trademark law at the international scale. He noted that the Government of the Democratic People's Republic of Korea had achieved significant progress in the field of trademarks, and his delegation wished to take this opportunity to acknowledge the cooperation received from WIPO in the area of trademarks.

136. Mr. ARAGA (Papua New Guinea) said that his delegation supported the statement made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group. His country attached great importance to the protection of intellectual property rights and that had prompted national authorities to engage in continuing policy discussions to help synthesize issues of importance to the region, taking into account the national needs and circumstances in determining future directions, programs and activities to the needs of the trademark owners as well as trademark offices.

137. He noted that intellectual property continued to be used in many countries as a policy instrument and as a tool for economic, social and cultural development, and had become an issue that attracted global attention given the immense importance of intellectual property, which played a leading role in supporting the efforts of Member States, in particular those of developing and least developed countries, to foster the conditions necessary to encourage creative and innovative activity. With the objective of enhancing its capacity in the field of IP, the Intellectual Property Office of Papua New Guinea had been empowered to develop and implement the country's IP policy.

138. He acknowledged that the work of the SCT on the Basic Proposal would form the basis for the development and streamlining of the trademarks systems among the Member States. This was also a challenge for developing and least-developed countries, which were required to develop trademark systems for sustainable economic development and wealth creation as well as to meet the current international norms and practices.

139. He explained that Papua New Guinea had undertaken the review and amendment of its trademark legislation with a view to complying with international norms and standards and to provide for an efficient processing of trademark applications. He hoped that this would allow Papua New Guinea to adhere to the TLT in a not too distant future. He therefore pledged his full support in reaching a productive and fruitful conclusion and subsequent application of the revised TLT.

140. Mr. NOAM (Israel) said that Israel was aware of the continuous need for improvement of the intellectual property services provided by the national government through its national office. He announced that the Government of Israel had recently decided to change the status of the Israeli Patent, Design and Trademarks Office from a regular governmental unit in the Ministry of Justice into an independent authority working as an executive agency, the first of its kind in Israel. This was an important and substantive change that would enable the Israeli Patent and Trademark Office to provide better services both for local and foreign users, due to enhanced management power and flexibility.

141. He highlighted that trademark protection was one of the leading branches of industrial property activity. The fast and expanding development of industry all over the world was dependent on a developed, harmonized and user-friendly trademark registration system. An analysis of trademark developments in Israel during the last ten years indicated a direct correlation between the economic situation in Israel and in the entire world, as to the amount of trademark applications filed.

142. He noted that while in times of crisis, such as in the year 2003, the number of trademark applications in Israel had declined to 7,000 it had stabilized and expanded to 9,000 during 2005. An outstanding trend, reflecting the nature of global commerce, was the increase in the number of trademark applications from foreign companies applying for registration in Israel (about 70% of all applications filed). This illustrated the need for a revised TLT to simplify and harmonize the administrative procedures relating the trademark registrations.

143. He further noted that the international aspects of trademark protection had encouraged the process of accession of Israel to the Madrid Protocol for the International Registration of Trademarks, expected to be concluded by the end of 2006. Israel was thus in favor of the successful conclusion of the revised TLT which would simplify and harmonize the administrative procedures with respect to national applications.

144. Mlle KADRI (Algérie) dit que la délégation de l'Algérie appuie la déclaration du Nigeria faite au nom du Groupe africain puisqu'elle exprime parfaitement la préoccupation de leurs pays respectifs. Elle ajoute que l'Algérie a suivi avec beaucoup d'intérêt les travaux préparatoires de la révision du Traité sur le droit des marques. Elle précise que bien que le traité de 1994, en lui-même, ne comprenne pas de dispositions contraignantes pour la législation algérienne qui était alors en cours de révision, des questions liées à certains concepts, notions et procédures auraient mérité d'être couvertes ou prises en charge par ledit traité. De ce fait, l'Algérie souhaite rendre le traité plus flexible et accessible à tous, tout en tenant compte des législations nationales et des systèmes de protection adoptés par chaque pays, ainsi que de la réalité économique et des moyens de l'ensemble des pays. La déléguée insiste sur le fait que le traité doit être adapté à la réalité économique, qu'il doit tenir compte de l'évolution du droit de la propriété industrielle et qu'il doit assurer un équilibre entre les droits des titulaires et ceux des utilisateurs. Elle ajoute que l'harmonisation des procédures permet certainement de faciliter l'obtention des protections sans alourdir le système ni négliger les intérêts des demandeurs. Pour conclure, elle dit que sa délégation souhaite un plein succès à la conférence diplomatique pour l'adoption d'un traité équilibré et souple.

145. Mr. SIBANDA (ARIPO) noted that ARIPO is an intergovernmental organization charged with the harmonization, promotion and development of intellectual property among its member states. Currently 16 States were party to the Lusaka Agreement, which established the Organization: Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

146. He said that the protection of intellectual property rights in Member States of ARIPO was enhanced through protocols that established procedures enabling multi-country protection through a single application deposited with the central authority or through individual Member States.

147. In the field of trademarks, a centralized registration system for protection in designated states was provided for under the Banjul Protocol. The Protocol was adopted by the Organization's Administrative Council and currently eight states had ratified or acceded to the Banjul Protocol, namely: Botswana, Lesotho, Malawi, Namibia, Swaziland, Uganda, Tanzania and Zimbabwe.

148. Efforts were being made to ensure that all Member States became party to the Banjul Protocol as well as to ensure that the Banjul Protocol was more attractive and user-friendly. Within the African context, mutual recognition of ARIPO and OAPI trademark applications was also under consideration and once accepted it would indeed facilitate and simplify the implementation of the Revised TLT itself. The

Banjul Protocol was concluded during the negotiations on the TLT and it was adopted with the view to complete the cycle of harmonization of industrial property by the Organization and achieve self-sustainability by generating revenue for the Organization and its member states.

149. During its eighteenth session, held in Kampala, Uganda, from November 14 to 18, 1994, the Council of ARIPO recommended that the Secretariat should review the Banjul Protocol in the light of the TLT of 1994. Consistent with that recommendation, the Secretariat followed closely the developments and deliberations of the SCT, where the TLT was a topical agenda item.

150. Having followed closely the deliberations of the TLT, which led to a revised text of the TLT for adoption at the current diplomatic conference, it was in ARIPO's interest to ensure that Members States became signatories to the revised TLT to enable complementarity between the Banjul Protocol and the new international instrument. It was also the vested interest of the Organization to ensure that its status was elevated and afforded a membership status in the revised TLT to enable its full participation in a similar manner as obtains under the Patent Cooperation Treaty (PCT). The current Diplomatic Conference would therefore be called upon to determine ARIPO's status in the final text of the treaty.

151. He acknowledged that ARIPO's attendance to the Conference as a special member delegation was already a clear indication of ARIPO's support towards African initiatives aimed at improving the business environment in Africa through a harmonized international legal framework on the protection of trademarks.

152. M. YACOUBA KAFFA (OAPI) déclare que l'OAPI, qui regroupe 16 États africains, entend participer de façon constructive et dynamique aux travaux de la présente conférence. Il ajoute que l'OAPI voudrait également inviter les différentes délégations à une meilleure prise en compte des différences technologiques et des possibilités inégales entre les diverses parties. Pour ce faire, il indique que l'OAPI estime utile que flexibilité et souplesse puissent caractériser le TLT révisé.

153. Faisant référence à la déclaration faite par le Nigeria au nom du Groupe africain, il rappelle la nécessité d'une assistance effective et d'une bonne coopération en vue d'aider les pays en développement et les pays les moins avancés (PMA) à pouvoir remplir leurs obligations futures dans le cadre de ce traité et dans le cadre d'autres traités relatifs à la propriété intellectuelle.

154. Tous ces pays connaissent de multiples difficultés mais que des signes positifs existent et qu'ils sont porteurs d'espoir. À cet égard, par exemple, l'OAPI a développé une base de données, un logiciel de gestion et de traitement des demandes d'enregistrement de marques, et des outils technologiques permettant la saisie à distance des données relatives aux demandes d'enregistrement de marques. Il ajoute que d'autres applications sont en cours et qu'elles permettront dans un futur proche de procéder au dépôt électronique. Par ailleurs il précise également que l'OAPI a inauguré en septembre passé un centre de formation régionale pour les pays membres et pour d'autres pays africains. Il observe cependant que d'autres défis se posent car

même si l'OAPI en tant qu'office est à même de suivre les évolutions par ses propres moyens, il faut tenir compte de son environnement constitué d'États membres qui ont des moyens extrêmement limités.

155. Mr. WARDLE (New Zealand) said that New Zealand was pleased to support the aims of the TLT to simplify and harmonize trademark registration procedures. New Zealand broadly supported the basic text of the revised treaty that had been developed by the SCT through a process of consensus. The revised treaty should carefully balance the interest of countries, trademark offices, trademark owners and third parties, and New Zealand considered that the basic text achieved this balance.

156. He also said that trademark law and practice that was aligned with internationally recognized standards could increase the confidence of businesses transacting across international borders, and could assist to reduce trade barriers and business administrative and compliance costs. This was especially important for New Zealand businesses. Like many small countries, New Zealand's economy was primarily made up of small business enterprises. Its economic development was dependent on the ability of these small businesses to successfully compete in the global economy. Intellectual property rights, such as trademark protection, assisted to support their success.

157. He noted that, as part of the New Zealand government's on going efforts to create an environment for sustained economic growth within New Zealand, it was considering a number of ways to reduce the costs of businesses for applying for the maintaining trademark registrations. The creation of efficient and effective registration procedures was an important element that could contribute to economic development. Just a week before, the government announced the commencement of a project to consider New Zealand's accession to both the TLT and the Madrid Protocol.

158. New Zealand considered that it was important that the Revised Trademark Law Treaty should define international best practices in respect of the procedures for registering trademarks and, therefore, be a model for all countries to base their trademark registration procedures upon. Creating such a treaty should not, however, be an exercise in making the revised Treaty conform to the procedures and practices of any one particular country.

159. Finally, he acknowledged the way Member States had been able to work together in an environment of cooperation and in the spirit of friendship and goodwill within the SCT to arrive at the basic text that was presented to the Conference. He hoped that his spirit of cooperation and friendship would also prevail during this meeting, as delegations worked their way towards the adoption of a revised TLT.

160. Ms. BERESFORD (United States of America) recalled that work on the TLT began in 1987 with the adoption by the Governing Bodies of WIPO of a proposal to begin work on the harmonization of trademark law and practice. The first Committee of Experts met in 1989 and met six times between 1989 and 1993. A Diplomatic Conference was held in October of 1994 and at that time 35 countries, including the

United States of America, signed the concluded treaty. The TLT 1994 had been a great success and the United States of America had made it a high level priority with its trading partners.

161. She noted that, to the extent that national Offices could make the process of obtaining and maintaining a trademark more efficient and increase the legal certainty that comes from having a registration in WIPO Member States, governments could help trademark owners with their efforts to prevent consumer confusion and deception, as well as protect their valuable property interests. The TLT helped offices to become more efficient and allows them to reduce fees.

162. The Basic Proposal presented to the Conference set out to achieve those purposes and she hoped that delegations could move the text forward to adoption by keeping the goals of this effort in mind. However, the TLT's benefits could not be fully realized by users and officers without broader membership. The United States of America was fully committed to encouraging wider adherence to the TLT and she believed that the revised TLT provided additional incentives for WIPO members to sign up for its benefits. The Delegation of the United States of America looked forward to working with all delegations to ensure a positive step forward for trademark owners and trademark offices with the adoption of a final revised TLT that epitomizes efficiency, fairness, transparency and certainty.

163. Mr. CHUNG (Republic of Korea) wished to inform the Conference that in the current year, the Government of the Republic of Korea had set itself the ambitious goal to take first office actions on trademark applications within six months from the filing date, which meant that its office could grant trademark registrations more rapidly than ever before. Bearing in mind that user-friendliness was a prime philosophy embodied in the TLT, the Government of the Republic of Korea believed that the expedition of trademark examination was crucial to accomplish that TLT philosophy. About 20% of all trademark applications every year were foreign applications.

164. He believed that, by speeding up trademark registrations, foreign enterprises and applicants would see a better environment for their businesses in the Republic of Korea. In concluding, he believed that the user-friendliness philosophy of the TLT would ensure a successful adoption of a revised TLT.

165. Ms. POWER (Canada) said that, as commercial markets become increasingly global, the issue of harmonization and international standards was important for both governments and users of the trademark system. Canada attached considerable importance to multilateral efforts to harmonize and standardize business framework laws and practices.

166. She noted that Canada was supportive of the efforts of WIPO to conclude a treaty that will reduce or minimize procedural differences among countries, particularly in relation to the development of standards relating to electronic communications and the general simplification of formal procedures in the area of trademarks. She felt that the efforts of Delegations at the present Conference and the efforts of the SCT over the last four years will benefit users seeking trademark

protection around the world will also lead to greater efficiencies for trademark offices. The current text of the provisions of the basic proposal provided a solid basis for consideration by the Conference and the delegation of Canada was prepared to participate in a constructive fashion to work towards the successful completion of the final treaty.

167. Mr. PARKES (FICPI) said that the International Federation of Intellectual Property Attorneys (FICPI), broadly represented the profession in private practice in countries throughout the world. He noted that FICPI had been involved in the preparations made over the past four years leading to the proposal for the revision of the TLT. FICPI had been pleased to participate in the sessions of the SCT and looked forward to seeing the completion of the project at this conference. He believed that the adoption of the treaty and then ratification or accession by a large number of countries, would certainly provide very worthwhile benefits to users of the trademark system.

168. He recalled that, on a technical issue, FICPI had made some suggestions concerning the draft Model International Forms which are attached to the Regulations in document TLT/R/DC/4, these forms were not discussed in detail at the SCT and FICPI had therefore prepared a paper setting down some suggestions, which were largely of a drafting nature. This paper had been made available for delegates at the Conference.

