

## **WIPO General Assembly**

**Forty-Fourth (23<sup>rd</sup> Extraordinary) Session**  
**Geneva, December 10 to 12, 2013**

### **REPORT**

*adopted by the General Assembly*

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/52/1): 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.
2. The reports on the items, with the exception of items 4, 7, 8, 9 and 10 are contained in the General Report (document A/52/6).
3. The reports on items 4, 7, 8, 9 and 10 are contained in the present document.
4. Ambassador Päivi Kairamo (Ms.) (Finland), Chair of the General Assembly, presided over the meeting.

#### ITEM 4 OF THE CONSOLIDATED AGENDA

##### DECISION BY THE GENERAL ASSEMBLY IN RELATION TO THE COORDINATION COMMITTEE DECISION ON EXTERNAL OFFICES TAKEN DURING ITS SIXTY-SEVENTH (44<sup>TH</sup> ORDINARY) SESSION

5. Discussions were based on document WO/GA/44/1.
6. The Chair opened Agenda item 4 a Decision by the General Assembly in Relation to the Coordination Committee Decision on External Offices Taken During its Sixty-Seventh (44<sup>th</sup> Ordinary) Session. This item was requested by Group B and the Chair invited the Group B representative to make an introduction.
7. The Delegation of Japan, speaking on behalf of Group B, thanked the Chair for the opportunity to explain the agenda item and continued by stating that part 2(a) of the Coordination Committee decision on external offices taken during the 51<sup>st</sup> General Assemblies in paragraph 18 of WO/CC/67/4 includes the phrase "if so decided by the General Assembly". Therefore, the decision of the General Assembly was purely procedural in nature and was required to make the Coordination Committee decision take effect. In this regard, the Delegation proposed the decision included in the Annex of document WO/GA/44/1 for adoption.
8. The Chair thanked the Delegation of Japan, speaking on behalf of Group B, and, on seeing no requests from the floor, found there was consensus on this proposal and declared the debate on this item concluded. The Chair proposed moving onto Agenda Item 5 before taking a formal decision on this item and, seeing no objections, it was thus decided.
9. The Chair subsequently gavelled the decision for this agenda item (see document A/52/6, paragraph 50), that is,:
  10. The WIPO General Assembly notes paragraph 2(a) of the Coordination Committee Decision on external offices taken during the 51<sup>st</sup> General Assemblies, and, in this regard, decides that WIPO shall directly procure the required IT equipment for all WIPO external offices through its normal processes, and that all WIPO external offices shall not conduct any activities directly relating to the processing of PCT, Madrid and the Hague System Applications.

#### ITEM 7 OF THE CONSOLIDATED AGENDA

##### GOVERNANCE AT WIPO

11. Discussions were based on documents WO/GA/44/3, WO/GA/43/18, A/51/14 and WO/GA/43/22.
12. The Chair opened Agenda Item 7, Governance at WIPO. The Chair reminded the Members States that, as they would be aware, the last meeting of the Assemblies decided on, October, 2, 2013, to convene this extraordinary session in order to conclude deliberations on *inter alia*, this agenda item. At subsequent consultations which had been conducted by the Chair it had been agreed to submit the following draft decision, which was included in document WO/GA/44/3, for approval:

“The WIPO General Assembly (i) take note of the documents presented on “Governance at WIPO”, under Agenda Item 30 (document A/51/1 - 51<sup>st</sup> Assemblies) including the proposal presented by the African Group (ii) requests the Secretariat to organize an information meeting with the JIU regarding their report on the Review of Management and Administration of WIPO prior to the 22nd session of the PBC and (iii) invites the Member States to submit proposals on Governance at WIPO to be discussed at the 22nd session of the PBC.”

13. The Chair, before offering the floor to Delegations, noted that a certain amount of time had already been spent on this issue in informal consultations and that Member State positions were well-known. Time was needed to discuss other pending matters on the Agenda. Therefore, the Chair preferred that statements, if any, were delivered only by the regional coordinators on behalf of members of their group, if possible.

14. The Delegation of Algeria, speaking on behalf of the African Group thanked the Chair for the proposal concerning the question of governance. The African Group wished to recall that governance at WIPO needed to be improved so that the Member States would have full control of the Organization and to avoid misunderstandings and a lack of dialogue between the Member States and the Secretariat. The African Group recalled that this question had been the object of intense informal consultations at the last session of the General Assembly. During these consultations, the African Group had introduced their proposal concerning governance which consisted of three elements. This question should be the object of ongoing informal consultations next year so as to put forward proposals to the PBC. The same Committee should use part of its time to discuss the results of these consultations and to make recommendations to the General Assembly in 2014. The third and final element was that at its next session, the General Assembly should adopt recommendations to strengthen Governance at WIPO. The African Group had been flexible in accepting the Chair’s proposal as it stood but continued to be convinced that in 2014, the General Assembly should give consideration to the question of governance and take a final decision on this issue. The African Group reserved the right to present this proposal at the next session of the General Assembly and requested that this be an item on the Agenda.

15. The Chair thanked the Delegation of Algeria and the African Group for their flexibility, in particular on this item.

16. The Delegation of Japan, speaking on behalf of Group B, wished to recall the fact that Member States had been able to establish three issues, namely Governance, Committee on WIPO Standards (CWS) and the Standing Committee on Copyright and Related Rights (SCCR) before this Extraordinary General Assembly thanks to the flexibility shown by all Member States. Building on this constructive engagement of mutual understanding among Member States, