

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **WIPO GENERAL ASSEMBLY**

### **Twenty-Fourth (14<sup>th</sup> Ordinary) Session Geneva, September 20 to 29, 1999**

#### **REPORT**

*adopted by the General Assembly*

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/34/1 Prov.3): 1, 2, 3, 4, 5, 6, 8, 9, 10, 15, 16, 17, 19, 20, 21, 23, 24, 25, 26, 28 and 29.
2. The report on the said items, with the exception of items 1, 2, 3, 4, 5, 6, 8, 9, 10, 23, 24 and 26, is contained in the General Report (document A/34/16).
3. The report on items 15, 16, 17, 19, 20, 21 and 25 is contained in the present document.
4. Mr. Marino Porzio, Chair of the General Assembly, presided over the meeting of the General Assembly.

## ITEM 15 OF THE CONSOLIDATED AGENDA:

## WIPO INTERNET DOMAIN NAME PROCESS

5. Discussions were based on documents WO/GA/24/1 and WO/GA/24/10.
6. The Delegation of Argentina stated that it had followed the WIPO Internet Domain Name Process with great interest and mentioned that the complex relation that domain names bore to trademarks had been dealt with in the regional consultations organized by WIPO in Buenos Aires. The delegation expressed its congratulations and thanks to the International Bureau for the clear and useful analysis of this subject in the Report that was issued. With respect to the administrative procedure for resolution of disputes concerning domain names, the delegation considered that the proposals contained in the report were reasonable in terms of an international domain name conflict. On the other hand it considered that, if the conflict occurred in a national context, in other words where the parties in dispute were nationals of the same country, those natural persons or legal entities should retain the possibility of choosing to settle the dispute under domestic law or at the national level. The delegation considered that particular attention should be paid to matters on which questions were still outstanding, such as who the arbitrators of such disputes should be, how they should be chosen, and what consequences would follow if an arbitrator were unfamiliar with local law or culture, or were familiar with trademark law but not the circumstances involving Internet domain names; as well as in what language the arbitration procedures should be conducted. The delegation expressed reservations about the proposed system of exclusions for well-known marks, recommended by the International Bureau, considering that the introduction of a procedure for granting exclusions might be a reaction to pressure, as the subject needed to be studied further. The delegation recommended that, concerning issues such as application of laws, the International Bureau exchange information with the Hague Conference on Private International Law. In this respect, the delegation commended the WIPO Questionnaire on the Internet use of trademarks as being of particular use. Finally, the delegation underscored the role of country-code Top Level Domains (ccTLDs) and suggested that governments and private educational organizations should be encouraged to utilize the registration facilities offered by ccTLDs.
7. The Delegation of Egypt expressed its deep satisfaction with the work done by the International Bureau to address the concerns of Internet users, in particular with respect to the problem of cybersquatting. The delegation noted that strict rules were necessary to protect trademarks on the Internet. The delegation also commended the work of the high-level Committee that had been established in Egypt to study the issue of trademark abuse in electronic commerce. The delegation expressed its support for the WIPO Internet Domain Name Process as a positive development, and its desire that the recommendations in the Final Report of the WIPO Process should be followed. In particular, the delegation expressed its support for a system of exclusions for well known marks, while noting that some countries only protected registered trademarks, and that consideration also needed to be given to the protection of generic names. Finally, the delegation stated that uniform procedures of dispute resolution were particularly important in light of the current situation involving trademarks and domain names on the Internet.
8. The Delegation of the United States of America commended the detailed analysis of comments undertaken by the International Bureau in putting forward its recommendations in the Final Report, and expressed its hope that the Internet Corporation for Assigned Names

and Numbers (ICANN) would adopt an effective dispute resolution process as a result of WIPO's work.

9. The Delegation of France congratulated the International Bureau on its consultation process and welcomed the dynamic approach that was taken in the WIPO Internet Domain Name Process. The delegation expressed its support for the on-line dispute resolution procedures developed by the International Bureau and noted that the International Bureau should take steps to ensure that the rules of dispute resolution recommended in the Final Report are implemented. The delegation also noted the benefit of obtaining a list of precedents arising from on-line dispute resolution proceedings and, in particular, the outcomes of disputes settled amicably between parties. The delegation observed that States must be fully involved in the development of rules in this area, while recognizing that the private sector should also be allowed to participate in solutions to these issues. The delegation also recognized that it is difficult to arrive at treaties and other such instruments to address the problems arising in this field as it is a subject that is evolving rapidly. After emphasizing the role that must be played by States, the delegation proposed that the recommendations made by the International Bureau in the Final Report of the WIPO Internet Domain Name Process be approved by the Member States.

10. The Delegation of Canada commended the International Bureau for the quality of its work in the Final Report of the WIPO Internet Domain Name Process and expressed its desire that further work by the International Bureau be undertaken in this area.

11. The Delegation of Australia congratulated the International Bureau on its work in the WIPO Internet Domain Name Process and commended, in particular, the speed with which the Process was conducted as a demonstration of the Organization's capability to respond to such important issues in a timely manner.

12. The Chair noted the support expressed by the delegations for the WIPO Internet Domain Name Process and, in particular, for the expeditious approach that was taken to address the issues, as well as the desire of delegations that the International Bureau continue its work in this area.

13. The General Assembly noted, with satisfaction, the contents of documents WO/GA/24/1 and WO/GA/24/10.

#### ITEM 16 OF THE CONSOLIDATED AGENDA:

##### ELECTRONIC COMMERCE

14. Discussions were based on documents WO/GA/24/2 and WO/GA/24/11 Rev.

15. The Delegation of Indonesia, on behalf of the Asian Group, expressed its approval of the content of the documents prepared for this Agenda Item and proposed that the following additional paragraph, *8bis*, be added to the WIPO Digital Agenda as set out in the Annex to document WO/GA/24/11 Rev.:

Study any other emerging intellectual property issues related to electronic commerce and, where appropriate, develop norms in relation to such issues.

The delegation explained that the rationale for its proposal was to ensure that WIPO had the mandate to study any emerging issue in the field of electronic commerce.

16. The Delegation of Cuba expressed its gratitude to the International Bureau for the quality of its work in the field of electronic commerce. The delegation conveyed, in particular, its congratulations on the success of the International Conference on Electronic Commerce and Intellectual Property that was held in Geneva on September 14 to 16, 1999 (the "International Conference"), and for the high level of participation in this Conference. The delegation also noted its support for the work program put forward in the WIPO Digital Agenda in document WO/GA/24/11 Rev.

17. The Delegation of Japan welcomed the International Bureau's initiative in the field of electronic commerce and expressed its hope that these efforts would continue in order to deal promptly and appropriately with the relevant issues. The delegation expressed its desire that the International Bureau provide clear discussion points for each of the elements in the WIPO Digital Agenda, as well as an appropriate forum for their discussion, and propose specific timeframes within which each initiative would be undertaken. The delegation indicated that it would, consistent with initiatives taken at the national level, continue to contribute to and support the WIPO Digital Agenda, as set forth in the two documents prepared for this Agenda Item.

18. The Delegation of Egypt welcomed the instructive and well-prepared documents of the International Bureau and noted that the proposals they contain deserved serious consideration. The delegation commended the work of the International Bureau for the success of the International Conference and expressed its support for the International Bureau's continued role in assisting developing countries to keep pace with developments in electronic commerce. The delegation raised its concern that developing countries needed time in which to understand the nature of the changes taking place, and, in this connection, noted a number of points of particular concern. The delegation stated that the subject of electronic commerce has become an important topic, as demonstrated by the Declaration on Global Electronic Commerce adopted by Ministers at the second session of the Ministerial Conference of the World Trade Organization (WTO) in 1998. The delegation stated further that the subject of electronic commerce was not limited to commercial activities, but related to other important non-commercial issues, and that WIPO should therefore cooperate with, and benefit from the contributions of, other organizations such as the United Nations Commission on Trade and Development (UNCTAD), the International Telecommunications Union (ITU) and WTO. The delegation explained that electronic commerce was a topic with many dimensions and stressed that there was a continuing need to evaluate the impact of electronic commerce on economic development and to ensure that all countries, and developing countries in particular, could realize the benefits of electronic commerce. The delegation indicated that it would welcome a study of the impact of electronic commerce on intellectual property in the developing countries and on ways to meet the challenges it brought about. The delegation emphasized that the rights of developing countries should be addressed, so that they may keep pace with developments in electronic commerce, noting in particular the need for modernization of telecommunications infrastructure, highlighted by the fact that an estimated two billion persons in the world had never yet used a telephone. In this respect, the delegation projected, based on statistical studies, that US \$50 billion was required to upgrade telecommunications networks in Africa to a standard equivalent to that in other parts of the world. The delegation called upon developed countries, who benefit most from electronic commerce, to recognize the needs of developing countries in this respect and to provide technical assistance to enable them to bridge the gap of technological development. The

delegation noted recent advances made at the national level, including a commission established by the President of Egypt and a forum established in Cairo to study all aspects of the issues in this field. Finally, the delegation welcomed WIPO's efforts in the field of Internet domain names, and expressed its support for the WIPO Arbitration and Mediation Center's development of an on-line system for resolution of disputes using the Internet.

19. The Delegation of Argentina expressed its satisfaction with the work of WIPO in the field of electronic commerce, and commended the regional consultation organized by the International Bureau in Buenos Aires in August 1999 as having been extremely useful in generating interest and awareness of the issues within Argentina and in the region. The delegation stated that electronic commerce was a dynamic field which would necessitate continuous effort on the part of WIPO in the field of awareness, training and research, particularly in developing countries. The delegation described the framework of its national activities in this field, noting that its Congress had recently, in Law 25.140, approved the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), and indicating that it would shortly be ratifying these treaties. The delegation emphasized that these treaties were of key importance for achieving progress in electronic commerce, as only broad-based multilateral action, as reflected in the WCT and WPPT, could be effective in establishing a sound legal framework for the promotion of electronic commerce. The delegation also noted that an interagency working group had been established at the national level and had drawn up recommendations to be implemented by the various agencies of the national administration with a view to promoting and developing electronic commerce. The delegation congratulated the International Bureau on the successful organization of the International Conference, while considering that the Conference should have reflected the point of view of developing countries more strongly. Finally, the delegation expressed its gratitude and support for the WIPO Digital Agenda, document WO/GA/24/11 Rev., which would be of great interest to Argentina's relevant national authorities.

20. The Delegation of Bulgaria congratulated the International Bureau for convening the International Conference, and expressed its strong support for the WIPO Digital Agenda proposed by the Director General. The delegation noted that this document demonstrated that WIPO was prepared to play an important role in the field of electronic commerce and in meeting the needs of the international society in this area.