169. Ms. HAQ (INTA) declared that INTA had been a strong supporter of the TLT and welcomed the timely revision of the treaty that would take into account advances in technology and global developments in trademark protection over the last decade. For many years, INTA had worked closely with WIPO to move international trademark practices and procedures closer to harmonization. One of the most important initiatives by WIPO in this regard was the effort to address the harmonization of formalities of national offices, which resulted in the TLT 1994. INTA had dedicated considerable resources and expertise to support the work of WIPO on this initiative and on the subsequent proposed revision of the TLT.

170. She noted that a revision of the TLT appeared urgently needed because the scope and practice of trademark protection had changed over the years. The re-opening of the treaty to create an assembly, update its provisions to cover non-visible signs and allow electronic filing as well as to include provisions on trademark licensing, should spur renewed interest so that INTA and other organizations could encourage more WIPO members to join the TLT. INTA therefore applauded the work of the SCT on revising the TLT and assured its continued support for this important initiative and for a successful conference.

171. Mr. DONG BAOLIN (CTA) said that, as an observer organization, the CTA supported the work of participating delegations for the success of the Diplomatic Conference.

172. The PRESIDENT set out a proposal for a working schedule of different bodies of the Conference during the first week. He noted that, generally speaking, there were two clusters of issues. Firstly, horizontal issues which cut across the

whole draft treaty, such as: implementation, capacity building, cooperation and flexibilities. On such issues, the President would undertake informal consultations with the different regional groups and report back to the plenary, without prejudice to any decision on the final outcome of the discussions. The second cluster included technical issues relating to the substantive provisions of the draft treaty and its regulations. On these issues, both Main Committees I and II would engage in deliberations.

173. Mr. GHORBANI (Islamic Republic of Iran) said that, while he agreed with the arrangements proposed by the President, it was important not to lose sight of the fact that this was a package negotiation.

174. The PRESIDENT adjourned the meeting.

<p><u>Third Meeting</u> <u>Friday, March 17, 2006</u> <u>Afternoon – 17:00 hrs.</u></p>

Consideration of the first report of the Credentials Committee

175. The PRESIDENT invited the Plenary to proceed with the remaining items on the agenda. He turned to agenda item 9 (Consideration of the first report of the Credentials Committee). He explained that the Conference was required by the Rules of Procedure to consider the first report of the Credentials Committee soon after the opening of the Conference. He called upon the President of the Credentials Committee, Mr. Ghorbani, to present his report.

176. Mr. GHORBANI (Islamic Republic of Iran) informed the Plenary that the Credentials Committee had held a first meeting on March 14, 2006, to address the three categories of participants, namely ordinary member delegations, special member delegations and intergovernmental and non-governmental organizations. All issues had been addressed in accordance with the Rules of Procedure that had been approved on the first day of the Diplomatic Conference. He specified that, until now, the Credentials Committee had received 37 full powers and 43 credentials. The Committee was in the process of receiving more full powers and credentials which would be duly reflected in the second report of the Credentials Committee.

177. The PRESIDENT thanked Mr. Ghorbani and the members of the Credentials Committee for establishing the first report. He underlined that there were 37 delegations which had full powers to sign the Treaty at the end of the Diplomatic Conference, and 43 delegations which had come with credentials. He said that the number of delegations with full powers and credentials sent out a clear signal of their

commitment and the general commitment of the Conference to signing and adopting the Revised TLT. He believed that the Conference was within grasp of a successful conclusion of its work. He proposed to adopt the first report of the Credentials Committee.

178. M. MARKOVIĆ (Serbie-et-Monténégro) dit que sa délégation n'a pas les pleins pouvoirs pour signer le traité et qu'elle est uniquement habilitée à signer l'Acte final de la conférence. Aussi demande-t-il au Bureau international de faire une correction dans ce sens.

179. Mr. FICSOR (Hungary) said that the same situation had arisen with regard to his Delegation. The Delegation of Hungary did not have full powers either.

180. M. OUBEIDILLAH (Comores) dit qu'en ce qui concerne la délégation des Comores, ils ont une lettre de créance qui leur donne le pouvoir de signer tout acte qui engagerait leur pays dans le cadre de cette conférence diplomatique. Par ailleurs, il constate que son pays ne figure pas encore dans le rapport, c'est pourquoi il souhaite obtenir l'assurance du Bureau international que son pays figurera dans le prochain rapport parmi les délégations qui ont pleins pouvoirs pour signer ce traité.

181. Mr. WARDLE (New Zealand) noted with respect to paragraph 7(a)(ii) of document TLT/R/DC/14 that New Zealand had presented its credentials without full powers to WIPO on or about January 9, 2006. He pointed out that the name of his Delegation was missing from the list. He therefore requested that the credentials presented by New Zealand be reviewed.

182. M. MATONDO MA MUANDA (République Démocratique du Congo) dit que sa délégation est munie d'un document intitulé "Pleins pouvoirs", et souhaiterait préciser qu'il a le pouvoir de signer l'Acte final et de parapher le Traité.

183. Mr. MAHINGILA (United Republic of Tanzania) noted that the name of his Delegation was missing from the list. As his Delegation had submitted its credentials in the meantime, he asked for their inclusion.

184. Mr. MARTENS (Germany) said that the same situation had arisen with regard to the Delegation of Germany. He was confident that this would be corrected.

185. Mr. ENÄJÄRVI (Finland) pointed out that the Delegation of Finland was intended to have full powers. He said that, if necessary, the Ministry of Foreign Affairs of Finland could send a clarification to that effect.

186. Mr. AUMEISTERS (Latvia) noted that the Delegation of Latvia had full powers for signing the Final Act and the Treaty. He had already consulted the President of the Credentials Committee in this regard. The question was under consideration by the Credentials Committee.

187. The PRESIDENT asked the International Bureau to take note of the different comments made by delegations. He clarified that it was the intention of the International Bureau and the Conference to look through all the papers with care and diligence. Any corrections that had to be made would be made in due course. He invited the International Bureau to comment on the observations made by delegations.

188. Mr. KWAKWA (WIPO) drew the attention of the Plenary to the fact that the first report of the Credentials Committee, as reproduced in document TLT/R/DC/14, had been established two days ago. Accordingly, the report only reflected credentials and full powers that had been received until then. Delegations whose credentials had been received later would be included in the second report of the Credentials Committee. In respect of countries whose understanding was that they had credentials and not full powers, he clarified that the International Bureau would follow the Rules of Procedure that had been established for previous Diplomatic Conferences, and the practices of previous Credentials Committees to determine the intended scope of their instruments.

189. He explained that if their instruments were deemed full powers, the International Bureau would include them in the full powers category. He clarified that, in this event, being placed in the full powers category did not oblige the Delegation concerned to sign the Treaty if that was not the intention. It simply indicated that, if they decided to sign the Treaty, they had the ability to do so. Delegations placed in the credentials category did not have this flexibility. They would only be able to sign the Final Act, unless they subsequently produced full powers. He invited any delegations that had a different understanding of their instruments to contact the International Bureau in order to discuss the matter. There would certainly be a second report of the Credentials Committee. Delegations could thus indicate their intentions to the International Bureau. In case their instruments were consistent with past practice, the International Bureau would be prepared to change the first evaluation of the instrument concerned.

190. The PRESIDENT suggested that note be taken of the various requests for corrections, and invited delegations to approach the International Bureau directly in order to make known any corrections that were needed. He proposed to adopt the first report of the Credentials Committee on the understanding that under agenda item 12 the Plenary would consider a second report, which would offer a further opportunity to revisit the issue.

191. La Sra. ESTUPIÑÁN BARRANTES (Ecuador) preguntó qué efectos legales tendría la firma del Acta final para el Estado que se encontraba acreditado con credenciales y sin plenos poderes.

192. Mr. KWAKWA (WIPO) clarified that the Final Act constituted a factual statement saying that between the 13th and the 31st of March, the Delegations represented at the Conference met in Singapore and that they negotiated and adopted the Revised TLT. The Final Act did not have any legal effect or any legal implications.

193. The PRESIDENT concluded that the Plenary had adopted the first report of the Credentials Committee. He turned to agenda item 10 (Opening Declarations by Delegations and by representatives of Observer Organizations).

Opening Declarations

194. The PRESIDENT recalled that the Plenary had already heard the opening declarations of several delegations in the course of past meetings. Other delegations had indicated their desire to make their opening declarations at a later stage. On that basis, he invited delegations to deliver further opening declarations.

195. Ms. SUNKER (South Africa) expressed support for the statement made by the Delegation of Nigeria on behalf of the African Group. She said that the Diplomatic Conference was being held in the context of dynamic changes in the international economic system characterized by, among other things, rapid advances in technology. Hence, she conceived of the need to revise the TLT 1994 to enable it to respond to those advances. Participants had embarked on this initiative conscious of the different levels of development of Member States and within the broader discourse towards addressing the widening gap between the rich and the poor. The Millennium Development Goals and, in particular, the recently concluded World Summit on the Information Society (WSIS) all remind participants of the need to address the widening digital divide. Therefore, as the Conference finalized the revised TLT, it should continue to pursue these broader development objectives.

196. Despite the fact that globalization had created an enabling environment for technological advancement, the technological gap between developed and developing countries continued to widen. More importantly, this technological gap had not been informing policy formulation at the international level. Global requirements demanded that developing countries, particularly least developed countries that were mostly in Africa, expand and strengthen their intellectual property system. These requirements could be burdensome and costly to implement and yet their benefits were not immediately evident in the eyes and experiences of the poor. These matters had to remain of paramount concern to all and should motivate members to seek effective solutions.

197. She noted that the revised TLT will respond to technological developments and create an institutional framework allowing for the adaptation of certain administrative requirements. The TLT contained some inherent deficiencies that created a dichotomy between the paper based application and the new mode of electronic-based registration that modern applications require. But in addressing this deficiency through the revised TLT, the Conference should avoid articulating that dichotomy in a way that will further entrench the exclusion of the poor.

198. Much had been said by developing countries in the context of the WIPO General Assemblies' last session about the need to include a development agenda in the norm-setting processes of WIPO. The revised Trademark Law Treaty afforded Members the opportunity to respond to that imperative. The Treaty should also be underpinned by effective technical assistance and technology transfer provisions

geared towards ensuring that Member States would be able to implement treaty obligations and benefit effectively from its provisions. In this respect the implementation of treaty obligations should not overburden scarce national resources that may be employed more productively in other areas.

199. She concluded by saying that the delegation of South Africa looked forward to a good decision from the Diplomatic Conference. The decision should be based on consensus and it should address the interests and concerns of all members equally. The need for policy space and flexibilities along with appropriate differential and favorable treatment for developing countries and, in particular, the Least Developed Countries was paramount. For her delegation those principles lay at the heart of WIPO's continued credibility. She gave assurances of her delegation's readiness to contribute constructively to the negotiation process with a view to achieving a positive outcome and conclusions that met with the expectations of all parties present.

200. Mr. AL MOHAMMED (Iraq) recalled that the first legislation in human history was drafted in Mesopotamia and dated back to the eighteenth century B.C. It was known to all as the Code of Law of Hammurabi, the King of Babylonia. In 1921, the modern State of Iraq, which inherited the ancient civilizations of Mesopotamia, was established, following the fall of the Ottoman Empire. In 1931, the first Iraqi Trademark Law (No. 39) was enacted and was subsequently replaced by a new Law (No. 21) of 1957 on Trademarks and Commercial Indications. The latter had since been amended on various occasions.

201. He noted that, as of March 19, 2003, trademark registrations in Iraq totaled 42,000. In addition, some 5,000 registrations had been made between June 1, 2003 and end 2005. In 2004, Iraq had adopted a policy of open market economy and worked towards its accession to the World Trade Organization (WTO), where it obtained observer status in 2004. As the adoption and implementation of a trademark law compatible with relevant international standards is one of the pre-requisites for accession to the WTO, a High National Committee was established in order to develop a draft Consolidated Intellectual Property Law which was soon to be submitted to the Iraqi Parliament.

202. He further noted that the participation of the Delegation of Iraq in the Conference would be an opportunity to review the draft Law prior to its promulgation. As a developing country, Iraq shared the concerns of other developing countries with regard to the need for a balance between the interests of both developed and developing countries. In order for Iraq to implement international standards, support and assistance in capacity-building were needed for a successful administration of procedures for the registration of trademarks. He hoped that WIPO could join donor countries in responding to those needs.

203. M. NEBIE (Burkina Faso) dit que le Burkina Faso a suivi avec un intérêt particulier les travaux des sept sessions du Comité permanent du droit des marques, des dessins et modèles industriels et des indications géographiques (SCT) de l'OMPI. A cet égard, il félicite le Directeur General de l'OMPI, M. Kamil Idris, pour la pertinence de la proposition de base, ainsi que les membres du SCT pour la qualité du travail accompli depuis 2002.

204. Il ajoute qu'il est particulièrement heureux de constater que la présente conférence diplomatique connaît une importante participation des délégations de plusieurs pays et de représentants d'un nombre important d'organisations internationales.

205. Selon lui, cette situation traduit incontestablement tout l'intérêt que la communauté internationale accorde à la nécessité d'une réglementation internationale équilibrée du droit des marques, du fait de l'importance de cette question dans le cadre général d'un système économique mondial de plus en plus concurrentiel.

206. M. Nebie, dit qu'en ce qui concerne la proposition de base dont ils sont saisis, sa délégation exprime sa satisfaction quant à la prise en compte par le texte du projet de traité révisé de plusieurs points qui lui semblent particulièrement importants. Il considère en effet le projet de traité révisé ainsi que son règlement d'exécution, comme des instruments équilibrés et prometteurs, même si par ailleurs il estime que des efforts doivent encore être faits pour la prise en compte de certaines questions sensibles qui intéressent les pays en développement, ceci dans le souci d'une plus large adhésion au futur traité.