21. The Delegation of Canada expressed its support for WIPO's program on electronic commerce for the coming biennium, and wished to acknowledge the importance of clear and fair intellectual property rules in ensuring viable development of electronic commerce. The delegation encouraged the International Bureau to give consideration to the implications of global electronic commerce on issues of jurisdiction and choice of law, in collaboration with other international organizations such as the WTO.

22. The Delegation of India wished to record its support for the WIPO Digital Agenda, and welcomed, in particular, the goal of broadening the participation of developing countries in the development of policies concerning electronic commerce. The delegation indicated that, at the national level, it was examining through a consultative process what adjustments may be necessary for the adoption of the WCT and WPPT. With regard to extending the protections of the WPPT to audiovisual performances, the delegation indicated that India had moved a step forward by formulating draft treaty language in May 1999 that sought to balance the relevant rights of producers and performers. Concerning the rights of broadcasting organizations and the protection of databases, the delegation explained that the national and

regional consultations would need to be given more time, and it welcomed the involvement of WIPO in this work.

23. The Delegation of Chile expressed its support and confidence in the quality of the work undertaken by WIPO in the field of electronic commerce, emphasizing that WIPO has become a leader in the area. The delegation thanked the International Bureau for the information conveyed in the two documents prepared for this Agenda Item, indicating that they would receive great attention and would be useful tools for analyzing the issues. The delegation wholeheartedly endorsed the documents, particularly the WIPO Digital Agenda.

24. The Delegation of the United States of America congratulated the Director General and the International Bureau on the success of the International Conference, and expressed its support for the International Bureau's contributions to discussions on this subject, as evidenced by the participation of the United States Secretary of Commerce, the Honorable William M. Daley, in the International Conference. The delegation indicated it would accept the invitation, expressed in document WO/GA/24/11 Rev., to note and comment on the contents of the WIPO Digital Agenda, and stated that this document would serve as a springboard for discussions at the national level among the public and private sectors. The delegation also offered its congratulations to the International Bureau for the highly demanding effort of moving rapidly from the work of the WIPO Internet Domain Name Process to organizing the International Conference.

25. The Delegation of Italy congratulated the International Bureau on the WIPO Digital Agenda and on the initiative in convening the International Conference, noting that it constituted an important milestone in addressing the issues concerning electronic commerce and intellectual property. The delegation expressed its support for WIPO's actions in this area, and noted that the results of a coordination meeting on these issues, to be held shortly in Rome, would be reported to the International Bureau.

26. The Delegation of Uganda, speaking on behalf of the African Group, commended the International Bureau on the excellent quality of the two documents presented in support of Agenda Item 16. The delegation reiterated its comments in relation to Agenda Item 6, as to the importance of information technology and electronic commerce for globalization, and the ability of the Internet to bring together distant parts of the world in a global electronic market place and to facilitate information exchange for far-reaching and potentially beneficial impact on both developing and industrialized economies. The delegation noted that developing and least developed countries wanted to be active participants in the global electronic network, but lacked the infrastructure and the trained human resources to enable them to do so. In order to be beneficiaries of the new technologies, these countries needed to understand, assess, assimilate and use the new technologies to their advantage, while protecting their interests. The delegation commended the International Conference as being a timely, educational and useful initiative, while noting that the lack of greater participation by developing and least developed countries was regrettable. The delegation urged the International Bureau to take steps to facilitate this participation in the future. The delegation commended the Director General on the WIPO Digital Agenda, stating that the initiative clearly illustrated the Director General's vision of the important role that WIPO had to play in the field. The delegation indicated that the growth of electronic commerce was directly linked to the growing importance of intellectual property, and the Director General had, in a concise, transparent and practical manner, illustrated the way forward. The African Group expressed its support for the Program and Budget for the next biennium and its hope that the programs outlined, in particular with respect to Main Programs 10 (Development of Copyright and Related Rights)

and 12 (Information Technology and Intellectual Property Information Service), would assist developing countries to become active in the digital era and to overcome the related challenges. The delegation noted that WIPO should continue to play a vital role in the process of enhancing all countries' participation in electronic commerce, and in this respect encouraged cooperation with other relevant international organizations such as ITU, UNCTAD, UNDP and WTO. Finally, the delegation reiterated its support for the Program and Budget and the WIPO Digital Agenda, particularly for the positive contribution to be made in enhancing developing and least developed countries participation in the electronic age.

27. The Delegation of Tunisia expressed its support for the statement by the delegation of Uganda and commended in particular the activities of the International Bureau to promote awareness of the effects of electronic commerce on intellectual property, and to enable equal access to the benefits offered for developing countries. The delegation expressed its support for the two documents prepared for Agenda Item 16.

28. The Delegation of Bangladesh congratulated the International Bureau on the two documents in support of Agenda Item 16, and expressed its support for new Article 8*bis* in the WIPO Digital Agenda proposed by the delegation of Indonesia on behalf of the Asian Group. The delegation observed that electronic commerce had dramatically changed global trade, for example by reducing transaction costs, and noted that its development might in the future overtake the traditional industrial economy. The delegation stated that wealth distribution was affected by the development of knowledge-based electronic commerce and expressed its support for research by the International Bureau on this subject. The delegation expressed its concern that the developing countries' limited access to information technology, underdeveloped telecommunications infrastructure and legal systems, and lack of human resource development, posed impediments which, if not addressed, could lead to marginalization. The delegation noted the important issues of right of communication and right of adaptation and the changing role of intermediaries in electronic commerce, while indicating that WIPO was an appropriate forum in which to address these issues. The delegation welcomed the work of the International Bureau in norm setting in the field of electronic commerce and commended the initiatives outlined in the Program and Budget for the next biennium. The delegation expressed its support for continued regional consultations, to generate awareness and capacity building in electronic commerce, especially in least developed countries. The delegation congratulated the International Bureau for its organization of the International Conference, and expressed its hope that similar conferences might be organized to address the particular needs of developing and least developed countries. The delegation stated that the WIPO Digital Agenda could usefully address issues that may be tangential to intellectual property, such as cost reduction in services for disadvantaged users, and other measures to enhance access and the capacity of least developed countries, noting that such initiatives could take place in collaboration with other international organizations. In concluding, the delegation expressed its strong support for the WIPO Digital Agenda and congratulated the Director General for addressing the broadening participation of developing countries in electronic commerce as the very first item on that agenda.

29. The Delegation of Sweden expressed its great appreciation to the International Bureau for convening the timely International Conference and for the efficient way in which it was organized. The delegation welcomed the two documents in support of Agenda Item 16, noting that electronic commerce was becoming a predominant factor in global trade and that, as the intellectual property component in such transactions was increasing, the International

Bureau should focus its programs in this area. The delegation generally endorsed the WIPO Digital Agenda, noting that the broadening of participation by developing countries raised in Item 1 of the Agenda was an important issue that deserved continuing attention. The delegation supported the development of a legal framework, addressed in Item 3 of the Agenda, and indicated that the International Bureau should act as an observatory for issues in this area. The delegation also highlighted the promotion of an institutional framework for the development of electronic commerce, set forth in Item 6 of the Agenda, and expressed its interest in the possible use of the WIPONET for electronic commerce purposes, especially since it was proposed that such use occur only where desired by users of such systems.

30. The Delegation of Ireland welcomed the work already achieved by WIPO concerning electronic commerce, and expressed its support for continued momentum in the research and consultations, in particular, as evidenced by the International Conference and WIPO Internet Domain Name Process. The delegation commended the International Bureau on the clarity and quality of the two documents in support of Agenda Item 16, and endorsed its continuing work on electronic commerce. The delegation commented on the proposal of the delegation of Indonesia for the addition of Article 8*bis*, stating that the study of emerging issues of electronic commerce was already envisaged in the Program and Budget, for example, in the work of the Standing Committee on Trademarks concerning the use of trademarks on the Internet.

31. The Delegation of Jamaica expressed its enthusiastic support for the work of WIPO concerning electronic commerce and acknowledged the accomplishments in this area since the endorsement of the work program by the Member States at their Assemblies in September 1998. The delegation stated that, while not supporting over-regulation of electronic commerce, it was appropriate to address intellectual property and to develop clear rules to promote electronic commerce on the Internet. The delegation congratulated the International Bureau for the successful regional consultation in June 1999 in Jamaica, and also for the organization of the International Conference, in which the Caribbean countries were fully involved. The delegation indicated its strong support for the WIPO Digital Agenda and, in particular, the role of the WIPONET to ensure appropriate follow through, noting that it demonstrates the commitment of WIPO to move ahead. Emphasizing that electronic commerce offers great potential and opportunities for small island states to engage in the marketing and sales of goods and services, the delegation concluded by reiterating its support for the proposed WIPO electronic commerce program.

32. The Delegation of Switzerland congratulated WIPO for its work concerning electronic commerce and Internet domain names. The delegation expressed its full support and intention to actively participate in the International Bureau's activities in this field. The delegation conveyed the support of the Swiss Federal Institute of Intellectual Property for WIPO's pioneering role, and noted that the Institute had just a few months before inaugurated on-line transmission of applications under the Madrid System.

33. The Delegation of Panama congratulated the Director General on the useful proposals in the WIPO Digital Agenda for the upcoming biennium. The delegation expressed gratitude for the WIPO regional consultations on electronic commerce and intellectual property, and indicated, in addition, that the International Conference served to highlight the challenges faced by all Member States in this field. The delegation stated that WIPO had a key role to play regarding these issues and its contribution would be vital to ensuring that developing countries are not marginalized by the developments and that economic inequalities do not

result. The delegation also noted that Panama had recently in March of this year ratified the WCT and WPPT.

34. The Delegation of Brazil indicated its satisfaction with the recent initiatives of WIPO in the area of electronic commerce. The delegation offered its congratulations for the regional consultation in Buenos Aires and, in particular, for the International Conference, noting the attendance of numerous representatives of government and the private sector from both developed and developing countries demonstrated the importance of the topic. The delegation noted the key role played by WIPO in developing understanding of electronic commerce issues and their effect on intellectual property, and emphasized that this discussion was of particular importance for developing countries. The delegation expressed its full support for WIPO's continued activities in this area.

35. The Delegation of the Republic of Moldova endorsed the two documents in support of Agenda Item 16 and commended the effective measures by WIPO in the field of electronic commerce. The delegation noted the importance of keeping pace with the developments, and in this regard, suggested that a future plan of action should focus on three areas, in particular, providing assistance to developing countries in order to facilitate the reduction of technological barriers to participation; forecasting technological developments as they apply to intellectual property; and in continuing to monitor this process of development so as to minimize any negative effects.

36. The Delegation of Kenya expressed its support of the comments made by the delegation of Uganda on behalf of the African Group, and the views of the delegation of Egypt concerning the needs of developing countries in respect of electronic commerce. The delegation of Kenya stated that electronic commerce is a new area for developing countries and expressed its appreciation for the efforts of WIPO to assist countries in understanding the potential as well as the challenges. The delegation indicated that the WIPO regional consultation on electronic commerce held in Mombasa in July 1999 was exceedingly successful and was attended by representatives of 21 African countries. The delegation noted that the WIPO Digital Agenda, and the biennium budget, should reflect the need for capacity building in developing countries to facilitate participation in electronic commerce, including modernization of telecommunications infrastructure and development of human resources. The delegation commended WIPO on its foresight and initiative concerning electronic commerce issues, and expressed its support for this continued role in shaping developments in electronic commerce worldwide.

37. The Delegation of Lithuania, on behalf of Central European and Baltic States Group, welcomed WIPO's work in the field of electronic commerce. The delegation commended, in particular, the creation of the electronic commerce website (<http://ecommerce.wipo.int>), which had already proven to be a valuable information tool for interested parties. The delegation also acknowledged the importance and productiveness of the International Conference.

38. The Delegation of El Salvador congratulated the International Bureau for the efforts undertaken in the field of electronic commerce, in particular, the convening of the International Conference. The delegation stated that electronic commerce was a new area that required the involvement of WIPO to ensure that developing countries may participate and are not marginalized by the developments. The delegation expressed its support for the WIPO Digital Agenda and encouraged continued activities in this area.

39. The Delegation of France expressed its support for the nine-point action plan presented in the WIPO Digital Agenda. The delegation stated that at the International Conference, the Minister for Culture and Communication of France, the Honorable Catherine Trautmann, had stressed the fact that WIPO had proven its efficiency at the international level in the field of electronic commerce, for example by its ability to take a leadership role in standard-setting work in the WCT and WPPT. The delegation expressed its view that intellectual property issues should be addressed before the WTO only in so far as they related to trade aspects, and, on the other hand, that WIPO should be involved in the work of the WTO and other relevant bodies addressing intellectual property issues. With respect to the WIPO Digital Agenda, the delegation noted that detailed consideration was being given to these issues in France and in the European region, in particular in the context of France's plan for a digital society and in proposed Internet legislation, as well as in the European Union draft Directive on Electronic Commerce. The delegation expressed its concern to see that negotiations continue at WIPO on the issues of protection of audiovisual performances and the rights of broadcasting organizations, and noted that the strong *sui generis* protection granted to databases in the European Union Directive should also be further studied at WIPO. The delegation welcomed the work of the International Bureau on Internet domain names and indicated that WIPO should continue to be involved in implementing the recommendations of the WIPO Internet Domain Name Process. The delegation expressed its concern that work on electronic commerce should not focus solely on market issues, but should address the dissemination of information and questions of access by developing countries. The delegation suggested that a possible future treaty regulating the liability of online service providers should be considered, and expressed the view that WIPO should also enter into consultation with other relevant organizations regarding the issues of jurisdiction and applicable law in order to be better able to fight intellectual property piracy. The delegation also indicated it would support an initiative for the certification of web sites. The delegation encouraged the International Bureau to make considerable efforts to foster participation and consensus among stakeholders, including companies and owners of copyright and related rights as well as developing countries. Noting the importance of such consensus in particular in the area of database protection, the delegation indicated its hopes for transparency in the process of competitive bidding for intellectual property databases so as to prevent the establishment of *de facto* standards.

40. The Delegation of the United Kingdom expressed its satisfaction with the WIPO Digital Agenda and commended the International Bureau for the concise and meaningful summary of its current and future program on electronic commerce. The delegation congratulated the International Bureau for the International Conference, stating that it was an important event for bringing together different interested parties to examine the complex relationship of electronic commerce and intellectual property, the opportunities offered by electronic commerce to holders of intellectual property, as well as the threats it may pose. In addition, the International Conference illustrated the extent of the International Bureau's awareness and leading role in the field of electronic commerce. With respect to the WIPO Digital Agenda, the delegation suggested that a drafting amendment be made to sub-point three of paragraph three ("the review of the need for the conclusion of an international instrument on the protection of databases"), in order to achieve harmonization with the wording on this subject in sub-program 10.2, and proposed that the new sub-point three read as follows:

"- progress towards a possible international instrument on the protection of databases"

41. The Delegation of Portugal expressed its gratitude to the International Bureau for the work already undertaken to ensure the protection of intellectual property in the context of

electronic commerce. The delegation offered its support for the various components of the WIPO Digital Agenda, and commended the Director General and International Bureau for the International Conference and its results. The delegation stated its concern with respect to the differences in the speed of developments between communications and electronic commerce, and emphasized the urgent need to seek solutions to the challenges raised by electronic commercial activities. The delegation questioned whether the Program and Budget proposed for the next biennium committed sufficient resources to address these issues. With respect to the WIPO Digital Agenda, the delegation suggested that a timetable, even if difficult to arrive at, should be proposed for the activities it outlined.

42. The Delegation of Sri Lanka expressed its appreciation for the work of the Director General and WIPO on the important subject of electronic commerce. The delegation stated its concern at the implications of electronic commerce for developing countries, particularly in identifying a legal framework and establishing an infrastructure, and stressed the need for all relevant international organizations to address this issue. The delegation noted that, at the national level, a three-day regional seminar on electronic commerce, organized by UNCTAD, would be held in Colombo for countries in the Asian region. The delegation referred to two websites that had been usefully established, cybertrader and tradenet. Finally, the delegation stated its strong endorsement for the work program of WIPO on the subject of electronic commerce.

43. The Delegation of Romania offered its congratulations on the success of the International Conference, and expressed its complete support for the action plan outlined in the WIPO Digital Agenda. The delegation expressed its satisfaction that WIPO was addressing the challenges raised by the digital economy and expressed its hope that WIPO would become a leader in this area. The delegation indicated that it had studied the two documents prepared for Agenda Item 16 and agreed entirely with their contents.

44. The Delegation of Paraguay, on behalf of GRULAC, congratulated the Director General and the International Bureau on the work that had been done in the field of electronic commerce, and on the proposed WIPO Digital Agenda. The delegation emphasized that this Group attached the utmost importance to this area, as reflected by its active participation in the regional conferences conducted by the International Bureau in Montego Bay in June 1999 and in Buenos Aires in August 1999. The delegation encouraged the International Bureau to continue to conduct such regional meetings, in order raise awareness of the issues and address the realities of electronic commerce in the region. The delegation welcomed the inclusion of electronic commerce on the agenda of the Industry Advisory Commission, and expressed its appreciation for the International Conference and the conclusions drawn from it. The delegation commended the International Bureau on the electronic commerce website, which had proven of such use in providing updated information. The delegation expressed its great interest in the debate on Internet domain names, and raised the need for experts from the region to participate in this debate. Finally, the delegation supported the proposed inclusion of new Article *8bis* in the WIPO Digital Agenda.

45. The Delegation of the Islamic Republic of Iran fully endorsed the WIPO Digital Agenda. The delegation stated that the subject of intellectual property norm setting in the field of electronic commerce presented a dilemma for the international community, because the speed of technological developments stood in contrast to the legal work in this area which needed careful development and consideration by the international community. The delegation endorsed the view of the delegation of France that consultations should include all parties directly involved, as well as other stakeholders, and developing countries in particular.

46. The Chair noted the extraordinary support expressed for WIPO's activities and program in the area of electronic commerce, commenting that it was rare for a subject to raise the degree of interest that has been expressed by the Member States regarding electronic commerce. The Chair commended the Director General for having had the foresight to begin work on the issues involving electronic commerce at an early time, and expressed the view that the future activities outlined in the WIPO Digital Agenda would enjoy the full support and continued interest of the Member States. The Chair noted that a number of delegations had raised concerns of how to achieve greater participation by developing countries in electronic commerce, and indicated that the International Bureau had noted these concerns, which were also reflected in Item 1 of the WIPO Digital Agenda. The Chair stated that the addition of Article 8*bis*, as proposed by the delegation of Indonesia on behalf of the Asian Group, and supported by the Group of Latin American and Caribbean countries, had achieved the support of delegates and could be adopted by the Assembly. With respect to the drafting amendment to Item 3 (sub-point three) of the WIPO Digital Agenda, as proposed by the delegation of the United Kingdom, the Chair indicated his view that the amendment was acceptable. The Chair concluded that the Assembly noted documents WO/GA/24/2 and WO/GA/24/11 Rev., fully approved their contents, and with the two amendments noted, adopted the WIPO Digital Agenda.

47. The General Assembly noted the contents of documents WO/GA/24/2 and WO/GA/24/11 Rev., and approved the WIPO Digital Agenda, with the two amendments as indicated in the above paragraph 46. The delegation of the United States of America stated that the documents called for their contents to be noted and to be the subject of comments by delegations.

#### ITEM 17 OF THE CONSOLIDATED AGENDA:

##### POLICY ADVISORY COMMISSION AND INDUSTRY ADVISORY COMMISSION

48. Discussions were based on document WO/GA/24/6.

49. The Chair recalled that the Director General had instituted two advisory bodies, the Policy Advisory Commission (PAC) and the Industry Advisory Commission (IAC). Both Commissions had been established in a strictly advisory capacity, and were bodies of non-constitutional status. He further recalled that the PAC had met once under the Chairmanship of His Royal Highness Prince El-Hassan Bin Talal, and IAC had met twice since its establishment. The Director General had invited His Royal Highness Prince El-Hassan Bin Talal and Mr. Heinz Bardehle, to present the reports of their respective Commissions to the Assembly.