207. Dans cet ordre d'idée, il fait savoir que sa délégation s'associe aux déclarations faites par le Nigeria et le Bénin respectivement, au nom du groupe africain et des PMA. Il est convaincu que la prise en compte des préoccupations exprimées dans leurs déclarations garantira une large adhésion et une mise en œuvre satisfaisante du futur TLT révisé auquel sera attaché à jamais le nom de la sympathique cité de Singapour.

208. Il conclut en disant que sa délégation ne ménagera aucun effort pour apporter son appui afin que le TLT révisé voie le jour au terme de ces travaux, et ajoute que le Président peut compter sur son entière disponibilité pour accompagner ses efforts personnels tout au long des négociations.

209. Mr. AYALOGU (Nigeria) assured that his delegation would participate in the negotiating process with open mind and constructive disposition in order to reach a positive outcome. His delegation fully endorsed the statement made by the coordinator of the African Group and hoped that it would constitute the basis of the Group's consultations, especially with the various stakeholders in this Conference, on the issues that the President had referred to as "horizontal matters". These horizontal matters, in his view, were those issues that cut across individual interests and concerns, and were of an overarching nature bordering on the problem of implementation of the revised TLT, and the full realization of the opportunities that the new treaty provided to individual Member States.

210. He noted that the main areas of concern to developing countries and their least developed counterparts on entry into force of new treaties were those related to their sustained and effective implementation, and the ability to make use of the in-built opportunities and policy space. The successful domestication of treaties and their effective implementation were, more often than not, linked to the availability of juridical competence and technical resources in such countries. These perceived shortcomings should be addressed constructively by all Contracting Parties.

211. He further noted that the goal of every society was to modernize and improve. Nigeria was no exception to this rule. Its goal was therefore, to be at the forefront of the intellectual property appreciation and utilization effort, especially for national development. It was for this reason that the Government of Nigeria had been cooperating closely with WIPO over the years to derive from the benefits of its experience and the resources at its disposal. Nigeria was in the processes of modernizing its IP infrastructures especially for the protection of cultural industries, traditional resources and biological endowments. It was also modernizing and diversifying the entire spectrum of its economy, thereby moving away from traditional industries, notably oil and gas, into the innovation-driven sectors based on small and medium size enterprises. It was also in the process of restructuring its informal sector with a view to its modernization especially through access to bank loans and credits and the application of IP-based systems.

212. He said that the role of IP in this and other processes could not be underestimated. Trademarks for instance, when effectively utilized, could serve as a means of popularizing Nigerian brand names in the performance industries, culture and traditional knowledge-based industries, small and medium enterprises, and the modern service sector. IP could also serve as a launching pad for Nigerian companies that wish to engage in exporting their products to other markets and enable them to compete effectively, all adding value to Nigeria's development efforts, including poverty alleviation and creation of employment opportunities. He quoted the Director General of WIPO, when he said that the simplification and harmonization of processes and procedures in trademark applications would enable national companies take advantage of the new opportunities offered by the global application of a uniform IP regime and increase their share of the markets.

213. Trademarks had been used in Nigeria for many years. They were governed by the Trademark Act 436 of 1990. The operation of the trademark law in Nigeria had been smooth and efficient. However, the adoption of the revised treaty would necessitate the updating of its operations, particularly to meet the challenges of the electronic-based procedures. Therefore, the Delegation of Nigeria needed to emphasize the continued importance of technical assistance, training of personnel, upgrading of its national IP infrastructures, and the possibility to pursue existing modes of registration of trademarks.

214. He concluded by calling for the continued assistance of WIPO in providing advocacy and public awareness campaigns on the importance of intellectual property rights and their usefulness as tools of development. Like others, his delegation had come to this Conference with a keen interest to engage in constructive negotiations and hoped that the participants would build upon that to achieve tangible results.

215. Mr. SCHROCK (Germany) said that Germany welcomed the unique opportunity to modernize the Trademark Law Treaty, *inter alia*, with a view to injecting some elements that take into account recent developments such as technological changes.

216. He noted that trademarks and service marks could also be viewed as trust marks. They made goods and services distinguishable from each other as regards their origin. The promise of specific characteristics or a certain quality were enshrined in every mark, not just in luxury labels. Thus, marks contributed to the confidence of consumers in branded goods and services. However, such benefit could only be generated on the basis of a viable legal framework. Due to the territoriality of intellectual property rights, it was in the first place for national law to provide for such a framework. But where goods or services were not just offered in one jurisdiction, but across national borders, an international legal framework appeared to be indispensable. The development of harmonized and internationally agreed procedures was an incremental process and certainly not an end in itself. Harmonized standards facilitated global trade, worldwide investment and technology transfer and thereby also strengthened national economies.

217. He further noted that this conference was entrusted with the task of making a substantial contribution towards that end, and that the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) had elaborated a basic proposal which would hopefully prove to be a solid basis for the work of the Conference. He assured the Conference that the Delegation of Germany was happy to offer its full support in every aspect.

218. Mr. MAHINGILA (United Republic of Tanzania) said that, having witnessed the initial work the African Group, as well as in the plenary and in the two committees of the Conference, he had noted the seriousness and commitment of the delegations to positively and constructively engage in the negotiations, which would eventually lead to the adoption of the revised treaty. His delegation represented one of the least developed countries and he would therefore be happy to see the adopted revised Trademark Law Treaty as having a definite role in the national growth and poverty reduction strategy, and also contributing to his country's efforts to achieve the millennium development goals. It was only then that the revised TLT would have a significant relevance and impact on the people of his country.

219. He noted that, while his delegation assured its full commitment to working constructively to achieve the objectives of the Conference, it sincerely looked forward to seeing the inclusion, preferably in the final treaty itself, of provisions which would assist developing and least developing countries to implement their obligations as would be required by the new treaty. In that regard, his delegation fully associated itself with the statements made by the delegations of Nigeria and Benin, respectively, on behalf of the African group and the LDCs. He wished to take the opportunity to thank WIPO for the technical assistance lent to his country.

220. Mr. JOSEPH HARLLEY (Ghana) said that his delegation wished to associate itself with the sentiments expressed by Nigeria on behalf of the African Group. Ghana considered the work on harmonization of trademark laws to be one of the important steps in the development of international cooperation. The Government of Ghana had declared a golden age of business and identified the private sector as the engine of growth for development. As a result, Ghana recognized the increasing importance of trademarks as identifiers for businesses in connection with the transition of the country to a market economy system. He noted that the Trademarks

Act of Ghana 2004 had introduced substantial provisions that were in accordance with the proposal for a revised TLT. In its quest to attract foreign investors and also encourage SMEs to be competitive, the Ministry of Trade and Industry of Ghana, under the Trade Sector Support Program, had commenced a comprehensive review of all intellectual property laws with a view to modernizing them to reflect the interest of all stakeholders in accordance with international norms.

221. He hoped that under the revised TLT, the difficulties that applicants for trademark registrations sometimes encountered in processing their applications in various countries would be substantially reduced through uniformity of the administrative procedures among Member States. He also hoped that developing countries would receive the necessary assistance and logistic support to implement the treaty.

222. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, said that the African Group expected the treaty to be balanced and pragmatic enough to facilitate the developmental process in all the contexts ascribable to it. In the light of this, he considered that the issues referred to by the President as "horizontal" should be dealt with expeditiously by the Conference, in view of their cross-cutting nature, and the crucial importance that they had in relation to the capacities of some countries to implement the new treaty in an effective and sustainable manner. The horizontal issues were therefore of basic significance to the African Group. They related to its ability to implement the treaty and also to the capacity of the least developed countries to implement and benefit from its provisions. He referred in particular to the administrative, legal and technical competence and capacity.

223. He stressed that the likelihood that technological disparities might inhibit or prevent certain groups of countries from taking full advantage of the provisions of the treaty so as to improve their intellectual property administration, should be an integral part of this treaty making process. Otherwise, there was the risk of having a deformed instrument at birth that may present difficulties to the majority of states to adopt and implement at the national level. In order to forestall such an eventuality, it was necessary that the Conference remain open to suggestions coming from the developing and least developed countries about their fears and concerns, in order to incorporate such concerns into a framework that could be considered organic to the treaty and its regulations. It was important therefore, to appreciate in advance the limitations that would be imposed on the operations of the intellectual property offices of African countries, by the technological requirements of the new treaty, especially at the level of implementation. The transition from a paper-based process to an electronic-based mode would, without doubt, impose severe demands on already over-stretched financial resources and infrastructures of such countries.

224. He considered that African countries should therefore be supported in their efforts to evolve with the changing times and conform to the demands of modern technology and innovation. In as much as they would not wish to draw any countries back, they would also not wish to be left lagging perpetually behind. They needed support to be able to develop their information and communication technologies infrastructures, train sufficient manpower to operate the new technologies and administer legal regimes. He noted that, for example, in the case of the harmonization

of the international trademark law, consideration should be made of the gap between the developed countries and their developing and last developed counterparts. He also noted that his Group would wish to emphasize that conceptually, the on going process was one in the continuing and global search for development. He conceded that some countries were yet to reach an optimal level of development, but were committed to getting where others had reached. In this undertaking, the support and encouragement of parties especially the advanced countries was invaluable. He called on the latter to engage in understanding and reaching a common position on issues of concern to the African countries and to advance this process forward.

225. Mr. MEJÍA GUEVARA (Honduras), speaking on behalf of the group of countries of the GRULAC region, said that the group supported the work plan outlined by the President. It was the perception of the Group that, at the end of this conference, all parties could reach an encouraging and positive outcome, which would take into account all concerns and would reflect a fair balance of achievements to be shared by all countries, including developing countries.

226. He stressed that GRULAC was willing to work with all the stakeholders at the Conference in a spirit of compromise and cooperation. He hoped that the treaty resulting from the negotiations would be a robust revised TLT, whose benefits could be shared by all countries. He considered that, in order to have a revised TLT that could be attractive for current and future members, it was necessary to pay attention to the technical and horizontal issues. He informed that GRULAC was still considering a number of issues of interest that would be raised in due course.

227. Mr. ADDOR (Switzerland), speaking on behalf of the Group B countries, informed that the Group noted with satisfaction the progress made during the first week of work in Main Committees I and II. He highlighted the positive atmosphere that prevailed in the Conference and congratulated the President for the way in which he had guided the work of the first week. He acknowledged the long, sometimes difficult hours involved in conducting the negotiations and expressed his gratitude for the President's commitment. He also praised the Chairs of the Main Committees for their effective management of the meetings.

228. He appreciated the active participation of a large number of delegations in the debate and their constructive approach to the substance of the draft revised TLT. The range of issues raised showed the determination of delegations to grapple with the details and substance of the text and their collective commitment to a successful conclusion of the revised TLT. This collective commitment was also illustrated by the first report of the Credentials Committee which showed that 37 delegations had come with full powers to sign the revised TLT. He anticipated this number to grow during the second week of the Conference. Those credentials gave members the authority to finalize the text of a treaty dealing with detailed procedures in relation to the acquisition and maintenance of trademarks.

229. He believed that the new instrument would offer trademark offices and businesses -large and small and wherever located – important advantages in terms of a known set of procedures for the registration of trademarks. The draft proposal largely empowered each trademark office to choose the means of putting into effect the terms

of the Treaty. In particular, the draft Treaty did not impose on any trademark office the obligation to accept electronic filing: any office would remain free to retain a paper-based system. The draft treaty should not lead to added complexities or costs to the system of a signatory state. Quite to the contrary, the treaty should make procedures less expensive and easier for both users of the system and trademark offices. Nor, for example, did the draft revised TLT impose obligations on signatory states to protect new kinds of signs. Some offices would prefer to restrict registration to the more traditional trademarks. Here as in many other respects, the treaty would give signatory states the flexibility they needed. Group B countries were willing to consider any proposal that would put this beyond doubt and would safeguarded the flexibilities that the treaty offered to signatory states.

230. In conclusion, he said that the countries of Group B had no doubts that the revised treaty would bring significant and long term benefits to each signatory state. Nevertheless, he acknowledged that accession to the terms of the treaty as finally adopted at the Conference might require a signatory state to adjust its national law and practice for the new standards. Therefore Group B countries were also willing to constructively engage in discussion of any concrete proposal with regard to the implementation of the revised TLT into the national laws and practice of a signatory state.

231. Mr. TOPIĆ (Croatia), speaking on behalf of the group of Central European and Baltic States, said that the group was very pleased and encouraged with the pace and developments achieved at the Conference. The Group was confident that under the President's guidance and with the dedicated work of the Chairmen of the Committees and the Secretariat, members would be able to achieve the objective of the Conference, so clearly set out in the President's introductory remarks. He also highlighted the atmosphere of constructive and efficient cooperation shown by all participating delegations.

232. He noted that the objective of the Conference being the adoption of the Revised TLT and its Regulations, many members of the Group had come to Singapore with full powers to sign the treaty and were looking forward to make good use of those powers. He also noted that the Group was aware of the ongoing informal consultations on certain issues that the President had termed as "horizontal" but, since no formal proposals had been tabled yet, the Group had not adopted a common position on that matter. Nevertheless, he gave assurances of the full support of his Group and his readiness to approach the discussions in the scope of the Group's mandate in an active and positive manner.

233. Mr. BOLDVIK (Norway) recalled that the driving force behind the Conference had been the recognition of a need for a harmonized, efficient and user-friendly system of national and regional trademark procedures and formalities. He stressed that, in the modern global economy, trademarks had proven to be of utmost importance to future development and economic growth throughout the world. By laying the foundation for a simplified and unified system, a new treaty would play a fundamental role in strengthening the trademark system as a whole.

234. He pointed out that, in order for the Basic Proposal to be a success, the Conference had to achieve a balance between two central elements. On the one hand, a harmonized system could only be reached through extensive participation during the Conference and comprehensive ratification at the end. On the other hand, the less complex the new Treaty was, the user-friendlier it would be for trademark applicants around the world. He concluded that the challenge posed to the Conference was to counterbalance the desire for perfection with the need for an efficient and practical system. He recalled that considerable time and resources had been invested during the preparatory work. During the weeks lying ahead, it would be of particular importance to keep in mind the principal reason for being in Singapore: namely to adopt a Revised TLT.