##### Policy Advisory Commission (PAC)

50. His Royal Highness Prince El-Hassan Bin Talal, Chairman of the Policy Advisory Commission, stated that the inaugural meeting of the Commission on April 15, 1999, and the follow-up Task Force meeting in Amman on July 20, 1999, had provided opportunities to address, *inter alia*, the challenges of globalization, the digitized world and electronic commerce. His Royal Highness stressed the relevance of the opportunities afforded by the establishment of the Commission, and affirmed his conviction of the correctness of the

initiative taken. The global intellectual property regime had to establish a balance between the rights of the property owner and the rights of other beneficiaries. National and international standards should be firmly applied to deter monopolization practices which restrict freedom of trade and contradict the public purpose of the intellectual property regime. Methods to preserve the notion of an individual's initiative should correspond to the needs for economic growth and social development. Current efforts towards free trade in the context of globalization would be a failure without well-defined standards of technology transfer. He noted that the efforts of WIPO to develop new fields of intellectual property protection were welcomed, as were the Organization's efforts to explore how national rights to, for example, ethnic botany and folklore, might be protected and preserved. The development of a cultural participation in this regard was important, as was the need to explore methods by which *sui generis* protection of intellectual property might operate to overcome the legal obstacles of traditional intellectual property regimes while maintaining the rights of property owners and encouraging economic growth. The task of the Commission was to ensure that international policy makers were aware that intellectual property protection, in the context of international free trade, must have a human face. It was His Royal Highness's belief that there should be equilibrium between conduct and rights on the one hand and obligations on the other. Rights are ineffective without responsibilities. Moving to the question of the digital agenda, His Royal Highness welcomed the concept of WIPONET benefiting developing countries, and hoped that WIPO could also establish its presence in terms of dispute resolution to combat cybersquatting. The comments of the Secretary of Commerce of the United States were recalled, in which he had referred to cultural participation and had noted that African singers could benefit more from intellectual property rights on the Internet than Madonna, because of the access it would provide them to a worldwide audience, with royalties to match. Noting references to a transformation age, an information age and an age of uncertainty, His Royal Highness expressed his hope that it would be possible to speak, in the coming millennium year, of an age of understanding. In this context he referred to the importance of the World Intellectual Property Declaration being elaborated by the Commission. It was suggested that a series of specialized studies and specialized working groups within the Commission would facilitate a move from the encyclopedic to the thematic. His Royal Highness thanked the Director General for having provided him with this opportunity to participate, and reiterated that the Commission represented the hopes of many in the international community. He had been encouraged by the participatory nature of everything that had happened to date, and congratulated the Assembly on its on-going contribution to understanding and to knowledge in the new millennium.

51. The Chairman thanked His Royal Highness Prince El-Hassan Bin Talal for his report, and gave the floor to Mr. Bruce Lehman, President of the International Intellectual Property Institute and member of the Policy Advisory Commission.

52. Mr. Lehman spoke of the "fresh air" that was circulating within WIPO, part of which was due to the Director General having opened up the Organization by reaching out to external expertise by way of the two commissions, thus also bringing the Organization closer to its constituencies. He referred to the many eminent members of the Commission, who were internationally recognized as men and women of wisdom, and were very well qualified to advise the Director General on how to deal with the Organization's constituencies. These constituencies were of two particular kinds: world creators, and consumers of creation. Historically, the intellectual property system had been regarded as something benefiting the developed world, and in the 1960s and 1970s there were many who did not have a strong belief in the value of intellectual property rights. Now, however, it could be said that the principles represented by WIPO promoted the well-being of all persons, both creators and

consumers. He believed that a major feature of WIPO's future program of work would include emphasis on how the developing world could learn to use intellectual property rights as a tool of growth and development. He recalled that when the United States of America founded its intellectual property system, it was very much a developing country, and that the system had been a most important mechanism for promoting creativity. This, in turn, promoted the welfare of society. The Constitution of the United States reflected the social element of individual creativity by ensuring that exclusive rights of a creator lapse after a certain period of time, allowing intellectual property to enter the public domain. Intellectual Property was the only property field where that was the case. Thus, the field was quite modern in that the notion of equity and societal benefit was built in. In closing, he emphasized that the Director General had created the commissions in an attempt to reach out to global constituencies so that they might help guide the Organization. This initiative would lead to many benefits, and in his view WIPO was being positioned to be one of the leaders of the UN community in the 21<sup>st</sup> Century.

53. The Director General thanked His Royal Highness Prince El-Hassan Bin Talal and Mr. Bruce Lehman for their extensive and illuminating thoughts, and all the distinguished members of the Commission for their excellent work. He also thanked the Member States, as owners of the Organization, for having approved the establishment of the commissions. The commissions, he recalled, had no constitutional or legislative power, but are advisory to the Director General, and through the Director General to the membership of the Organization. The commissions brought into play critical issues, opportunities and challenges that the Member States might wish to consider very thoroughly, such as demystification of intellectual property and wealth creation and intellectual property. The Director General stated his conviction that in the next century, the intellectual property system would be seen to be beneficial to all communities and all nations. He stressed that intellectual property is foreign to no culture and native to all nations.

54. The Chairman, speaking as the Delegation of Chile, stated that it had been an honor and a privilege to serve as a member of the Policy Advisory Commission. He felt that the Director General's initiative to bring together this group of eminent personalities who could devote their thinking to existing or new ideas related to the Organization's programs was crucial. A group of expert individuals with no constitutional status that could freely explore issues without having to refer to their Governments or be subject to budgetary constraints was most useful. The meetings of both the Policy and Industry Advisory Commissions had already demonstrated that the idea was an excellent one, and he wished to congratulate the Director General for the initiative to propose them, which would allow him to enter the new millennium with a well-structured and dynamic program, dynamism now being a hallmark of the Organization. Thus would be benefited the Governments and peoples of the world as far as intellectual property matters were concerned.

55. The Delegation of Brazil, also a member of the Policy Advisory Commission, thanked His Royal Highness Prince El-Hassan Bin Talal for the manner in which he had steered the opening meeting of the Commission. He believed in the importance of the two commissions, and wished to stress two points; firstly, that the commissions had no institutional powers, and secondly that the members were experts who could assist the Director General in finding the best path forward for the Organization and for the intellectual property system in general. He hoped that the initiative would be emulated by other organizations in Geneva.

56. The Delegation of Trinidad and Tobago, also a member of the Policy Advisory Commission, expressed the view that an organization without a vision would surely perish.

The Director General had shown vision in introducing the concept of the Policy Advisory Commission, and the Member States had placed flesh on the bones of the idea by ensuring that it would be able to meet and deal with important issues. The Commission could contribute to and participate in efforts to ensure what the Director General had called globalization without marginalization. It could also contribute to the dialogue between North and South. Referring to the metaphor of “the north wind and the southern sun,” the delegation felt that the North and South had met fruitfully and the Organization was clearly entering the future straddling both. The Member States were invited to go forward together, hand in hand, to the next century, removing any barriers that might lie between North and South.

57. The Delegation of Sweden, also a member of the Policy Advisory Commission, said that he spoke first as a member, and could state that the discussions and deliberations of the Policy Advisory Commission had been substantive and constructive, and had brought a new dimension to the role of intellectual property outside the arena of specialists in the field. Intellectual property had to be seen in a broader economic and cultural context, and discussions in the Commission had led in that direction. He commended the inspired leadership of His Royal Highness Prince El-Hassan Bin Talal. Speaking as the delegation, the activities of the Commission were highly appreciated and could serve to demystify intellectual property so as to link it more closely with civil and political society, both nationally and internationally. The Commission would also serve to increase and strengthen the visibility of the Organization and of intellectual property in general.

58. The Delegation of Slovenia, also a member of the Policy Advisory Commission, recalled that the delegation had supported the initiative to create the two commissions; it did so aware of the multi-faceted nature of WIPO, being both an intergovernmental Organization and a consumer service provider. The work and output of the Policy Advisory Commission had been found to be more than fruitful, thanks to the instrumental leadership of His Royal Highness Prince El-Hassan Bin Talal. In the course of its work, the Commission had not lost sight of its advisory nature, and it was clear that the Commission would never appropriate for itself any of the powers which lay solely and exclusively with the WIPO Assemblies, but would simply be of great benefit to these bodies. In this respect, the delegation associated itself with the comments of the Director General.

59. The Delegation of Mexico, also a member of the Policy Advisory Commission, commented that there was no intellectual divide between membership of the Commission and being Head of his delegation, and that he spoke as one since his thoughts on the Commission were the same from both points of view. Noting the Director General’s vision in setting up the two advisory commissions, the delegation recognized the new challenges before the discipline of intellectual property, such as domain names, the Internet, electronic commerce, biotechnology, biosecurity, bioethics and folklore. He expressed his belief that intellectual property should be seen as the instrument for protecting the exclusive rights of creators and inventors, while also contributing to economic, social and cultural development in all countries, and that the Commission, under the leadership of His Royal Highness Prince El-Hassan Bin Talal, would make a major contribution to this in the new millennium.

60. The Delegation of Egypt congratulated the Director General on his excellent initiative with regard to the commissions. It was a great honor for the Arab World to see His Royal Highness Prince El-Hassan Bin Talal before the Assemblies, and his presentation had shown that he was knowledgeable about the finer details of intellectual property aspects and issues.

The Commission had a large number of outstanding individuals in it, and would therefore surely contribute greatly to prosperity and development.

61. The Delegation of India noted the unique administrative innovation that the Policy Advisory Commission represented in the UN system. It was appropriate that WIPO, responsible for the intellectual innovations of all humanity, should have taken such an initiative. The Commission was a forum providing a non-political and non-partisan atmosphere for policy makers and thinkers to provide objective advice to the Director General and, through him, to the entire Organization. Two ideas raised by the Commission, that a World Intellectual Property Declaration should be drafted, and that WIPO should not only protect innovation and creativity, but should also promote it, were powerful pointers to what WIPO could envision for its work program in the coming millennium.

62. The Delegation of Nigeria believed that the work of the Policy Advisory Commission had a great bearing on the hopes and aspirations of developing countries. The Report of the Commission showed that it was taking into account the concerns of developing countries whose cultural wealth, such as folklore and traditional knowledge, represented some of its major assets. He congratulated the Director General for his initiative in setting up the Commission and for selecting members whose motives were to further the progress of humankind. The delegation thanked the members of the Commission for agreeing to make their expertise and knowledge available, and commended the recommendations they had made.

63. The Delegation of Tunisia stated how it had welcomed the setting up of the Policy Advisory Commission, as it would serve to make dialogue between the various partners of WIPO more dynamic. The delegation thanked His Royal Highness Prince El-Hassan Bin Talal for his report, and congratulated the Director General for taking the initiative to propose the Commission. WIPO was an institution for the future with a wealth of ideas and a very broad vision. Fresh ideas and suggestions from the Commission could only generate diversity and richness in a world where cultural variety was an asset for all.