235. The delegate said that his Delegation wished to participate in the negotiations in a constructive and positive manner. He pointed out that it was the intention of Norway to join the new Revised TLT when a new Trademark Act to be enacted within the year 2006 entered into force in Norway. He emphasized that the ultimate responsibility for a successful Conference rested firmly on the shoulders of each individual Delegation.

236. Mrs. GOVINDEN (Seychelles) stated that the Seychelles recognized the importance of the proposed revision of the TLT and its crucial influence on the development of trademark law in the Member States of WIPO. She underlined that, at the same time, special attention had to be devoted to the needs of developing countries, such as the Seychelles, and sufficient flexibility had to be offered in order to ensure the successful adoption of a Revised TLT as well as any recommendations, resolutions, agreed statement or final act at the Diplomatic Conference.

237. The delegate underlined that her country would fully collaborate and was ready to improve its infrastructures and national laws to fulfill its international obligations in the field of trademarks and Intellectual Property in general. To achieve the standard required, the Seychelles encouraged WIPO to continue and enhance on its training and technical assistance programs accordingly. She pointed out that her Delegation endorsed the statement made by the Delegation of Nigeria on behalf of the African Group and associated itself with that statement.

238. Mrs. EL TINAY (Sudan) stressed that the discussion and subsequent work for the adoption of the Revised TLT was not an easy task and, in fact, posed a real challenge to all participants whether from developed, developing or least developed countries. Extensive work, perseverance and insightfulness were required with regard to the revised Treaty whose objective was to simplify and facilitate procedures for the filing and registration of trademarks in order to keep up with recent developments in communications technology and electronic filing, in conjunction with filing in paper form. The Revised TLT would introduce a modern definition of trademarks, including new non-visible signs, such as smell marks and sound marks.

239. The delegate pointed out that due consideration should be given to whether the Revised TLT was to enter into force after the expiration of a specified period of time following ratification, as well as whether it would be possible for Contracting Parties to make reservations and, under specific circumstances, refer certain matters to their

respective national legislation. She stated that the digital divide between developed, developing and least-developed countries needed to be taken into account. With the exception of one or two countries, many African countries faced obstacles in their efforts to overcome such difficulties. The scarcity – but not the lack – of financial means and qualified human resources in advanced technology could be an obstacle to the adoption of such systems.

240. The delegate underlined that her Delegation was not against a practical leap in the field of trademark registration, but expected that real and effective assistance be provided. Such assistance should not be limited to the provision of office equipment and internal or external office staff training. She expressed the hope that a wider assistance program would be adopted in order to contribute to the development and implementation of national strategies, as set out by individual offices. To this end, a committee had been established in Sudan with the objective of strengthening intellectual property office branches. Such efforts were to be geared towards enabling offices to face the challenges brought about by technological advances. In this regard, training would be needed for intellectual property office users, including stakeholders and trademark agents, with the objective of improving performance in this field. In her Delegation's view, the enhancement of the capabilities of developing countries in using advanced and modern technology should not simply wipe out all traditional means, such as paper form. She expected that a transitional and progressive process would be adopted so as to avoid any disruption in long-lasting procedures and systems.

241. The delegate said that, in the Office of Sudan, paper copies were still in use. However, work had been initiated for the automation of procedures in the field of trademarks, patents and industrial designs, through the introduction of basic rules as an initial phase. While the Delegation of Sudan welcomed any effort towards the success of the Revised TLT, there was still a concern that office resources were far from being available for the expected leap. Therefore, many countries which still had some concerns with regard to joining the new Treaty could be encouraged by allowing flexible and progressive implementation and taking into account the limited resources of developing countries.

242. Mr. SEIDOV (Azerbaijan) expressed his conviction that the Conference would work effectively and complete its tasks successfully, one of the main reasons being the organization of the Diplomatic Conference under the direct leadership of the WIPO Director General, Dr. Kamil Idris. The Patent Office of Azerbaijan saw Dr. Idris as the embodiment of WIPO's multifaceted assistance and support in matters relating to intellectual property protection. Proof of that was the very recent visit to Baku (Azerbaijan) by Dr. Idris. The result of the meetings he had held in the sphere of intellectual property protection at very different levels was the increased attention, enhanced involvement and special interest shown by State bodies in resolving matters in that area.

243. He noted that the efforts of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, in revising a key international agreement in the field of trademarks, were a regular but essential step on the way to progress, improvement and further harmonization of intellectual property

protection. The reforms designed to improve the existing 1994 TLT were dictated in accordance with the technological requirements of the past decade and were aimed at simplifying trademark registration procedures. A revised Treaty would further simplify administrative procedures for trademark applicants and owners, and would create the conditions for the electronic registration of trademark applications. The proposed revision of the TLT would, in the final analysis, generate a more effective trademark registration procedure at the global level. Azerbaijan subscribed to the unanimous opinion concerning the effectiveness with which WIPO proved once again that intellectual property was a basis for the existence and coexistence of humanity, that no culture was alien to it and that it was inherent in all States.

244. He further noted that Azerbaijan wholeheartedly supported the initiatives designed to expand the range of the Organization's activities. The efforts aimed at developing the intellectual property system for its use as an instrument of economic, social and cultural development of countries were embodied in all WIPO's activities. The Delegation assured the Conference that in future the work of the Patent Office of the Republic of Azerbaijan would be aimed at creating the conditions for the successful implementation of WIPO's programs, and guiding and instructive documents for the improvement of work done in the field of industrial property protection, and as a source of progress in all the spheres of human activity.

245. The PRESIDENT expressed his appreciative for the opening declarations made by the different delegations who had taken the floor.

246. The PRESIDENT adjourned the meeting.

<p><u>Fourth Meeting</u> <u>Wednesday, March 22, 2006</u> <u>Afternoon – 17:00 hrs.</u></p>

247. The PRESIDENT recalled that, at its last meeting, the Plenary had adopted the first report of the Credentials Committee under agenda item 9. He pointed out that, under agenda item 12, the Plenary would consider the second report of the Credentials Committee. Before this second report was presented, he invited the International Bureau to give an interim update on the work of the Credentials Committee.

Interim Update on the Work of the Credentials Committee

248. Mr. KWAKWA (WIPO) drew the attention of the Plenary to an informal information document that had been produced in order to prepare the second meeting of the Credentials Committee. Unless the International Bureau received any

additional instruments, the list reproduced in the information document would serve as a basis for the work of the Credentials Committee. The list showed those delegations that had full powers to sign the Treaty and those that only had credentials to sign the Final Act. He stressed that, in case any delegation was unable to receive its credentials or full powers before Friday, it still would have an opportunity to present its instrument. With regard to those delegations that specifically requested to be moved from the full powers category to the credentials category, he indicated that this request could easily be accommodated because full powers, in any case, included credentials. For those delegations with credentials only, however, the International Bureau would be unable to move them up to the full powers category unless they had an instrument signed by one of the authorities entitled to confer such powers. He recalled that there had also been a few delegations that had raised questions as to whether they had the necessary full powers. In this respect, he pointed out that the International Bureau, when evaluating the instruments presented by delegations, followed the Rules of Procedure as well as the Rules established by the Credentials Committee.

249. He clarified that the reason for being unable to accord full powers to a delegation whose instrument had not been signed by one of the appropriate authorities, lied in the fact that, if that delegation were to sign the final Treaty, the act of signature itself could be subject to challenge. The International Bureau preferred not to have such an incident. He emphasized that the list contained in the present information document was not the final list.

250. The PRESIDENT returned to agenda item 10 (Opening Declarations by Delegations and representatives of Observer Organizations). He recalled that this item had not yet been closed in order to give an opportunity to delegations which so desired to make opening declarations.

Opening Declarations

251. La Sra. MOGIN BARQUÍN (España) dijo que era un honor para su delegación poder asistir a la Conferencia Diplomática de revisión del Tratado de Derecho de Marcas con la que se abría una nueva etapa en el proceso de consolidación de un sistema internacional de marcas más armonizado.

252. Añadió que era una satisfacción comprobar cómo en los últimos años se había dado importantes pasos en la construcción de un sistema internacional de marcas que servía al mismo tiempo a las Oficinas de Propiedad Industrial como a los usuarios, tanto empresas como particulares.

253. La delegada subrayó que la introducción del español al mismo nivel que el inglés y el francés, aprobada por la Asamblea de la Unión de Madrid en 2003, y más tarde la adhesión de la Unión Europea al sistema internacional de marcas, constituían hitos claves que se incardinaban en ese proceso.

254. También dijo que su delegación era consciente de que la propiedad industrial era un instrumento para que los usuarios, principalmente las empresas, tengan un marco jurídico favorable que a la par que otorgara seguridad y protección a sus derechos también fuera lo suficientemente cercano y ágil como para rentabilizar las inversiones en activos de propiedad industrial.

255. Asimismo indicó que el desarrollo económico dependía cada vez más de la innovación tecnológica, de la facilidad de los productos para estar presentes en diferentes mercados y de la comercialización de productos a escala internacional. Solo si facilitaban la constitución de un marco jurídico internacional uniforme de derechos de propiedad industrial que favoreciera la internacionalización de las empresas podrían contribuir al incremento de la inversión y a un mayor dinamismo empresarial que trascendiera los mercados locales.

256. Dijo que España, a través de la Oficina Española de Patentes y Marcas estaba plenamente comprometida en ese proceso. De hecho señaló que la nueva Ley de Marcas española aprobada en 2001 había profundizado en la incorporación de mecanismos legales que agilizaban el procedimiento de concesión de las marcas, introduciendo también medidas que facilitaban la presentación y tramitación electrónica. También subrayó que se habían introducido medidas que facilitaban la defensa y protección de los derechos de los titulares de marcas.

257. En lo que se refería a la introducción de las nuevas tecnologías, recalcó que en el mes de julio del pasado año 2005 se introdujo en España la presentación electrónica de marcas. Desde entonces, cualquier solicitante disponía de la posibilidad de presentar por medios telemáticos su solicitud de marcas beneficiándose de un quince por ciento de descuento en la tasa de presentación. Lo mismo cabía decir de las comunicaciones de parecidos que realizaba la Oficina a particulares afectados, que se sustanciaban por vía electrónica.

258. A su parecer, las modificaciones que se proponían en los documentos de trabajo sobre la propuesta de modificación del Tratado y de su Reglamento iban en la dirección de profundizar desde el punto de vista procedimental no sólo en la mera presentación y tramitación de las solicitudes sino también se dedicaba una atención relevante a las licencias. En este sentido su delegación opinaba que las previsiones propuestas eran positivas y que redundarían favorablemente en beneficio de un mayor dinamismo de los títulos de propiedad industrial marcarios y por ende, de la actividad económica de las empresas.

259. Por todo ello su delegación deseaba hacer constar su plena voluntad de participar activamente en las sesiones de la Conferencia Diplomática con el fin de contribuir a facilitar los debates y trabajos que se mantuvieran en el curso de las sesiones sobre la propuesta de revisión del Tratado de Derecho de Marcas.

260. Indicó que la delegación española no sólo estaría presente en el curso de las reuniones que se mantuvieran en las correspondientes Comisiones Principales y Grupos de trabajo que se constituyeran sino también en el propio Comité de Redacción de la Conferencia.

261. Para concluir dijo que su delegación felicitaba a los integrantes del Comité Permanente de Derecho de Marcas e Indicaciones Geográficas como de la propia Oficina Internacional por los productivos esfuerzos que habían hecho para que hoy pudieran reunirse en Conferencia Diplomática y deseaba que la Conferencia concluyera positivamente sus trabajos.

262. M. MOYOUANA (République Centrafricaine) dit que sa délégation ne saurait être insensible à ce grand événement qu'est la Conférence diplomatique pour l'adoption d'un Traité révisé sur les marques à laquelle sa délégation prend part aujourd'hui à Singapour. Il ajoute qu'il n'est pas inutile de rappeler que la République Centrafricaine appartient au groupe des pays les moins avancés (PMA) et qu'il s'agit d'un pays pauvre très endetté dont le contexte difficile mérite une attention particulière. A cet égard, il indique que la délégation centrafricaine soutient fermement les déclarations liminaires formulées par les Présidents du Groupe africain et des PMA, qui visent à sensibiliser les délégués sur la nécessaire identification de mesures d'accompagnement permettant une mise en œuvre progressive des conclusions des présents travaux. Ces conclusions, il en est certain, contribueront à faire de la propriété intellectuelle, et plus particulièrement des marques, un véritable moteur de développement.

263. Mrs. MOHAU (Lesotho) said that the Delegation of Lesotho wished to endorse the statement made by the Delegations of Nigeria on behalf of the African Group and the Delegation of Benin, on behalf of the Least Developed Countries. She noted that, as the world was getting smaller due to digital technology, the revised TLT came at the opportune time to simplify procedures for the users of the system. She praised the holding of this Conference as timely, necessary and very important. She hoped that it would take on board the different levels of technological development in such a way that even least developed countries would be able to reap the benefits of this most important effort of the international community, to harmonize and simplify the international trademark system. She noted that the small and medium enterprises sector in his country should be in a position to view these efforts as facilitating their endeavors to enter the markets through the use of intellectual property as a power tool for development.

264. She reiterated the call by the African Group that the implementation of the treaty should not burden the LCDs with financial, technical and administrative resources beyond their limits. She expressed his positive conviction that the Conference would come up with a Treaty that was sensitive and cognizant of the different levels of development in the member states of WIPO and said that she looked forward to the successful completion of the Conference.

265. Mr. SISAVAD (Lao People's Democratic Republic) acknowledged the technical cooperation received from WIPO in establishing the basic automation for the registration of trademarks and other intellectual property rights. He recalled that in his opening remarks, the President of the Conference had said that horizontal issues such as capacity building and technical assistance. Therefore, the Lao People's Democratic Republic as other least developed countries called on the President's

leadership to ensure that those horizontal issues would be reflected in the revised TLT. He declared his Delegation's commitment to the further implementation of the treaty.

266. Mr. ACHYUT PRASAD POUDEL (Nepal) said that Nepal was a small Himalayan kingdom situated between China (North) and India (South, East and West). It was a landlocked and least developed country. Nepal, with an area of 147181 square kilometers, had a population of around 26 million. The GDP of Nepal was approximately NRs. 52,9 billion and the contribution of the industrial sector was approximately 10 percent.

267. He explained that, in Nepal, a Patent, Design and Trademark Act had been promulgated in 1937 for the first time. A new Patent, Design and Trademark Act had replaced this Act in 1965. This latter Act had undergone amendments in 1987, 1992 and 2005 to make the enactment more simple, transparent and compatible with the WTO. Similarly, a Copyright Act had been enacted in the year 1965 that was replaced by a new Copyright Act in 2002. Nepal was far behind in intellectual property development because of a lack of awareness and institutional supports. There was no adequate knowledge about intellectual property among entrepreneurs. A majority of them did not know what intellectual property rights were and what kinds of benefits could be acquired from intellectual property. In Nepal, small and medium-sized enterprises, scientists, lawyers and technical manpower had a very limited knowledge and skills in the area of intellectual property. Knowledge and skills on intellectual property could be provided through different sorts of trainings and academic courses. But Nepal had yet to establish academic institutions which ran intellectual property courses and training programs.

268. The delegate pointed out that the importance of intellectual property had gradually been realized among business communities, as there had been a gradual increase in the registration of patents, industrial designs and trademarks in the country. So far, 23,003 trademarks, 65 industrial designs and 58 patents were registered in Nepal. Out of registered trademarks, about 42 percent were of foreign origin while 58 percent were of domestic origin. Similarly, out of 65 registered industrial designs, 21 percent were of domestic origin and 79 percent were of foreign origin. Likewise, out of 58 registered patents, 41 percent were of domestic origin and 59 percent were of foreign origin. He felt that this indicated that the level of awareness on industrial property among business communities was gradually increasing in the country.

269. In the government mechanism of Nepal, there was no separate office for the administration of intellectual property. The Ministry of Industry, Commerce and Supplies was the supervisory body for policy and legal provision issues. The Department of Industries under the Ministry of Industry, Commerce and Supplies was responsible for administering industrial property. At present, the Industrial Property Section of the Department of Industries offered the following services in the field of industrial property administration: screening of applications received for registration with three months pre-registration opposition period; registration of patents, industrial designs and trademarks; production of promotional materials for the dissemination of information on intellectual property; receiving complaints and cases

of infringement and violation of intellectual property; conducting investigation and taking necessary action against infringements and violation of intellectual property rights; organizing intellectual property related meetings, seminars and promotional activities; equal treatment for domestic/foreign entrepreneurs (non-discriminatory treatment). The delegate added that, whereas the Copyright Registrar's Office under the Ministry of Culture, Tourism and Civil Aviation was responsible for copyright administration in the country, the Ministry played the role of an umbrella policy organization.

270. He said that, in Nepal, the majority of industrial and commercial activities were conducted by small and medium-sized enterprises (SMEs) which were a foundation of the economic and industrial development. The development of SMEs and the intellectual property system were highly interdependent. To support the SMEs (as they were large in number and scattered in different parts of the country), the intellectual property administration needed to be improved and developed to meet the challenges of new economic trends and economic practices bringing the majority of intellectual property users of the country within the intellectual property administration. There was an increasing trend of involving the private sector in intellectual property related activities. The Federation of the Nepalese Chamber of Commerce and Industries (FNCCI), an apex body of the business communities in the private sector, had formed a separate brand protection unit under their umbrella to look into intellectual property related matters. Similarly, the lawyer's forums for intellectual property had been formed to advocate the intellectual property concerns in the country. The government of Nepal supported such associations as their efforts aimed to create awareness of intellectual property issues.

271. The delegate added that, in Nepal, educational, research and development activities in the field of intellectual property were supported by the following institutions: Nepal Law Campus, Royal Nepal Academy of Science and Technology (RONAST), Research Center for Applied Science and Technology (RECAST), National Agricultural Research Council (NARC).

272. With regard to enforcement, he underlined that there were some authorities which were responsible for effective enforcement of intellectual property related activities. The Industrial Property Tribunal was working under Department of Industry, whereas the copyright court was a district court. There were appellate courts and district administration offices. Customs and police were also responsible for the enforcement of intellectual property activities according to specific acts or legal provisions.

273. Until now, there was no separate policy on the intellectual property system in the country. It had been felt an urgent need to formulate the national policy, strategies and programs regarding the intellectual property system. Necessary steps had been taken by the concerned authorities regarding IP policy and the IP Office.

274. The delegate recalled that Nepal was a member of WIPO. It was a party to the Paris Convention and the Berne Convention. Nepal was in the process of joining the Madrid Protocol and the Patent Cooperation Treaty. Nepal had become a member of the WTO. As to the commitment of Nepal to the WTO, an Intellectual Property

Protection Act was under consideration for final approval. It was hoped that the new Act would address major intellectual property concerns, such as research and development, the attraction of foreign direct investment and the facilitation of the trading environment in the country. The Department of Industries of Nepal had received technical support and cooperation from WIPO through the WIPO net program aiming at the computerization of intellectual property related files and the provision of trainings to intellectual property officials. The government of Australia would offer support in the field of the TRIPS arrangement under the program AUS aid. The project "Nepal Window II Trade Related Capacity Building Project", a joint project of the government of Nepal and UNDP/WTO, had made arrangements to provide financial support to conduct intellectual property awareness seminars in five major industrialized cities. The Department of Industry had been receiving support and cooperation from WIPO-SIDA (Swedish International Development Cooperation Agency) for the capacity building of intellectual property officials of the Department of Industry. WIPO had conducted specialized trainings for intellectual property examiners on the Nice and Vienna Classifications.

275. The delegate stressed that intellectual property rights should be preserved and protected by each country. For this, there should be a regular flow of information and enforcement measures applied by the respective countries. Being a least-developed country, Nepal had lagged behind in adequate infrastructure, expertise and capability to understand, implement and enforce IP rights. Similarly, it had less access to financial and technical resources that were essential for the development of the intellectual property system. Nepal thus felt the need for financial and technical assistance and cooperation from multilateral, regional and bilateral agencies in general and in the following areas in particular: inclusion of intellectual property related courses in the curriculum of academic institutions; launching of intellectual property awareness campaign in major industrialized cities of the country; creating intellectual property training institutions and organizing training courses and workshops on IP; arrangement of an intellectual property information center and a website and other public outreach; supporting and encouraging to establish intellectual property related associations; formulation of intellectual property policy and a new intellectual property act covering all administrative and enforcement requirements and ensuring conformity with international treaties and practices; preparation of intellectual property manuals and search facilities for the examination of intellectual property filed for registration; adequate number of trained manpower for administration and enforcement of IP rights and obligations; institutional supports for creative and innovative activities.

276. Mr. ENÄJÄRVI (Finland) wished every success to the Conference in view of the growing role of trademarks in international trade. He was particularly satisfied that the Basic Proposal contained the option of filing applications electronically and reflected further forms of electronic filing. In Finland, electronic filing was possible, for example, in the field of patents at the National Board of Patents and Registration of Finland. The success of electronic filing had been growing constantly.

277. Mrs. JUNUS (Indonesia) stated that, as the Conference was proceeding on the negotiations and the adoption of a Revised TLT, as mandated by the 31st session of the WIPO General Assembly in 2005, she wished to share with all delegations that

Indonesia had continuously been following with a keen interest the proceedings of updating the TLT in order to enable the latter to be better suited to the rapid changes in information technology. She emphasized that a number of important developments had taken place in Indonesia in recent years, mainly with regard to efforts made to improve and modernize its intellectual property system.

278. As a consequence of ratifying the TLT in 1997, the trademark law of Indonesia had been further revised in 2001 so as to cope with current needs in streamlining the trademark system, as well as improving the commitments of Indonesia towards the TRIPS Agreement. In particular, the improvement included: the possibility to lodge intellectual property applications (including trademarks) from regional offices so as to ease intellectual property applicants who stayed far from Jakarta in filing their application; the introduction of a geographical indications system (the implementation regulation of which was currently under final preparation); the assignment of intellectual property infringement cases to, at present, five commercial courts scattered in several big cities in Indonesia; the possibility to obtain provisional decisions from the commercial courts; the introduction of arbitration or alternative dispute resolution mechanism. The delegate added that, in January 2001, the Appeal Commission of Trademarks had been established who was working efficiently.

279. She noted that the current level of technological development demanded a credible system of protection. An efficient, effective, and accessible system for protecting intellectual property rights was an indispensable requisite. Like many other countries, specifically developing countries, Indonesia had been modernizing its intellectual property rights processing system in recent years in order to have a better match with the current level and standards of the intellectual property offices in other countries. As of March 2004 Indonesia had begun to process trademark applications by using an information and communication technology system which still had to be further developed. In this regard, the Delegation of Indonesia was of the view that the activities and processes of utilizing information and communication technology constituted an important tool in modernizing intellectual property protection systems and particularly the trademark protection system in Indonesia in order to enable the country to fully comply with the provisions of the TLT.

280. The delegate pointed out that, as a state party to the TLT, Indonesia continued to be of the view that the benefits acquired through the process of revising the Treaty would be overwhelming. The participation in the TLT clearly reflected the continued commitment of Indonesia towards the protection of trademarks. The participation also significantly contributed to the overall economic development programs of Indonesia. As the draft of a Revised Treaty, after a long period of extensive work in the SCT, now entered its final stage, the Delegation of Indonesia appreciated that this process had enabled Member States to complete the drafting of a Revised Treaty with enthusiasm. She reaffirmed the full support for and endorsement of the Basic Proposal by the Delegation of Indonesia. The text had been carefully formulated to accommodate the concerns of most of the Member States of WIPO. The delegate looked forward to working together with the President and all delegations in a spirit of cooperation and mutual understanding for the success of the Conference.

281. La Sra. ADÁN (Argentina) dijo que los representantes de la Delegación de Argentina creían necesario destacar que el nivel de diálogo, trabajo y compromiso alcanzado promovía y colaboraba para generar una síntesis de las perspectivas futuras, las cuales tenían como objetivo último lograr un espacio pleno de equidad y justicia, capaz de salvaguardar la identidad e instituciones de cada país y poniendo atención a las diferencias que aún se encontraban entre los países desarrollados y en vías de serlo. Su delegación felicitó al equipo de trabajo, tanto de la OMPI como del Gobierno de Singapur por la voluntad de gestión y las atenciones dispensadas, poniendo al alcance de los participantes las facilidades necesarias para la labor y fundamentalmente por el carácter de cooperación generado en el encuentro.

282. El Sr. MENDES (Portugal) dijo que el Gobierno portugués había elaborado el año pasado y estaba ahora aplicando un Plan de desarrollo tecnológico y de promoción de la innovación. En ese sentido ello suponía una importante movilización de energías y recursos en su país.

283. Subrayó que ese plan tecnológico preveía también medidas específicas para facilitar la protección y la defensa de los derechos de propiedad industrial.

284. En lo que se refería a las marcas en particular, dijo que se había iniciado un proyecto por el cual los empresarios podían registrar sus marcas valiéndose de un proceso rápido, seguro y eficaz, en el respeto más absoluto de la normativa nacional, comunitaria e internacional.

285. Añadió que el Instituto Nacional de la Propiedad Industrial, que era el órgano central de la propiedad industrial en Portugal, había puesto a disposición de todos los interesados, y por Internet, todas sus bases de datos con información actualizada en tiempo real.

286. Para concluir, dijo que el Presidente podía contar con la actitud constructiva de su delegación para que la conferencia, que el presidía de forma tan ilustre, se viera coronada por el éxito.

287. El Sr. ROCA TAVELLA (Perú) dijo que el Perú apreciaba el esfuerzo de la OMPI en convocar una Conferencia Diplomática para la adopción de un Tratado Revisado sobre el Derecho de Marcas en procura de readecuar los criterios uniformes para los procedimientos seguidos para el registro de marcas en cada uno de los países adheridos o que se adhieran a él. Añadió que el Perú reconocía la enorme importancia que estaba cobrando en la actualidad la búsqueda de normativas armonizadas aplicables internacionalmente en el ámbito de la propiedad intelectual. Su delegación consideraba que esa importancia requería su participación activa pues era la única forma de generar una normativa internacional que recogiera los intereses y opiniones de todos los países.

288. En su opinión esa normativa, particularmente en lo que se refería al tema que los ocupaba en el marco de la Conferencia Diplomática, debía fomentar la adopción de mecanismos que tuvieran como norte la búsqueda de seguridad jurídica y la mayor eficiencia y celeridad posibles en los procedimientos o trámites relacionados con el registro de marcas. En esa línea indicó que estaban convencidos que el desarrollo

tecnológico brindaba importantes herramientas que debían ser aprovechadas por las oficinas de marcas de todos los países en la búsqueda de su objetivo central, es decir la adecuada atención de los usuarios del sistema.

289. En aquel contexto, dijo que el Perú opinaba que no debía perderse de vista otro pilar básico en el proceso de generación de normativa internacionalmente aplicable, el cual era la debida consideración a los distintos estadios del desarrollo relativo de los países y los objetivos de desarrollo. Señaló que la adopción de un tratado suponía la búsqueda de mejoras que favorecieran a aquellos países que se adhieran al mismo y la aceptación de ciertos compromisos, siendo importante que las disposiciones que se adoptaran tomen debidamente en cuenta las condiciones de los países en desarrollo a fin de que aquellas pudieran en la práctica ser implementadas y se lograran los objetivos propuestos. Desde su punto de vista, lograr procedimientos expeditivos y ofrecer seguridad jurídica mediante el registro de marcas era también importante para los intereses de terceros que pudieran verse afectados durante la tramitación de cualquier procedimiento.