64. The Chairman renewed the thanks of the Assembly to His Royal Highness Prince El-Hassan Bin Talal.

#### Industry Advisory Commission (IAC)

65. Mr. Bardehle thanked the Director General and delegates for the opportunity to report on the activities of the IAC. He indicated that the IAC had met two times, February 4 and 5, 1999 and September 13, 1999, and called attention to document WO/GA/24/6, which contained a report of the discussions at the first meeting. He pointed, in particular, to paragraph 14 of that document in which it was reported that the IAC called for the demystification of intellectual property. In that respect, the IAC called for the development of case studies that demonstrated the advantages of intellectual property protection on the level of the individual, the enterprise, industry and nation. Mr. Bardehle characterized the working methods of the IAC as being open and frank – speaking from the heart, rather than from prepared positions. He stated that it was in that same spirit that he reported that the purpose of the afore-mentioned studies would be to develop an appreciation for intellectual property at all levels of society – including at upper political levels. Discussions in the IAC centered on the need for education, including through the medium of celebrities, to draw attention to the need for intellectual property protection for economic development and to serve the needs of the creators. In respect of the need for education,

Mr. Bardehle emphasized the need to steer away from characterizing intellectual property rights as establishing a “monopoly.” He further emphasized the need to refer to patents as a source of technical information – a role that he saw as increasingly being recognized internationally, including by officials in developing countries. He emphasized the advisory nature of the IAC, the results of their discussions being transmitted to the Member States of WIPO. In this respect, Mr. Bardehle pointed to the Standing Advisory Committee of the European Patent Office as being an example of another effective representative body of users of the intellectual property system. He stated that that Committee reports to the Administrative of Council of the European Patent Organization, in the same sense as the IAC reports to the Assemblies of the Member States of WIPO. Mr. Bardehle stated that the discussions in the second meeting of the IAC had focussed on intellectual property and electronic commerce, a topic taken up in the International Conference on Intellectual Property and Electronic Commerce that immediately followed the second meeting of the IAC. He revealed that discussions in the IAC had focussed on the global nature of electronic commerce and the difficulty in reconciling this global nature with the largely territorial nature of intellectual property rights. He expressed confidence in WIPO in this respect as a global body well suited to addressing the increasingly global needs of the intellectual property system. Mr. Bardehle thanked the Assemblies of the Member States of WIPO for their attention and recalled that the IAC and the members of the Assemblies were working for the same goal – to promote the interests of the creators of intellectual property. He indicated that the next meeting of the IAC was expected to take place in the spring of next year.

66. The Director General thanked Mr. Bardehle for his extensive and illuminating report of the work of the IAC. The Director General also thanked the Members of the Assemblies of the Member States for having approved the establishment of the IAC. He recalled that the IAC, like the PAC, does not enjoy any legislative or constitutional power. He further recalled that WIPO, like the Member States, has two constituencies, the public and private sectors. He stated that the IAC provides a necessary feedback mechanism from the private sector users of the organization and its services. He stated that it is the first time that WIPO has a forum like the IAC to advise on how best WIPO can work with the users of our services in order to best implement our program of activities. He urged the Member States to analyze the results of the discussions of the IAC because they will have an important impact not only on the traditional issues that we discuss but on new important developments such as, for instance, the WIPO Digital Agenda. In this regard, the Director General stated that the second meeting of the IAC had a direct impact on the success of the International Conference on Intellectual Property and Electronic Commerce. He stated that the existence of the body created an important synergy between what our Member States had asked WIPO to do through the Program and Budget and what the market sector interests want WIPO to do. He was convinced that the only way that the program of activities of WIPO could fully succeed was based on understanding the realistic demands and wishes of the major constituencies of WIPO.

67. The Delegation of South Africa stated that the IAC presented a good opportunity for the views of the private sector to be brought to the attention of the Member States of WIPO. It was proposed that the model be adopted by industry and by the Member States at the local level. He stated that at the national level views about intellectual property were not always positive. He stated that intellectual property was synonymous with the term “monopoly” and that people were demanding free medical health care and cheaper medicines. He called for a balance between trade, commerce and the interests of people at the local level. He stated that the Members States should learn from the work of the Director General of WIPO in the establishment of the IAC and that it deserved support.

68. The Delegation of Chile thanked Mr. Bardehle for the comprehensive report and the memorandum of the Director General on the work of the IAC. He observed that the focus of the IAC had been, to date, on five major points: electronic commerce and intellectual property, intellectual property and the generation of wealth, the cost of patent protection, changes and development of policy at the international level, and the working methods of the IAC. Regarding intellectual property and electronic commerce, the IAC had recommended to WIPO to study the impact of electronic commerce on intellectual property. The delegation suggested that WIPO establish a web site for the IAC so that interested parties could voice their concerns in this area. The delegation underscored the recommendation for carrying out practical studies on the effect of intellectual property protection. He saw this as in keeping with the mandate of WIPO to carry out such studies. He felt that work regarding the cost of intellectual property protection should encompass not only patents but other areas of intellectual property as well. It was felt that the IAC should give the highest priority in its discussion to changes and the development of policies at the international level. In particular, it was urged that the discussions should take into consideration all developments and events that will have an impact on intellectual property in the coming year. The IAC was seen as playing a role in advancing the strategic vision of WIPO and that it deserved strong support from the Member States of WIPO.

69. The Delegation of Kenya stated its appreciation for the work of the IAC. The delegation stated that sensitization of the public of the need for intellectual property was a primary element in its adoption. It was stated that Kenya, like many developing countries, had a long way to go in embracing the usefulness of intellectual property. In this respect, a desire was expressed for the IAC to focus on developing countries in its endeavors to sensitize the public on the usefulness or the relevance of intellectual property. It was recalled that in Kenya there had been outreach programs to potential users of the intellectual property system and to sensitize institutions in the country as to the need for intellectual property protection. These programs had been difficult and costly to establish and to maintain, but were critical due the globalization of trade and industry. The delegation called, therefore, for time, materials, and financial support to establish and support programs of this nature in developing countries.

70. Mr. Bardehle stated that during discussions of the IAC the situation in developing countries played an important role, in particular in respect of the patent system. All members of the IAC were aware that more has to be done and were very much aware of and concerned about improving the situation in developing countries. Mr. Bardehle related his personal experience of education and informing people in developing countries about the need for intellectual property, in particular in respect of wealth creation. Moreover, he pointed out that the IAC contained a number of members who are nationals of developing countries. He indicated that the IAC would work with WIPO to support its education campaigns. On the question of costs of intellectual property protection, Mr. Bardehle indicated that patent costs were higher than in the case of copyright due to the existence of a registration and examination procedure for patents. He indicated that work was ongoing to reduce such costs, including through improvement in the system established under the Patent Cooperation Treaty (PCT).

71. The Delegation of Tunisia drew attention to the work of WIPO, through regional seminars, that drew a link between intellectual property protection and investment in developing countries. It was stated, however, that there was a contradiction when companies invest in countries where infringement of intellectual property rights does take place. The delegation stated that return on foreign investment was based exclusively or essentially from

the cost of labor and other factors that comprise the value of the goods being produced. It was suggested that more work was required on the study of the role intellectual property protection plays in foreign investment for developing countries. All the points in the report of the IAC were subscribed to. In particular, the need to heighten awareness of intellectual property was seen as being extremely important, in particular by mentioning specific examples which prove that intellectual property protection yields very specific and concrete benefits.

72. The Delegation of Sri Lanka expressed its appreciation for the vision of the Director General in the establishment of the PAC and IAC. The sentiments expressed by the delegation of Kenya about the role of intellectual property in the development process were shared. The delegation indicated full confidence in the IAC.

73. The Delegation of the United Republic of Tanzania recognized the wise decision of the Director General of WIPO to take stock of the needs of the users of intellectual property and use them as inputs to improve the services of the Organization. This method, in the view of that delegation, made solutions to the problems experienced by users more accurate. Support was expressed for the views expressed by the delegations of Kenya and South Africa that the concept of the IAC should also be adopted at the national and regional levels.

74. The Delegation of Pakistan joined previous speakers in congratulating the Director General of WIPO for his initiative to set up the PAC and IAC, which were proving to be useful. It was noted that there was an interest in the IAC to demystify intellectual property and enhance the support base for intellectual property globally by case studies, by enlisting the support of intellectual property owners, and by certain activities recommended to WIPO to engage in. In this respect the delegation suggested emphasis be given to studying issues that arise when considering the relationship between access to technology and intellectual property regimes. The issues included the mechanisms whereby intellectual property helps access to technology, the hurdles that are presented, and the need for balance in technology transfer transactions. A concern was expressed in respect of the application of a high level of patent protection required under the TRIPS Agreement, in particular in respect of the prices on pharmaceuticals. In this respect, the delegation expressed satisfaction that a case in the southern part of Africa had been resolved in a mutually satisfactory manner. Moreover, it was stated that some studies had come out from WHO which were refuted in certain aspects by the private sector. The delegation suggested that the IAC could undertake to perform concrete studies and make some recommendations on areas where WIPO could undertake further work. The delegation also inquired as to the relationship between the PAC and the IAC, especially in light of the fact that there appeared to be some overlap in the work program of the two Commissions. The delegation also noted with great interest the suggestion in the report of the IAC that representatives of organizations or groups that were opposed to intellectual property, or that at least present contrary views, be invited to speak to the IAC. In this respect, the delegation made reference to the 1999 UNDP Human Development Report and the reservations it expressed that intellectual property could narrow gaps between developed and developing countries in respect of knowledge and technology.

75. The Director General stated that all points raised had been noted. He stated further that views expressed were very useful, were taken note of by Mr. Bardehle, and he was confident that the IAC would take them up in their future work. He addressed the question of overlap in the direction and work of the PAC and IAC by stating that there was a synergy and complementarity between the two Commissions. He urged that both bodies study the demystification of intellectual property – the IAC from a private sector point of view and the

PAC from its prospective. He felt that these two points of view would be entirely complementary and mutually supportive. He stated that demystification was something completely different from awareness building. Demystification addresses not only the grass roots level and the users – as does awareness building – but also policy makers, policy advisers and those who also take decision on behalf of nations. The Director General stated that the demystification process would continue to be a major component in projects of WIPO, not only in developing countries, but also in developed market economy countries as well. As an example, he pointed to initiatives taken with the Member States to simplify, streamline, and reform the Patent Cooperation.

76. The Chair expressed the thanks of the General Assembly to Mr. Bardehle for his report.

77. The General Assembly noted the contents of document WO/GA/24/6 and the reports annexed to that document with satisfaction.

#### ITEM 19 OF THE CONSOLIDATED AGENDA:

##### RESOLUTIONS AND DECISIONS OF THE UNITED NATIONS, THE ADMINISTRATIVE COMMITTEE ON COORDINATION AND THE JOINT INSPECTION UNIT

78. Discussions were based on documents WO/GA/24/3 and WO/GA/24/3 Add.

79. The Chair reminded delegations that WIPO had entered into an agreement with the United Nations (the UN) as a specialized agency of the United Nations. Under that agreement, the Organization is required to report to its Member States on any decisions taken by the United Nations which have a bearing on the UN system as a whole.

80. The Delegation of Argentina noted the importance of the activities undertaken by WIPO in the context of the Convention on Biological Diversity. Referring to paragraph 23 of document WO/GA/24/3, the delegation of Argentina requested confirmation that the Secretariat had already undertaken the activities described in that paragraph, in particular the organization of regional awareness-raising seminars on the patenting of biotechnology and participation in meetings of various Working Groups.