290. En ese sentido manifestó su conformidad con las medidas de subsanación en caso de incumplimiento de plazos en la medida que esas medidas se establecieran sobre la base de criterios objetivos como los señalados en la propuesta básica. No obstante, consideraba que los plazos que se incluían en esa disposición debían consistir en plazos razonablemente cortos que permitan celeridad al procedimiento y satisfacción de los usuarios del sistema. Al respecto, precisó que los plazos adoptados por la legislación peruana, es decir 60 días hábiles, les habían permitido cumplir con todas las disposiciones establecidas en sus procedimientos, satisfaciendo las demandas de los usuarios del sistema de marcas peruano dentro de un plazo que consideraban razonablemente expeditivo.

291. En la búsqueda de criterios claros dijo que consideraban necesario definir sin ambigüedades el criterio de “diligencia debida” adoptado en la propuesta básica, a fin de evitar la posibilidad de provocar inseguridad jurídica a terceros, derivada de interpretaciones discrecionales y desiguales por cada una de las oficinas de marcas de sus países. No obstante, recalcó que ese tema no era el único sobre el cual el Perú se encontraba particularmente interesado en poner énfasis. Así, quería referirse a las licencias en el uso de marcas. Indicó que el Perú no desconocía el hecho que el registro de licencias de uso era opcional y no constituía el derecho propiamente dicho. Sin embargo, añadió que estaban convencidos que la publicidad que el registro otorgaba era mucha más garantía para el mercado con respecto a la realización de operaciones privadas sin difusión.

292. El licenciamiento de marcas constituía una forma de expandir el desarrollo de las mismas y muchas veces era la base de alianzas estratégicas de negocios, por lo que el concepto de seguridad jurídica dentro de la cual se debían desenvolver dichas relaciones era de vital importancia. Dentro de ese contexto, contar con y acceder a la información registral completa y confiable, facilitaría la contratación entre las partes debido a que los hechos relevantes al derecho inscrito estarían debidamente adoptados y publicitados lo que a su vez permitiría que la inscripción fuese posible frente a terceros. Desde esa perspectiva, la inscripción de las licencias tenía implicaciones en la realización de transacciones económicas. Asimismo, indicó que el registro de las

licencias permitía el ejercicio de ciertos derechos, especialmente los relacionados a la realización de acciones diversas como la denuncia de infracciones a los derechos de propiedad industrial y la formulación de oposiciones.

293. Dijo que la adopción de ciertos compromisos contenidos en el Tratado suponía la implementación de mecanismos que algunos países – principalmente en vías de desarrollo como el Perú - carecían en la actualidad y cuya incorporación suponía la inversión de recursos escasos. A su parecer esa situación debía ser mitigada incorporándose un período prudencial para que los países que se adhieran a ese tratado, realizaran los esfuerzos necesarios que les permitieran adecuar sus procedimientos y legislaciones a las disposiciones que se adoptaran. En la medida que el Tratado no hacía mención a ese plazo de transición, proponía su incorporación a fin de lograr finalmente la adecuada implementación de las disposiciones que se establecieran. Para concluir dijo que consideraban que esa visión y esas propuestas específicas que formulaba el Perú como fruto del análisis y reconocimiento de las diversas realidades y características que poseían los países comprometidos habrían de contribuir, sobre la base de un espíritu de consenso, a lograr un instrumento normativo de alcance internacional que fortaleciera el trabajo cotidiano de las oficinas de marcas y la satisfacción de los usuarios del sistema.

294. En lo que atañe a puntos específicos del texto de la Propuesta Básica, la Delegación indicó que el apartado c) del Artículo 8 párrafo 3) podía pasar a constituir un párrafo 7) de la siguiente manera: “No obstante lo dispuesto en los párrafos 1, 2, 3, 4, 5 y 6 del presente artículo, una Parte Contratante podrá exigir que se presenten pruebas a su Oficina cuando ésta pueda dudar razonablemente de la autenticidad de las comunicaciones”. Asimismo propuso que en el Artículo 19 se incluyera un párrafo 2)b) que dijera: “No obstante lo previsto en el párrafo 2) una Parte Contratante podrá exigir, conforme a su propia legislación la inscripción de la licencia como condición para gozar del derecho y pueda tener el licenciataria a personarse en cualquier otro procedimiento en que se pretenda hacer valer otros derechos frente a terceros.

295. El Perú consideraba adecuado incluir en el Tratado disposiciones transitorias que permitan aplazar los efectos de ciertas disposiciones a fin de permitir la paulatina aplicación de un sistema multiclase. De no haber disposiciones transitorias para estos efectos, ello podría impedir o atrasar la adhesión de muchos países al Tratado hasta que ellos hubieran mutado de sus sistemas actuales al sistema multiclase.

296. Respecto al Artículo 22 párrafo 2), la Delegación propuso que para toda modificación del Reglamento debían ser necesarios tres cuartos de los votos emitidos por la Conferencia Diplomática. También proponía que en Artículo 23 párrafo 2) se eliminara el apartado ii), dado que la modificación ahí referida debía ser atribución de la Conferencia Diplomática. Finalmente, respecto al Artículo 25 la Delegación propuso que la decisión de convocar a una Conferencia Diplomática para revisar o modificar el Tratado y su Reglamento debía ser sólo prerrogativa de la Asamblea General de la OMPI.

297. Mr. MIAH (Bangladesh) said that Bangladesh sought to improve its intellectual property system. His country was in the process of amending intellectual property legislation in conformity with treaties administered by WIPO and the TRIPS Agreement. The intellectual property offices of Bangladesh would be automated with the help of WIPO and the government. The delegate pointed out that Bangladesh was receiving continuous support from WIPO. He expressed the expectation that WIPO would continue on the path of improvement and development in the interest of the intellectual property system of Bangladesh. The delegate was confident that the Conference would be a success. The Singapore Declaration would be historic. Although Bangladesh was not among the signatory countries of the TLT, it hoped to become a signatory country of the Revised TLT in the very near future.

298. Mr. ANDIMA (Namibia) pointed out that, with regard to the level of development of the intellectual property system, the situation in Namibia did not differ from other African countries. For this reason, the Delegation of Namibia associated itself with the opening declaration presented by the Delegation of Nigeria on behalf of the African Group. He recognized that Namibia was part of a dynamic society and had to conform to the laws governing international trade in order to reap the economic benefits emanating from global arrangements.

299. The delegate stressed that the adoption of a Revised TLT was not problematic for Namibia. The subsequent implementation of the Treaty, however, did pose new challenges to the country. He noted that the Revised TLT was a technology-based treaty in terms of practical implementation. The registering office, trademark owners, holders and agents, as well as consumers had to be prepared for the dynamics that were brought about by the treaty under consideration. Adherence to the treaty would thus depend on compliance of the treaty with domestic legislation in Namibia and the technological advancement required to fulfill the treaty obligations.

300. The delegate expressed the belief that one of the outcomes of the important negotiations at the Conference would be the developmental aspects of the implementation of this treaty in the Member States of WIPO. He anticipated that the treaty would put this obligation to the International Bureau for implementation purposes. The outcome of the WIPO Development Agenda and its implementation would be a catalyst in encouraging Namibia to become a signatory and to adhere to the Revised TLT.

301. Mr. KHANH (Viet Nam) pointed out that Viet Nam had started protection of trademarks for many years, during which the legislation on trademark protection had been continuously improved. The number of trademark applications had been continuously increased. Viet Nam had joined the Madrid Agreement and would accede to the Madrid Protocol shortly. In November 2005, the National Assembly of Viet Nam had passed an intellectual property law containing articles regarding the protection and enforcement of trademarks. That constituted the first intellectual property law in Viet Nam and would enter into force in July 2006. For the time being, the competent agencies of Viet Nam were drafting regulations to implement the law. It was expected that these implementing regulations would be promulgated by the competent authorities by July 2006. As to the drafting of the implementing regulations, the contents of the TLT as well as the Revised TLT provided a good

reference point for the further simplification of trademark registration procedures. With the new legal documents, Viet Nam was confident that the efficiency of trademark protection would be further increased in the near future. The delegate thanked WIPO for valuable assistance extended to Viet Nam. He expressed the hope that his country would enjoy further assistance from WIPO in the future, and wished the Conference great success.

302. M. TCHINGONBE (Tchad) dit que sa délégation souhaite que les objectifs de la conférence connaissent un aboutissement heureux, à savoir l'adoption du traité révisé sur le droit des marques. Il ajoute cependant que sa délégation appuie fermement la déclaration du Groupe des pays africains et des PMA concernant la mise en œuvre du traité. Ils souhaiteraient en effet que les pays développés accompagnent les efforts des pays en développement et des pays les moins avancés en leur apportant une assistance technique dans le domaine des nouvelles technologies en matière de communications.

303. Mr. DIMOGERONTAS (Greece) recalled that Greece had signed the TLT in 1994 and, since 2000, had been a member of the Madrid Union. He said that Greece appreciated the important work that WIPO did in the field of international intellectual property protection, and had devoted attention to the harmonization of trademark law in general. He expressed the belief that the Revised TLT would simplify trademark procedures for the benefit of users and facilitate the communication of the offices of Member States. He informed the Conference that Greece was in the process of amending its national law on trademarks with a view to facilitating the implementation of the Revised TLT and benefiting from its potential advantages in the future.

304. Mr. CRISTOBAL (Philippines) emphasized that the Philippines attached high importance to the success of the Diplomatic Conference. He recognized that there was a need to update the TLT in order to keep pace with changing times. However, as the revision of the TLT would inevitably involve the introduction of advanced methods and practices, it was the hope of the Philippines that the technological limitations faced by developing and least-developed countries would be recognized by providing them with the necessary assistance to comply with the obligations of Contracting Parties under the Revised TLT. He believed that the success of the Revised TLT should not only be measured by the number of signatories it would garner upon adoption of the Final Act. More importantly, he wished to see the Treaty as a living document which would continue to attract and generate interest among countries which were not Contracting Parties and may decide to join at a later date. He stated that the Delegation of the Philippines fully supported the Diplomatic Conference and was ready to cooperate in order to achieve its successful conclusion.

305. M. KOUROUMA (Guinée) dit que sa délégation souhaite assurer le Président de son soutien indéfectible dans la conduite des travaux de la présente assemblée. Il précise également que sa délégation remercie le Gouvernement de Singapour ainsi que l'OMPI pour les efforts fournis dans la mise en œuvre des travaux de la présente Conférence.

306. Mr. ABDUL RAZAB (Malaysia) recalled that it was the aim of the Revised TLT to achieve the simplification and harmonization of trademark procedures, and enhance the user-friendliness of registration systems in Member States. In his view, the Treaty was among the most important instruments in international trade ensuring the smooth flow of trademarked goods and services. He said that Malaysia was looking forward to the conclusion of the Revised TLT. The Delegation of Malaysia was fully committed to this aim and sought to support its attainment. He indicated that Malaysia was hoping to accede to the important new Treaty in the near future.

307. Mr. SIBANDA (ARIPO) recalled that the African Regional Intellectual Property Organization (ARIPO) was an intergovernmental organization charged with the harmonization, promotion and development of Intellectual Property among its Member States. Currently, the following 16 Member States were party to the Lusaka Agreement which established the Organization: Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. He pointed out that the protection of intellectual property rights in the Member States of ARIPO was being enhanced through protocols which established procedures enabling multi-country intellectual property protection through a single application deposited with the central authority or through individual Member States.

308. The delegate said that, in the field of trademarks, a centralized registration system for protection in designated States was provided for under the Banjul Protocol. The Protocol had been adopted by the Administrative Council of ARIPO at its seventeenth session which had been held in Banjul, Gambia. Currently, the following eight Member States had ratified or acceded to the Banjul Protocol: Botswana, Lesotho, Malawi, Namibia, Swaziland, Uganda, Tanzania and Zimbabwe. He stressed that efforts were being made to ensure that all Member States became party to the Banjul Protocol as well as to ensure that the Banjul Protocol became more attractive and user-friendly. Within the African context, mutual recognition of filings of ARIPO and OAPI trademark applications was under consideration. Once accepted, this would facilitate and simplify the implementation of the Revised TLT.

309. The delegate pointed out that the Banjul Protocol had been adopted during the negotiations on the TLT with a view to completing the cycle of harmonization of industrial property by ARIPO and achieving self-sustenance by generating revenue for ARIPO and its Member States. During the eighteenth session of the Administrative Council of ARIPO held in Kampala, Uganda from November 14 to 18, 1994, the Council had strongly recommended that the Secretariat of ARIPO should at a later stage review the Banjul Protocol in the light of the TLT. In accordance with the Council recommendation, the Secretariat of ARIPO had followed closely the developments and deliberations in the SCT in which the TLT had been a topical agenda item.

310. The delegate said that, having followed closely the deliberations in the SCT, which culminated into a revised text for adoption at the present Diplomatic Conference, it was in the interest of ARIPO to ensure that its Member States became signatory to the Revised TLT in order to enable a complementary relationship between the Banjul Protocol and the new international instrument. It was also the vested interest of ARIPO to ensure that its status was elevated so as to afford membership to the Revised TLT in order to enable full participation comparable to the status obtained under the Patent Cooperation Treaty.

311. He announced that the Conference would be called upon to determine the status of ARIPO in the final text of the Treaty. ARIPO had in its possession the credentials necessary to append its signature to the final text. The attendance by ARIPO as a Special Member Delegation was a clear indication of ARIPO's support towards African initiatives aiming at the improvement of the business environment in Africa through a harmonized international legal framework for the protection of trademarks.

312. Mr. GEVERS (ECTA) recalled that the European Communities Trade Mark Association had been specifically set up 25 years ago in view of the Community Trade Mark Regulation and the Community Design Regulation. It presently has more than 1,400 members which are professionals specialized in trademarks and designs, coming from 85 countries and principally from the 25 Member States of the European Union.

313. The representative expressed the gratitude of ECTA for having been accepted by WIPO at a very early stage as a non-governmental organization. In recent years, the Association had met the officials of WIPO on a yearly basis to express the wishes of trademark and design owners and their advisers. These meetings have become even more important since the establishment of the link between the Madrid Protocol and the Community Trade Mark and in view of the future link between the Hague Agreement and the Community Design Regulation.

314. The representative emphasized that ECTA supported WIPO for its continued efforts to ameliorate international legislation on Industrial Property and achieve improved and more harmonized protection. He said that all efforts to harmonize and simplify procedural matters which helped trademark owners and design owners were to be applauded and encouraged. The present Diplomatic Conference was a very good example of the efforts undertaken by WIPO. The Conference, therefore, receives the full support of ECTA which hoped for a successful revision of the TLT.

315. The PRESIDENT indicated his intention to close agenda item 10 because the Conference had already entered the closing phase. He invited delegations who wished to have their position reflected in the records of the Conference to submit their declarations to the International Bureau in writing. He emphasized that, in the following week, when ministers were in Singapore, he would offer the possibility to make statements during the meeting of the Plenary.

316. The PRESIDENT closed agenda item 10.

317. The PRESIDENT stressed with regard to agenda item 11 that the Conference had made good progress. Main Committee II had completed work on Articles 23 to 32. All these Articles had been sent to the Drafting Committee. He thanked Professor Otieno-Odek for his able, wise and efficient chairmanship of Main Committee II. Main Committee I had completed its consideration of all Articles 1 to 22 with the exception of Article 5 relating to the filing date, Article 6 relating to the single registration for goods and services and Article 8 relating to communications. He thanked Mr. Schrock for his able and intensive work as Chairman of Main Committee I. It was his understanding that the Conference was close to an agreement on the outstanding Articles. He underlined the constructive and cooperative approach taken by delegations. The Drafting Committee had been working intensively under the able and efficient Chairmanship of Ms. Road d'Imperio. He expressed his gratitude for her work and the work of the Drafting Committee.

318. As to the horizontal issues, as defined at the first second meeting of the Plenary, the President informed the Plenary of intensive and encouraging informal consultations. He was confident that a solution could be found that was acceptable to all countries, and invited all delegations to build consensus around the proposals and ideas that had been tabled. He emphasized that the adoption of the Treaty by consensus would send a strong signal to the international community that all delegations had been working hard and had been working together in Singapore in order to reach an agreement that all delegations could be proud of.

319. He pointed out that the negotiations at the Conference had entered an important and crucial moment. There was momentum and there was goodwill to work together. He recalled that, next week, several ministers would be coming to Singapore. They were coming in the expectation of signing the Final Act and adopting the Revised TLT. He therefore expressed the hope that the Conference could progress as much as possible.

320. The PRESIDENT adjourned the meeting.

<p><u>Fifth Meeting</u> <u>Friday, March 24, 2006</u> <u>Evening</u></p>
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321. The PRESIDENT informed the Plenary that he had convened the meeting in order to offer information on the various intensive informal consultations that had taken place during this day and the previous day. He pointed out that the Conference had reached a stage where there were only a few outstanding issues. An agreement on

the Treaty and its Regulations was within reach. The Conference was also near an agreement on a separate document containing a Resolution. He expressed the hope that the final solution would be acceptable to all groups and all delegations. The informal consultations had shown a positive, constructive, open-minded and flexible approach taken by delegations. Everyone remained committed to the objective of the Conference, namely the adoption of the Treaty and related documents by consensus. He emphasized that an agreement adopted by consensus would send a very powerful signal to the international community that the Conference worked intensively to find a balanced solution. He thanked all coordinators of the various regional groups and the various delegations and individuals who had offered their advice, help and support in the course of the informal consultations.

322. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, expressed his gratitude for the efforts made by the President and the other regional groups in the course of the informal consultations. He indicated that the African Group would keep engaged in the process of ensuring that the outcome of the Conference would be a fair treaty.

323. The PRESIDENT thanked the Delegation of Nigeria for its encouraging intervention.

324. Mr. ENÄJÄRVI (Finland) pointed out that meetings of the Plenary would require a quorum of at least half of the delegations.

325. The PRESIDENT assured the Delegation of Finland that, when convening meetings of the Plenary, the rules of procedure and, in particular, Rule 19 regarding the quorum, would be observed.

326. The PRESIDENT adjourned the meeting.

<p><u>Sixth Meeting</u> <u>Saturday, March 25, 2006</u> <u>Afternoon</u></p>
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327. The PRESIDENT informed the Plenary that he intended to share the results of the informal consultations with the delegations. He emphasized that he was encouraged by the very positive attitude shown in the course of the consultations and the general commitment to the success of the Diplomatic Conference. All delegations were committed to adopting a good outcome at the end of the Conference. He indicated that the good work progress made at the Conference had led to a set of three documents.

328. Mr. RUBIO (WIPO) explained that, since the Plenary met on Wednesday afternoon, three Conference documents had become available. The first of these documents was document TLT/R/DC/24 entitled “Draft Singapore Treaty on the Law of Trademarks”. This document had been produced by the Drafting Committee, and was ready for consideration by Main Committees I and II. The second document was document TLT/R/DC/25 which had also been produced by the Drafting Committee. It was entitled “Draft Regulations Under the Singapore Treaty on the Law of Trademarks” and was ready for consideration by Main Committee I. He pointed out that a third document had been made available which carried the code number TLT/R/DC/26. The title of this latter document was “Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder”. The document contained a proposal submitted by the regional group coordinators on behalf of the regional groups.

329. The PRESIDENT clarified that it was not his intention to formally introduce or consider any of these documents. The present meeting served exclusively an informatory purpose. He pointed out that the Conference had made considerable progress since the last meeting of the Plenary. He expressed gratitude to all regional group coordinators who had worked very closely in order to construct a good consensus and a good outcome for all delegations at the Conference.

330. With regard to document TLT/R/DC/26, containing a Draft Resolution which had been proposed for adoption by the Diplomatic Conference, he stressed that there was broad agreement on the following points: first, there was agreement among all regional groups on the Draft Resolution, as it appeared in document TLT/R/DC/26. Second, he felt that there was agreement that the Draft Resolution provided the basis for all regional groups to move forward to adopt the outcome of the Conference, which comprised the Treaty, the Regulations, the Draft Resolution and, in addition, the Final Act. Third, he noted that there had been broad agreement that the Draft Resolution was to be tabled jointly by all the regional group coordinators on behalf of the regional groups. All regional group coordinators had been in agreement on this particular way of tabling the document. Fourth, he informed the Plenary that there was agreement that, at the time of formally introducing, considering, and taking action on the Draft Resolution, the regional coordinators would make statements in presenting their joint proposal.

331. He noted that all three documents would first be presented in the Main Committees before being submitted to the Plenary. He believed that the set of three documents – the Treaty, the Regulations and the Draft Resolution – constituted an outcome that was good for all delegations. The documents reflected the various suggestions and proposals made by delegations. Each delegation had a stake in the documents because it had had a role in creating and shaping that outcome. He underlined that about 150 delegations had been working together to establish this joint outcome. They had shown a mentality of give and take and had worked together in a spirit of flexibility.

332. The President recalled that the adoption of the three documents TLT/R/DC/24, 25 and 26 would have important consequences for WIPO as an international organization and for the international cooperation in the field of Intellectual Property.

The outcome reflected in these documents would be different from any previous outcome of a WIPO Diplomatic Conference. It was a path-breaking outcome that had jointly been produced by all delegations, and that was good for developed countries and developing countries alike.

333. The PRESIDENT adjourned the meeting.

<p><u>Seventh Meeting</u> <u>Monday, March 27, 2006</u> <u>Afternoon</u></p>
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334. The PRESIDENT opened the Plenary meeting. He invited the International Bureau to provide information on documentation.

335. Mr. RUBIO (WIPO) said that two documents were submitted for consideration of the Conference meeting in Plenary. These documents had the following codes: TLT/R/DC/28 and TLT/R/DC/29 Prov. The first document was entitled “Draft of the Singapore Treaty on the Law of Trademarks, Draft of the Regulations under the Singapore Treaty on the Law of Trademarks and Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder”. He pointed out that these three drafts were being proposed to the Conference for consideration by Main Committees I and II. The second document that was being proposed for consideration by the Conference meeting in Plenary was document TLT/R/DC/29 Prov. which had the title “Draft Final Act”. He explained that this document had been submitted to the Conference by the Steering Committee.

336. The PRESIDENT pointed out that he had convened the Plenary meeting in order to consider agenda items 11 (Consideration of the text proposed by the Main Committees), 13 (Adoption of the Revised Trademark Law Treaty and the Regulations) and 14 (Adoption of any recommendation, resolution, agreed statement or final act). He proposed that the Plenary should consider agenda item 12 (Consideration of the second report of the Credentials Committee) at the next meeting of the Plenary and not at this meeting.

Consideration of the text proposed by the Main Committees

337. He drew the attention of the Plenary to the report in document TLT/R/DC/28 that had been proposed to the Plenary by Main Committees I and II. The report contained in TLT/R/DC/28 referred to three documents: the Draft of the Singapore

Treaty on the Law of Trademarks, the Draft of the Regulations under the Singapore Treaty on the Law of Trademarks and the Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder. The President invited regional coordinators to make statements on behalf of their regional groups. He proposed that the Plenary should adopt the three documents identified in document TLT/R/DC/28 after the interventions by group coordinators.

338. Mr. FRAEFEL (Switzerland), speaking on behalf of Group B, stated that the Group recognized the extensive work that had been done in order to produce the draft Resolution, as contained in document TLT/R/DC/26. He said that Group B was grateful to all parties for their open and constructive approach that had enabled the Diplomatic Conference to reach this point.

339. He pointed out that Group B recognized that the process of drafting the proposed Resolution had required compromises on all sides. The Group believed that the draft Resolution was a balanced solution. For this reason, the Member States belonging to Group B were prepared to commit their support to document TLT/R/DC/26. He specified that the Members of Group B remained committed to providing technical assistance and appropriate capacity building for the implementation of the Singapore Treaty on the Law of Trademarks.

340. The delegate expressed the belief of Group B that the Resolution formed an integral part of the outcome of the Diplomatic Conference. Group B recognized and underlined the significance and importance that all sides attached to it.

341. He indicated that it was the desire of Group B that as many nations as possible found themselves able to adopt the Treaty. The Group recognized that many developing and least-developed countries would need technical assistance in order to implement the Treaty. He stated that the Resolution gave expression both to that recognition and to the ongoing commitment of Group B to provide technical assistance to help countries do what was necessary to implement the Treaty.

342. The delegate said that Group B had been asked to explain what it believed the status of the Resolution to be. He explained that, under the Vienna Convention, the agreed Resolution formed part of the context in which the Treaty had been adopted and, as such, it required that the Treaty be interpreted in the light of the Resolution. He stressed that the Members of Group B took the commitments in the Resolution seriously. The Resolution supplemented and therefore supported the Treaty and its Regulations. Group B remained committed to technical assistance in the implementation of the Treaty. It was committed both presently and in the future to this goal.

343. The delegate reiterated that Group B believed that the Resolution was an integral part of the outcome of the Diplomatic Conference. Therefore, the Group committed its support to the Resolution.

344. Mr. AYALOGU (Nigeria), speaking on behalf of the Group of African countries, informed the Conference that the members of the African Group had no difficulty in adopting the text of the Resolution as it presently stood. He pointed out that the Group had devoted several hours and days of discussion to the Resolution and saw the possibility of compromise on its adoption.

345. He stressed that the African Group had reached consensus on facilitating the advancement of the negotiation process. The Group had held constructive negotiations with other delegations and regional groups. The delegate specified that the Group had spent long nights in examining the precise meaning of the words, phrases and sentences to situate the different elements in the proper context.

346. He informed the Conference that the African Group held the view that any document adopted in the course of the Conference should be accorded recognition in the final Treaty. This was only logical and in accordance with well-established practice. The African Group noted, for instance, that the draft Regulations under the Singapore Treaty for the Law of Trademarks had been mentioned both in the Rules of Procedure and the agenda of the Conference. More significantly, they were mentioned in the Basic Proposal. The Group also noted that the Rules of Procedure and the agenda of the Conference made reference to the adoption of any recommendation or resolution. He felt that this seemed to indicate that no provision had been made for that being mentioned in the Treaty.

347. The delegate expressed the concern of the African Group with regard to the substance and relevance of the Resolution in the context of the Treaty. It was in the light of this concern that the African Group had supported the proposal to amend Article 31, as originally tabled by the African Group, or any other relevant Article of the Treaty in order to refer to the Resolution. To facilitate the consensus across regional groups, the African Group resolved that not every proposal could be accommodated within the Treaty. It was the view of the Group that the relevance of the Treaty lied in the ability and willingness of Contracting Parties to faithfully and diligently implement the provisions of the Resolution.

348. He stressed that, therefore, the African Group understood that the word “supplementary” in the title of the Resolution meant that the Resolution was an important factor in the interpretation and implementation of the Treaty and its Regulations. This understanding was based on the provisions of Articles 31 and 32 of the Vienna Convention on the Law of Treaties.

349. In supporting the draft Resolution, the African Group furthermore wished to reiterate the linkage between the implementation of the Singapore Treaty on the Law of Trademarks and the provision of adequate technical and other forms of assistance. The Group noted with satisfaction that the statement made by the Delegation of Switzerland on behalf of Group B made it clear that the members of Group B, in application of the Resolution attached to the Treaty, were committed to the provision of technical assistance to developing and least-developed countries especially in the implementation of the Treaty.

350. The delegate clarified that the African Group was of the view that issues concerning the implementation of the Treaty, as reflected in the annexed special Resolution, were manifold. Firstly, the commitment of the developed countries to grant technical assistance needed to be assured. Secondly, the rule that WIPO and the International Bureau played in this process had to be spelled out clearly. They should make adequate budgetary and other resources available to support the effort of developing and least-developed countries in implementing the Treaty. Thirdly, the Assembly of the Singapore Treaty on the Law of Trademarks should provide the permanent policy mechanism for reviewing and monitoring all assistance and support provided either by developed countries or by WIPO. This was a basic principle of the Resolution.