81. The Secretariat confirmed that members of the WIPO Secretariat had participated in Working Groups organized by other organizations on issues relating to indigenous knowledge under the Convention on Biological Diversity (CBD). The convening of a Working Group to study intellectual property aspects of biotechnology and the implementation of the CBD, as described in paragraph 23 of document WO/GA/24/3, was an activity which was scheduled to take place in November 1999.

82. The Delegation of the Russian Federation stated that it attached great importance to the activities of the Joint Inspection Unit (JIU), which was an important oversight and monitoring body within the United Nations system. The Member States of WIPO were contributing to the financial operation of the JIU through the WIPO budget and also through the budgets of other UN agencies. In the delegation's view, one way of ensuring that the Member States received a good return on their investment was the substantive discussion of recommendations made by appropriate bodies in the UN system, and it would welcome the

creation in WIPO of conditions conducive to such discussions. The delegation of the Russian Federation proposed that, starting in the year 2000, the Director General should: (i) ensure that JIU reports of direct relevance to WIPO activities are distributed to Member States well in advance of the meetings of the Assemblies, and include on the agenda of the Assemblies of Member States and other bodies discussion of the JIU reports relating to the Administrative Committee on Coordination (the ACC) and to common services in Geneva, as well as to the use of consultants and experts; (ii) provide to the Member States information on the recommendations adopted by the JIU which, in the course of the current year, are applied by the WIPO Secretariat. They would also appreciate receiving proposals by the Director General concerning measures to be taken by WIPO Member States; and (iii) make available to Member States his own proposals to the ACC concerning reform of that body, as well as the reaction of executive heads of other UN agencies to those proposals.

83. The Secretariat explained that reports of the JIU were systematically circulated by the JIU to all Member States of the United Nations. In the past, the Secretariat had treated that as sufficient circulation to WIPO Member States. The Secretariat would, however, continue to draw the attention of WIPO Member States to any of the JIU reports that touched upon the activities of WIPO. As concerns the Director General's proposals on reform of the ACC, the Secretariat would transmit to the Director General the interest of the delegation of the Russian Federation in receiving more detailed information on the proposals.

84. The WIPO General Assembly noted the information contained in documents WO/GA/24/3 and WO/GA/24/3 Add. and approved the actions taken or proposed to be taken, as described in those documents.

#### ITEM 20 OF THE CONSOLIDATED AGENDA:

##### PROPOSAL CONCERNING A WORLD INTELLECTUAL PROPERTY DAY

85. Discussions were based on documents WO/GA/24/7 and WO/GA/24/8.

86. The Delegation of Algeria, recalling the statement it made in September 1998 during the Assemblies of Member States of WIPO concerning its proposal to institutionalize a World Intellectual Property Day to be celebrated every year, stated that the celebration of such a day would raise general awareness of the importance of intellectual property throughout the world. The delegation believed that the event would be a great breakthrough in the field of intellectual property, especially at the dawn of the third millennium. It had noted a number of points within WIPO's forthcoming biennium which indicated that intellectual property would develop in future not as a separate area, but rather as a tool that could be used to promote a whole range of social, economic, technical and political interests. Intellectual property was no longer confined to a given technical area but involved a whole range of users from many different sectors concerned with intellectual property aspects associated with trade, biodiversity, biotechnology, electronic commerce, novelty, copyright, neighboring rights, folklore, and above all internet-related issues. The delegation of Algeria was of the view that WIPO was the appropriate forum for the organization of such an initiative on the basis of the provisions of Article 3(i) of the Convention Establishing the World Intellectual Property Organization (the WIPO Convention). With respect to the exact date, the delegation stated that such a day should coincide with an important development in the field of intellectual property. For example, April 23 had been declared World Book and Copyright Day for the

commemoration of the memory of famous writers and poets; October 14 was for celebrating the World Standardization Day, which was also the day of the establishment of the International Standardization Organization (ISO). The African Continent had declared September 13 to be the African Day for Intellectual Property and the United Nations had declared September 14 as the World Day for Peace. The delegation proposed that April 26 be declared the World Intellectual Property Day, and that means for the implementation of this proposal should be discussed in the framework of an *ad hoc* working group to determine the exact date and the best way in which to celebrate that day. The delegation finally welcomed the proposal made by the delegation of China on the same issue, and presented a joint proposal of the delegations of Algeria and China proposing the establishment of April 26, as a World Intellectual Property Day.

87. The Delegation of China stated that the purpose of establishing a World Intellectual Property Day was to strengthen the importance of intellectual property protection. Since the next century would be one of the knowledge-based economy and information technology where intellectual property would be a major factor pushing forward social and economic development, the establishment and improvement of intellectual property systems were of vital importance for developed and developing countries. The delegation believed that the celebration of an intellectual property day would help people understand the importance of intellectual property. Consultations had been held with the delegation of Algeria, resulting in a joint proposal concerning the declaration of April 26 as World Intellectual Property Day starting next year. The delegation indicated that that day would also mark the thirtieth anniversary of WIPO and would enhance the status of WIPO and promote its cooperation with member countries. The delegation further proposed that the Secretariat study the suggestions put forward in relation to the declaration of a World Intellectual Property Day, with the view of establishing an implementation plan. China would have its own national program for the celebration of such a day.

88. The Delegation of Thailand requested from the delegations of Algeria and China clarification with respect to the purpose of the proposed intellectual property day. The delegation asked whether celebrations that day would be confined to the promotion of creativity and intellectual property rights, or they would also emphasize the need to combat piracy and counterfeiting.

89. The Delegation of Japan, speaking on behalf of Group B, stated that the proposal was, in principle, a good idea. The celebration of such a day could further increase the importance of intellectual property throughout the world. The delegation, however, requested more information on the program for the implementation of this proposal and on the funds for financing such a program.

90. The Delegation of Finland seconded the statement made by the delegation of Japan and stated that Finland had established a national day for the celebration of innovations. The delegation indicated that the determination of an exact day, such as the one proposed by the delegation of China, should be the subject of further discussions within the framework of a working group that could be established for that purpose.

91. The Delegation of Cuba expressed its support for the joint proposal and indicated that such a day would promote awareness of the importance of intellectual property as a tool for social, cultural and scientific development in many countries. The delegation further stated that Cuba grants an award to national and foreign personalities that have made contributions to that country's development through activities in the field of intellectual property.

92. The Delegation of Uganda, speaking on behalf of the African Group, endorsed the proposals submitted by the delegations of Algeria and China and stated that such a day would draw attention to the importance of intellectual property as a catalyst for all development facets. The delegation recalled that the Organization of African Unity had declared September 13 as the Technology and Intellectual Property Day to be observed by all African countries. The delegation proposed that, if the proposal for the establishment of a World Intellectual Property Day were to be adopted, the WIPO General Assembly could also authorize the Director General to request the United Nations General Assembly to declare an international year for intellectual property that would enable WIPO, UNESCO, WTO and other concerned intergovernmental and non-governmental organizations to organize specific programs during that year to help extend knowledge about the intellectual property system.

93. The Delegation of India recalled that UNESCO had declared April 23 World Book and Copyright Day and that, since copyright is one branch of intellectual property, due consideration should be given to that day when deciding on the date of the proposed World Intellectual Property Day.

94. The Delegation of Ukraine expressed its support for the proposal and stated that such a day should recognize that intellect should be allowed to triumph over any possible adversity that might result from the use of new technologies. The delegation further stated that the date of the Chernobyl disaster, the greatest technological disaster that occurred in the world in recent years, had to be taken into consideration when deciding on the exact date of the World Intellectual Property Day.

95. The Delegation of Azerbaijan expressed its support for the proposal and stated that such a day would promote awareness of the role of intellectual property in the economic development of societies. The delegation stressed the need to use mass media to draw attention to intellectual property related issues. Such a day would encourage the strengthening of national legislation and enhance creativity. The delegation added that that day could also serve to promote the important role of WIPO and national intellectual property offices, and requested that further consultation on the proposal be held in order to achieve consensus on its different aspects.

96. The Delegation of Indonesia, in expressing its support for the proposals submitted by the delegations of Algeria and China, stated that such a day would help recognize the importance of intellectual property in the development of a country. The delegation also expressed its support for the proposal made by the delegation of Finland that the Secretariat examine further the determination of a date for that purpose.

97. The Delegation of Norway endorsed the proposal made by the delegations of Algeria and China, and stated that the establishment of such a commemoration day would increase the awareness of intellectual property rights, which were a challenge for most of the Member States, and would stimulate and promote the protection of intellectual property rights across borders.

98. The Chair stated that (i) there was consensus on the need to establish a World Intellectual Property Day; (ii) it was unclear what program would be undertaken on such a day and further consultations needed to be undertaken by the Director General to determine that program; and (iii) the date and means of declaring the relevant date needed to be determined by the Director General in consultation with the United Nations and concerned Member States.

99. The General Assembly approved the idea of declaring a particular day as a World Intellectual Property Day, and requested the Director General to undertake consultations on the content of, and activities for, that day, and on the determination of a specific date for, the modalities and the budgetary implications, for declaring a World Intellectual Property Day.

#### ITEM 21 OF THE CONSOLIDATED AGENDA:

##### USE OF PORTUGUESE AS A WORKING LANGUAGE OF WIPO

100. Discussions were based on documents WO/GA/24/4 Rev. and WO/GA/24/9.

101. The Delegation of Portugal thanked the Director General for having placed this issue on the agenda. However, it felt that document WO/GA/24/4 Rev. drawn up by the Secretariat was not neutral and could lead delegations to an incorrect interpretation of the substance of the matter. It therefore thanked the Secretariat for having also distributed document WO/GA/24/9 that contained its comments on the first-mentioned document. The delegation noted that the issue of the use of Portuguese as a working language was not new since the Governing Bodies had decided in 1979 to extend, subject to certain conditions, the use of Arabic, Spanish, Portuguese and Russian as working languages of the Organization. However, 20 years later, the moment had arrived to increase the use of Portuguese since new States having Portuguese as an official language had joined the Organization. The delegation therefore wished to set out a number of arguments and define a criterion for choosing the working languages at WIPO. To begin with, it had to be noted that over 201 million people spoke Portuguese, making it the sixth most spoken language in the world. Secondly, seven States having Portuguese as an official language were members of WIPO and it might be expected that East Timor, following its independence, would maintain Portuguese as the official language. The area covered by the countries in which Portuguese was spoken constituted one of the most vast territorial spaces, bigger even than Europe from the Atlantic to the Urals. Finally, it could be observed that four languages were spoken in Africa (namely, Arabic, French, English and Portuguese) of which only one, Portuguese, was not a WIPO working language, and that four languages were spoken in the Americas (namely, French, English, Spanish and Portuguese) of which only one, Portuguese, was not a WIPO working language. In requesting that the use of Portuguese be increased, the States with Portuguese as an official language were therefore not asking for a favor but were simply requesting the ending of a discrimination against a language widely used throughout the world. Moreover, the document from the Secretariat of WIPO mentioned the cost involved in extending the use of Portuguese. However, that cost would not constitute expenditure in the traditional sense of the word but rather an investment by WIPO in favor of the developing countries since, if the countries concerned received documents from WIPO in their national language, the facility thus offered them could only promote the aims of WIPO at worldwide level. It would therefore be judicious to strengthen the position of Portuguese and put it, for example, on the same footing as Arabic, Chinese and Russian. The delegation further emphasized that there was no obligation to establish a link between the language arrangements used at WIPO and the language arrangements used within the United Nations system. It considered that the Organization should use its budget surpluses in order to promote development through a greater use of languages. Finally, it expressed the hope that those countries, principally the European countries, that had traditions in Africa and in Latin America and that had very well defended the strengthening of cultural links, of which language was a prime factor, would

support the legitimate aspirations of the Portuguese-speaking States towards a broader use of their language.

102. The Delegation of Brazil welcomed having this item on the agenda and noted that the request to extend the use of Portuguese as a working language of WIPO had been submitted by Portugal on behalf of the seven Portuguese-speaking Member States of WIPO, of which most were developing countries having only limited resources. Brazil, with a population of 160 million Portuguese speakers, supported that request unreservedly. The delegation emphasized that the adding of Portuguese as a working language of WIPO would play a significant role in the area of cooperation for the Portuguese-speaking countries and in their understanding of international intellectual property law, particularly the WIPO treaties and the TRIPS Agreement. The delegation expressed its full agreement with the observations made by the delegation of Portugal and observed that the request by the Portuguese-speaking countries for their language to be given greater use was not a reaction of pride, but simply aimed to give their authorities the possibility of participating fully in the strengthening of the intellectual property system. One of the results of the work undertaken by WIPO was precisely to extend the participation of the Portuguese-speaking countries and those countries therefore warranted that greater attention be paid to them. In future, many activities of a technical nature conducted by WIPO would demand that the issues dealt with be understood not only by diplomats, who would possibly speak French or English, for example, but also technicians who, frequently, did not speak those languages. Brazil was therefore not asking that Portuguese be used in all meetings, but at least in those where technical issues were dealt with and the delegation felt that a solution had to be found in the nearest possible future. Its country further wished to participate actively in the search for such a solution.

103. The Delegation of Angola pointed out that its country had experienced painful changes over recent years in all respects and that war was not favorable to development. However, it felt that the development aid enjoyed by its country still failed to fully meet its requirements and needed to be reinforced. Furthermore, Angola was looking into the possibility of ratifying the Paris Convention and the PCT. It also attached great importance to subregional integration and therefore supported the request made with respect to Portuguese, since that would enable more equitable participation by the Portuguese-speaking countries in the work of WIPO. It had also to be observed that the Portuguese-speaking countries of Africa were the only African countries whose language was not a working language of WIPO. To extend the use of Portuguese was not therefore only to be considered an investment in favor of those countries.

104. The Delegation of Mozambique noted that the major aspect of participation by the developing countries required the use of a language that they understood. However, very few people in its country could read or write French or English. The delegation therefore supported adoption of Portuguese as a working language. It considered that the cost of such a measure had to be considered as a fruitful investment by WIPO and one that would strongly contribute to promoting intellectual property.

105. The Director General stated that, following informal consultations with a number of delegations, he wished to propose a compromise solution involving three main components:

(i) In all WIPO training activities involving Portuguese-speaking countries, Portuguese would be used a working language.

(ii) The International Bureau would undertake a study on the various implications of a wider use of Portuguese in WIPO.

(iii) The same item would be placed on the agenda of the General Assembly for its session in 2000.

(iv) The Director General thanked all the delegations that had helped in the development of that compromise.

106. The Delegations of Brazil, Angola and Portugal stated their acceptance of the compromise proposed by the Director General. The delegation of Angola further wished to be kept informed of the progress of the studies and the delegation of Portugal expressed its wish to participate in them.

107. The Delegations of Nigeria, Kenya, Uganda (speaking on behalf of the African Group), Dominica and Romania stated that they would have hoped for a greater use of Portuguese, but accepted the proposed solution. They thanked the Director General for having shown his understanding of the question raised and for having found a reasonable compromise.

108. The Delegation of Italy thanked the Director General for his efforts and accepted the proposed compromise, but observed with regret that the matter of the use of languages was a political issue with huge impacts and that it would have to be studied within the framework of the United Nations, and possibly with a different outcome.

109. The Delegations of France and the Netherlands supported the position expressed by the Delegation of Italy. The Delegation of the Netherlands emphasized that it was unable to support the adoption of a new working language before a decision had been taken within the framework of the United Nations, but that it could go along with the compromise proposed by the Director General, which defined a practical and rational solution.

110. The Delegation of Paraguay, speaking on behalf of the Group of Latin American and Caribbean countries, supported the proposal by the Director General and thanked him for the consideration he had shown for the Portuguese-speaking member countries of WIPO.

111. The Chairman noted that there was broad agreement on the compromise solution proposed and thanked all delegations for their cooperation.

112. The WIPO General Assembly adopted the solution described in paragraph 105, above.

#### ITEM 25 OF THE CONSOLIDATED AGENDA:

#### COOPERATION WITH THE WORLD TRADE ORGANIZATION

113. Discussions were based on document WO/GA/24/5 Rev.

114. The Delegation of the United States of America applauded the International Bureau for its cooperation with the World Trade Organization (WTO) in assisting developing countries meet their pending TRIPS obligations. It found the joint initiative and the information

contained in the document particularly helpful. The delegation appreciated WIPO for having undertaken the challenges to assist a diverse group of countries with varying legal systems and levels of intellectual property protection. It suggested that the International Bureau provide the Member States with updates on the progress and asked whether there were any plans to use the existing resources in providing assistance on TRIPS implementation.

115. The Delegation of Australia stated that it was very encouraged by the document and the strong cooperation between WIPO and WTO reflected in the document. The delegation believed that a close cooperation was particularly valuable in relation to the joint initiative in providing technical assistance to developing countries for implementation of the TRIPS Agreement and added that its Government participated in providing technical assistance as far as its resources allowed, particularly in its region. The delegation, in passing, stated that an explicit mention of the cooperation with WTO on the item of WIPO Digital Agenda may have been useful.

116. The Delegation of Canada strongly supported the efforts made by WIPO and WTO in providing assistance to developing countries to meet their TRIPS obligations and encouraged the two Organizations to continue the efforts.

117. The Delegation of Nigeria applauded the efforts of WIPO in assisting developing countries meet their TRIPS obligations. It recognized that such activities required much resources and strongly encouraged the International Bureau to continue providing the necessary resources. The delegation regretted that the assistance from the developed countries through bilateral arrangements, as envisaged in the TRIPS Agreement, had not been forthcoming and felt that the entire burden was placed on WIPO. It pleaded with the developed countries to assist developing countries in this area.

118. The Delegation of South Africa joined others in expressing its appreciation for the assistance WIPO provided since 1996 on implementation of the TRIPS Agreement.

119. In response, the Director General made four points. First, he stated the WIPO-WTO cooperation framework was based on three broad factors: (a) the Cooperation Agreement of 1995, (b) the joint initiative of the two Directors General launched in July 1998, and (c) the goodwill arrangements between the two Secretariats. He added that, in his view, the cooperation between WIPO and WTO was moving in the right direction. Second, as regards the financial resources in assisting developing countries for TRIPS implementation, the Program and Budget for 2000-2001 approved earlier by the Assemblies covered this item. Third, he stated that the International Bureau was in total agreement with the suggestion to update the information and that this would be done regularly. Lastly, coordination with WTO was already reflected in the WIPO Digital Agenda under point 9.

120. The Delegation of Guatemala stated that it had specifically requested assistance under the joint initiative from the two Organizations and that it was grateful to both for the assistance received. The delegation added that it was particularly appreciative of the legal and technical assistance from WIPO.

121. The Delegation of Ghana said that it had already expressed its appreciation on the ongoing assistance from WIPO for implementation of the TRIPS Agreement during the discussions of earlier Agenda items. It suggested, however, that a joint evaluation of the joint initiative be made if possible.

122. The Delegation of Kyrgyzstan welcomed the cooperation as described in the document and the work of WIPO. It believed that the assistance provided by WIPO on human resources development, as described in paragraph 33 of the document, was extremely important and requested that Kyrgyzstan be included in the future assistance programs under the cooperation with WTO, especially in the area of enforcement.

123. The Delegation of Argentina thanked WIPO for the document and requested that WIPO to continue its cooperation activities with WTO in providing legal and technical assistance to developing countries in a broad manner as possible, even beyond 2000.

124. The Delegation of Paraguay stated that its Government recognized the importance of the cooperation between WIPO and WTO, especially in the area of TRIPS Agreement. It felt that a great deal of cooperation had been achieved under the Cooperation Agreement in providing assistance to developing countries and hoped for a continued cooperation. It stated that the breadth of intellectual property fields may increase in the future and that the cooperation activities should take into account of these emerging areas. The delegation thanked the Director General and the International Bureau for all the assistance already provided.

125. The Delegation of Thailand remarked that the implementation of the TRIPS Agreement in drafting laws and regulations was easily done, but in creating a conducive environment with a balance of the interests of the rightholders and the society at large was far more difficult. In order to achieve such balance, it felt that winning over the public sentiment was essential. It stated that the enforcement of the intellectual property rights was an international problem and that it was necessary to tackle the problem at the roots by making people aware of the benefits of the effective enforcement. For this, it believed that a full support of the developed countries was necessary in assisting developing countries, not only with human resources development, but also by imparting know-how and the way in which business is conducted to reach wide base of consumers at the lowest price, especially in the area of computer software. In connection with electronic commerce, the delegation expressed its view that the rightholders should modify their business arrangements and not only look from the perspective of intellectual property law.

126. The Delegation of Germany believed that this item was very important and that it was very pleased with the cooperation between WIPO and WTO. The delegation felt that a division of work between the two Organizations had been found and that one of the important tasks of WIPO was to assist developing countries meet their obligations. It was also glad that the approved budget covered these activities. The delegation stated that the new WTO negotiations may include the issues of the TRIPS Agreement and that WIPO should follow the discussions carefully. It explicitly added that it was sure of the competence of WIPO in doing so.

127. The Delegation of El Salvador recognized and thanked WIPO for the valuable work done in this area and requested that WIPO to continue this work after the year 2000, especially in the area of enforcement.