351. The delegate underlined that, to all intent and purposes, the African Group regarded the Resolution supplementary to the Singapore Treaty on the Law of Trademarks as an integral part of the interpretation and implementation of the said Treaty. All this contributed to universalizing the Treaty. He stated that, on the basis of this understanding, the African Group joined in supporting the draft Resolution and the statements by regional coordinators.

352. Mr. TOPIĆ (Croatia), speaking on behalf of the Group of Central European and Baltic States, recalled that the regional Group comprised 15 States, out of which 14 were represented at the Conference. He emphasized that 67 percent of the Member States belonging to the Group of Central European and Baltic States were members of the TLT. The percentage of membership in the Madrid Union was 100 percent. He said that these figures gave evidence of the full involvement of the Group in all developments in the international trademark arena.

353. The delegate added that the percentage of membership of the States belonging to the Group was 100 percent in the case of the Patent Cooperation Treaty, about 95 percent in the case of the Rome Convention, almost 90 percent with regard to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty and so forth. He stressed that these figures, in general, testified to the interest of the Group in the active participation in and adherence to all relevant international instruments in the field of intellectual property.

354. He said that these figures were relevant to the statement concerning the Resolution because they showed that the mere fact that the Group had not submitted any proposal concerning the topics which had wisely been labeled “horizontal issues” by the President, should not in any way be misunderstood to imply the negligence or lack of interest of the Group in all the issues concerned.

355. He emphasized that, to the contrary, the Group had taken part actively and constructively in the consultations to facilitate the harmonization of different proposals and to support the process of reaching a common position that could jointly be submitted. Document TLT/R/DC/26 fulfilled the wish of the Group to express sincere political commitment to cooperate fully with all future Members of the Singapore Treaty on the Law of Trademarks in all respects directly or implicitly related to its implementation.

356. The delegate pointed out that the Group of Central European and Baltic States had delicately reflected the interests of countries which were different in several respects. Nevertheless, it was the unanimous view of the Group that, with the texts of the Treaty, the Regulations and the proposed Resolution, the Conference would make a significant step forward not only in raising standards of international trademark law, but also in the further facilitation of international trade and the improvement of the climate for investments and development.

357. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Group of Central Asian, Caucasus and Eastern European countries, expressed support for the draft Resolution. He pointed out that most of the members of the Group were Contracting Parties to the TLT. At the Diplomatic Conference, five countries from Central Asia, Caucasus and Eastern Europe were present. He emphasized that the negotiations on the draft Resolution to the Treaty had been extremely difficult.

358. He stressed that the different groups had reached a reasonable compromise with the constructive participation of the Group of Central Asian, Caucasus and Eastern European countries. He believed that the Resolution would promote the further development of international cooperation in the protection of trademarks.

359. The delegate recalled the earlier intervention of his Delegation in Main Committee I and reiterated that, in the Russian version of documents TLT/R/DC/24 and 25, there were certain inaccuracies. In particular, he drew the attention of the Plenary to the fact that, in the Russian version, the title of the Resolution needed to be corrected.

360. The PRESIDENT confirmed that the information regarding the inaccuracies in the Russian text had been duly noted and would be corrected.

361. El Sr. MEJÍA GUEVARA (Honduras), hablando en nombre del Grupo de Países de América Latina y el Caribe, dijo que el GRULAC destacaba la importancia del TLT y por tanto apoyaba la negociación del mismo y veía razonable que éste incluyera aspectos de asistencia conforme se preveía en la Resolución que permitiera y facilitara su implementación en los países en desarrollo y en los países menos adelantados. Añadió que el GRULAC auguraba el éxito de la Conferencia Diplomática y que manifestaba su flexibilidad para que la Resolución sobre asuntos horizontales fuese incluida ya sea como preámbulo o bien como parte de cualquier otro documento del Tratado.

362. Mr. REN GANG (China) said that the Delegation of China, as the cosponsor of the draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulation Thereunder, as proposed by the regional groups, sincerely hoped that the various delegations would support this proposal to expedite the adoption of the draft Resolution and pave the way for the adoption of the Singapore Treaty on the Law of Trademarks.

363. He expressed the belief of the Delegation of China that the fair, reasonable and balanced development of the international trademark law system and the corresponding regulatory system was a major task to be fulfilled by the various

nations in order to enhance the standard of trademark protection and to promote economic exchange. He recalled that there was still a great gap between developed and developing countries and, in particular, the least-developed countries in terms of economic development and deployment of information technology. This substantial difference resulted in a corresponding gap between the offices of the various countries in terms of institution building, the level of computerization, as well as trademark management.

364. The delegate expressed the view that such imbalances had already adversely affected the level of international trademark protection, the economic exchanges between countries and the sustainable development of the world economy. He emphasized that, if the gap was allowed to be widened, it would further undermine the world's economic order and its economic development.

365. He believed that delegates from different countries should be well-aware of this situation. In his view, the developing countries should strive to accelerate their economic development, raise the standard of institution-building and management in their respective offices, and actively learn from the developed countries. As to the developed countries, they should give greater financial and technical support to developing countries in terms of legislation, training, institution-building and the deployment of information technology. The delegate said that developing and developed countries should enter into further dialogue and exchange, coordination and consultation. His Delegation believed that history and reality had already proven that dialogue and exchange, coordination and consultation could help to achieve unity and cooperation. He stressed that it was of utmost importance to reach consensus and resolve disputes.

366. The delegate pointed out that the Singapore Treaty on the Law of Trademarks was the result of cooperation and discussions among the Member States of WIPO in the area of trademarks. Equally, the supplementary draft Resolution proposed by the various regional groups was the positive result of thorough negotiations and an intensive exchange of views by the President, the officers of the Conference, the regional coordinators and the various delegations. The Delegation of China greatly appreciated the spirit of unity, cooperation, flexibility and pragmatism demonstrated by the previously-mentioned parties throughout the negotiation process. The delegate expressed gratitude to the President for his outstanding work and extremely exemplary leadership during the whole process. He believed that the successful completion of the Diplomatic Conference and the adoption of the relevant documents would serve as a good example for the enhancement of cooperation and mutual development in the area of trademarks throughout the world.

367. Mr. GHORBANI (Islamic Republic of Iran), speaking on behalf of the Asian Group, stated that the Group supported the adoption of the Singapore Treaty on the Law of Trademarks and its Regulations. With regard to the Resolution, he expressed gratitude to the President for all the efforts he had made from the beginning of the Diplomatic Conference. He said that the President had followed the issues addressed in the Resolution very seriously. His good management as well as his patient and

direct contact with the different regional groups had played a crucial role in shaping the Resolution. He recalled the compressed and hard negotiations which, with the great flexibilities of regional groups, had yielded good results.

368. The delegate pointed out that the Resolution was a compromise text which had the following noteworthy and positive points: the Resolution acknowledged that the Treaty dealt with formality procedures. Accordingly, it was understood that, in developing the Treaty and its Regulations, the harmonization of substantive matters would not be on the agenda of the Assemblies. In developing the Treaty and its Regulations, the optional nature of the Treaty, even as to formality procedures, would be maintained as well. It was recognized in the Resolution that the registration of new types of marks, electronic filing systems and other concerns of developing countries would be dealt with by choosing optional solutions.

369. The delegate stressed that the Resolution reflected further positive aspects. It recognized the level of technological and economic development of Member States in the field of trademarks and the necessity of narrowing the technological and digital gap between developed and developing countries. It was important to exchange and share experiences on different aspects, not only on the implementation of the Treaty, but also on opportunities and benefits in order to take full advantage of the Treaty. He underlined that paragraph 4 of the Resolution reflected the commitment of Member States to provide help with regard to the proper implementation of the agreed principles concerning the implementation of the Treaty in order to take full advantage of the provisions of the Treaty.

370. The delegate recalled that, with regard to the status of the Resolution, a statement had been made by the Delegation of Switzerland on behalf of Group B which the Asian Group considered to be an encouraging one. The Group took this statement seriously. The commitment to the implementation of the Resolution would enhance confidence between Member States. It was a good precedent for future work between Member States and regional groups that would encourage as many Member States as possible to become engaged in the process.

371. The PRESIDENT thanked the Delegation of the Islamic Republic of Iran for its intervention on behalf of the Asian Group. He appealed to the Delegation of Benin, wishing to speak on behalf of the least-developed countries, to make its statement after the adoption of the Treaty, the Regulation and the Resolution. It was his understanding that the statements made on behalf of the regional groups reflected the views, concerns and the understanding of the various groups. He proposed that the Conference should take note of these statements which would be reflected in the official records of the Diplomatic Conference.

Adoption of the Revised Trademark Law Treaty and the Regulations and of any recommendation, resolution, agreed statement or final act

372. The PRESIDENT recalled that, in document TLT/R/DC/28, there were three documents for adoption. The text of the draft of the Singapore Treaty on the Law of Trademarks, the draft of the Regulations under the Singapore Treaty on the Law of

Trademarks and the draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder. The three documents were part of a very delicate balanced package of outcomes of the Diplomatic Conference. It was the understanding of the President that the Resolution formed an integral part of the outcome of the Conference. He recognized that the package of documents may not satisfy everyone. However, it constituted the best possible compromise at the Conference. It was the only middle ground which he could see and the only middle ground that he believed to allow the Conference to complete its work successfully.

373. The President expressed his conviction that the package of three documents was a good outcome and a balanced outcome for all Member States. He recommended to accept and adopt this compromise. He proposed that the Conference should adopt the draft of the Singapore Treaty on the Law of Trademarks, the draft of the Regulations under the Singapore Treaty on the Law of Trademarks, and the draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder, as contained in document TLT/R/DC/28. He asked whether the texts gave rise to any objections. Such not being the case, *he declared the Singapore Treaty on the Law of Trademarks, the Regulations under the Singapore Treaty on the Law of Trademarks and the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder to be adopted by consensus.*

374. The PRESIDENT expressed gratitude for the adoption of the Treaty, the Regulations and the Resolution, as contained in document TLT/R/DC/28. He drew the attention of the Conference to document TLT/R/DC/29 Prov. containing the draft Final Act of the Conference, as submitted to the Conference, meeting in Plenary, by the Steering Committee. He explained that draft Final Act was a standard document and a factual document that was adopted at the end of WIPO Diplomatic Conferences. The text of the present draft was based on the format of previous draft Final Acts, adopted at previous WIPO Diplomatic Conferences. The document was a provisional document because the date of the conclusion of the Conference depended on when the work of the Conference would be completed. He proposed that the Conference should adopt the draft Final Act, as submitted to the Conference by the Steering Committee and reproduced in document TLT/R/DC/29 Prov. He asked whether the draft Final Act gave rise to any objections.

375. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Group of Central Asian, Caucasus and Eastern European countries, wondered whether, in the second paragraph, it would be necessary to refer not only to the Treaty but also to the Regulations.

376. Mr. KWAKWA (WIPO) said that reference was made only to the Treaty, because the Treaty itself incorporated the Regulations. The Regulations were defined in the Treaty as being an integral part of the Treaty. For this reason, there was no separate reference to the Regulations. In the third paragraph, on the other hand, there was a reference to the Resolution reflecting simply the name of the Resolution being adopted by the Conference.

377. Mr. ULLRICH (Austria) wondered whether the numbers of the series of meetings of the General Assembly of WIPO given in document TLT/R/DC/29 Prov. were correct.

378. Mr. KWAKWA (WIPO) confirmed that these series of meetings had indeed been the fortieth series of Meetings in September 2004 and the forty-first series of meetings in September 2005.

379. The PRESIDENT asked again whether the draft Final Act gave rise to any objections. Such not being the case, *he declared the Final Act to be adopted by consensus.*

380. He thanked the Delegation of Benin, wishing to speak on behalf of the least-developed countries, for its indulgence and flexibility. He recognized that the least-developed countries had always been an important part of the Conference, in which they had participated actively. He expressed gratitude for their contribution to the work and success of the Conference.

381. M. AMEHOU (Bénin) dit que les Pays les moins avancés (PMA) sont venus à la présente Conférence avec beaucoup d'espoir et une ferme volonté de voir les négociations aboutir à la signature du Traité et de l'Acte final.

382. Il rappelle que les propositions initiales des PMA soumises à l'appréciation des participants comportaient deux requêtes principales. Il s'agit premièrement de l'inclusion dans le Traité de dispositions leurs conférant une certaine latitude et permettant aux PMA de mettre en œuvre progressivement le Traité en fonction de l'évolution et du renforcement de leurs capacités. Il pense en effet que les participants à la présente conférence sont pleinement conscients de leurs difficultés financières, institutionnelles et dans le domaine des ressources humaines.

383. Par ailleurs, il indique que les PMA ont exprimé le souhait de bénéficier d'une assistance technique afin de mettre efficacement en œuvre le Traité.

384. Il dit que surmontant les réserves qu'ils auraient pu avoir par rapport aux solutions à leurs préoccupations, les PMA, dans un esprit de compromis, acceptent les dispositions contenues dans la résolution qui figure dans le document TLT/R/DC/26 du 25 mars 2006, qui a été présentée par le Nigeria au nom de tous les groupes régionaux. Il conclut en disant qu'ils espèrent que les participants à la conférence, et notamment les parties au Traité, ont reconnu les besoins spécifiques des PMA et prendront en conséquence, les mesures nécessaires pour y faire face.

385. The PRESIDENT thanked the Delegation of Benin, speaking on behalf of the least-developed countries, for its flexibility and understanding. He took note of the statement made by the Delegation of Benin on behalf of the least-developed countries which would also be reflected in the official records of the Diplomatic Conference. The points that the Delegation had made about the participation of least-developed countries were important. In his view, they provided a basis for reflection among the Member States of WIPO. He expressed the hope that this matter was reflected upon and acted upon in Geneva.

386. The PRESIDENT adjourned the meeting.