128. The Delegation of Portugal congratulated the Director General and the International Bureau for having established a very positive relations of cooperation with WTO and for the work already done in this context. It emphasized the usefulness of the studies and publications on the effects of the TRIPS Agreement and encouraged WIPO to continue. In this sense, it proposed WIPO to publish a study on legal interpretation of the TRIPS provisions, possibly in cooperation with WTO. The delegation stated that the TRIPS

Agreement may be revised at the next WTO Ministerial Conference in Seattle and asked whether any preparation had been made in cooperation by the two Organizations.

129. The Delegation of Sudan welcomed the cooperation activities and the contents of the document. It stated that WIPO was the leading agency for intellectual property matters and therefore had the responsibility to ensure the interests of its Member States, especially that of the developing and the least-developed countries, in this area. The delegation felt that, since the TRIPS Agreement was part of the WTO framework, the burden to assist developing and least-developed countries should not be borne by WIPO alone, but also by WTO in an active manner. It stated that a further clarification was necessary in this area by the two Organizations.

130. The Director General responded by expressing many thanks to the delegations for their encouraging statements. He stated, as regards the request for a study on interpretation of the TRIPS provisions, that WIPO would continue to explain, clarify and educate, but to provide interpretation of each provision as such would be an *ultra vires* situation. He also stated that the WIPO Secretariat was not a party to the TRIPS negotiations, and he explained that the International Bureau did not have the competence even to interpret the Paris Convention or the Berne Convention and that such competence rested with the Member States. In respect of the cultural dimensions raised, the Director General stated that it could be the topic of a symposium. The Director General confirmed the participation of WIPO at the Seattle Ministerial Conference, but stated that it was not yet certain as to what extent WIPO would be involved. This matter was for the Members of WTO, most of which were also Member States of WIPO, to decide. The Director General added that WIPO will be there to assist in every way possible at the Seattle Ministerial Conference.

131. The Representative of WTO stated that he was grateful for the opportunity to participate in the discussions of this item, which WTO considered extremely important. He emphasized that WTO was appreciative and happy with the cooperation with WIPO, which covered a number of areas. He stated that much of the cooperation took place in informal ways, pursuant to the Cooperation Agreement, which included informal contacts on a daily basis between members of the staffs of the two Organizations, whether at working levels or at the level of the heads of the Organizations. He added that the incoming Director General of the WTO, Mr. Mike Moore, attached great importance to the cooperation with WIPO, which was illustrated by his visit to Dr. Idris on his third day of taking office. As regards formal cooperation, he outlined the three components of the Cooperation Agreement: (1) notification and translation of and access to the legislation; (2) administration by WIPO of the notification and communication of national emblems according to the provisions of Article 6ter of the Paris Convention; and (3) legal and technical assistance and technical cooperation. He commented, in respect of the first area, that the WTO Secretariat was primarily concerned with the distribution of legislation to Member governments and the transparency at the level of governments, and WIPO, besides having these concerns, was also concerned with ensuring transparency *vis-à-vis* the general public and the user community. In this context, WTO was very happy to see that the CLEA system of WIPO had come on-line. He stated that WTO considered the third area most important and that WTO and its Members were extremely appreciative of WIPO for the assistance provided to developing and least-developed countries and the transition economies in implementing the provisions of the TRIPS Agreement, especially since WTO had a limited budget in the order of ten million Swiss Francs per year for all the agreements that the WTO administered, which were more than 25 agreements. He also expressed some difficulties, due to a heavy dependence on trust funds, in planning and administering WTO's Technical Cooperation programs. He was certain, however, that this

issue will be seriously reviewed by WTO Members before the Seattle Ministerial Conference. In addition to the limited financial resources, WTO had four professionals to carry out all the functions in relation to the servicing of the TRIPS Agreement. This included the areas of dispute settlement and technical cooperation. He stated that technical cooperation was definitely one of the priorities and that much of the WTO technical cooperation activities had been carried out jointly with WIPO. He felt that these joint efforts were further stimulated and enhanced by the joint initiative taken by the Directors General of the two Organizations. As examples, the WTO Secretariat provided resource persons to twelve WIPO seminars or other events in 1998, and further seven so far this year. He added that WIPO also provided resource persons to WTO events. Additionally, there had been several joint events this year such as five international or regional seminars or workshops, some of which were organized together with UPOV, and two joint national seminars, and additional two events were planned for later this year. He also said that WTO was involved in 25 technical cooperation events outside Geneva that did not involve WIPO. He explained that much of WTO work concerned giving oral or written information or advice to delegations and visitors from capitals, as well as commenting on draft legislation. There were also training courses, during which the participants spent a half-day in WIPO. He added that members of the WTO staff regularly made presentations at the WIPO Academy sessions. He stated that WTO was very interested in distance learning and had developed a CD-ROM module and hoped to enhance cooperation in this area with WIPO. Another area where he hoped for an enhanced cooperation was in electronic networks for trade and intellectual property offices in developing countries. In regard to Article 67 of the TRIPS Agreement, he recalled that the provision placed an obligation on developed country Members to make available technical assistance to developing and least-developed country Members of WTO. He said that one of the important functions of the Council for TRIPS was to monitor the implementation of that provision and to exchange information to ensure that available technical cooperation possibilities were transparent, which was done primarily through developed Member governments providing reports to the TRIPS Council once a year on their technical cooperation activities. This occasion also provided opportunity for developing country members to identify any area where they felt the availability of technical cooperation was inadequate from their point of view. He stated that the TRIPS Council meeting in October this year will be considering these annual reports.

132. The Delegation of Egypt congratulated WIPO and WTO for their cooperation, particularly on the joint initiative, and stated that cooperation should be reinforced. The delegation posed several questions to the WTO Representative in respect of Articles 7 and 67 of the TRIPS Agreement and electronic commerce. It asked whether there were any initiative taken by WTO to assist developing and least-developed countries and to explain the work done by WTO, as well as its future work plan, in the area of electronic commerce and the views of WTO on electronic commerce as regards developing countries.

133. The Delegation of Angola stated that most of the African countries were either developing or least-developed and were facing difficulties in implementing the TRIPS Agreement. The delegation stated that Angola received no direct assistance from WTO in this regard. Since the TRIPS Agreement was under WTO, it felt that WTO should assist developing countries in their implementation. The delegation asked whether budget was available in WTO for this purpose.

134. The Delegation of Uganda concurred with the earlier statement made by the delegation of Nigeria. It added that the difficulties faced by developing countries in implementing the TRIPS Agreement was doubly multiplied in the cases of least-developed countries, which

must comply by 2006. It believed that many least-developed countries were willing to comply, but that they were weighed down heavily with debts and were poverty stricken. The delegation illustrated by quoting a paper from a recent conference held by WTO and the World Bank: "Mexico spent over US\$ 30 Million to upgrade intellectual property laws and enforcement that began at a higher level than are in place in most LDCs." It stated that the paper went on to specify, in the course of implementing three of the six Uruguay Round agreements in Mexico, a total of some US\$ 130 Million would be necessary. The delegation said that that figure was more than the annual development budget of seven least-developed countries together. It praised the foresight of the Director General in creating the Least-Developed Country Unit within WIPO and stated that the two Organizations should continue their cooperation activities.

135. The Delegation of Nigeria expressed its concerns in the difficulties of implementing the TRIPS Agreement, especially the enforcement provisions. Nigeria called for material support for the police, the customs and the judiciary to enable them to carry out their responsibilities in enforcement matters. It felt that an integrated system within its region would be necessary for an effective enforcement. The delegation requested information concerning available assistance from the developed country Members of WTO.

136. The Representative of WTO responded that he had taken good note of all the statements, which were extremely helpful to WTO. He stated that, concerning the question on Article 67 of the TRIPS Agreement, important points were as follows: first, that provision was an obligation for WTO Members; second, this issue was on the Agenda of the TRIPS Council at every meeting; and third, developed countries submitted each year reports on their technical and financial cooperation as envisaged by the provision. He stated that the purpose of the reporting was not only to monitor implementation, but to share information so that developing countries were aware what was available and where to go. He also mentioned that the notification of contact points, in which developed countries must identify the contact points within their administration, was another mechanism designed to ensure that developing and least-developed countries were informed of the available technical cooperation under Article 67. The reports and the notification of contact points were circulated among all WTO Members and were also available on the WTO website. He fully understood and appreciated the concerns expressed in this General Assembly, but that these were not being made in the TRIPS Council. The WTO Secretariat recently reviewed the records of the past discussions that took place in the TRIPS Council on technical cooperation to find the areas of dissatisfaction, but that no such concerns were contained in the records. He requested that such concerns be brought to the TRIPS Council, of which the next meeting was scheduled for October 20 to 22, 1999, and was to review the annual reports on technical cooperation. He explained that the mechanism for making use of Article 67 for obtaining technical assistance from the developed countries was based on demands and that the WTO Secretariat was available to provide advice on the most appropriate means of obtaining assistance in this connection. He added that the WTO technical cooperation was generally also demand based, which required the countries wishing for assistance to request for it. He said that WTO was usually in a position to respond, but that this cannot be guaranteed because of the limited resources at WTO. The Representative stated that WTO placed high priority to the situation of the least-developed countries, including the Sub-Saharan African countries, whose situation on issues of intellectual property were not very different. As examples of the activities, he stated that WTO organized two workshops of one-week sessions in Geneva, one in English and the other in French, for the least-developed countries, including the Sub-Saharan African countries. He added that WTO invited the governments, who then designated the participants. There had been also regional workshops in Africa: a joint

WIPO-WTO workshop was held in Bangui for French-speaking countries earlier this year, and a similar symposium in English was held in Victoria Falls, Zimbabwe. This, however, was not a joint event due unfortunately to lack of funds in WTO, but WTO provided a speaker to that WIPO symposium. In addition, WTO participated in a number of other regional, sub-regional and national activities in Africa. As regards electronic commerce, he stated that there were ongoing cooperation through various mechanisms between WIPO and WTO, where each Organization followed the work of the other closely and briefed the bodies of the other Organization on its work. He said that he had the opportunity to brief the work of WTO in this area at WIPO's "International Conference on Electronic Commerce and Intellectual Property" held during the previous week, and that WIPO had briefed the Members of WTO at the TRIPS Council meetings. He added that the WTO Secretariat had been careful to make sure its Members were fully informed of the work of WIPO in this area. The present situation on electronic commerce in WTO concerning intellectual property was that the WTO Members had considered this subject in the context of the TRIPS Council and viewed it as a complicated subject. They wished to study it further, while taking into account of the work of WIPO, and the TRIPS Council had reported to the General Council along those lines. The General Council had also received reports from other relevant WTO bodies, namely the Councils dealing with goods and services and the Committee on Trade and Development. He stated that the General Council was to review these reports in two weeks to decide what would be the next step in WTO's work program on electronic commerce.

137. The General Assembly took note of the contents of document WO/GA/24/5 Rev.

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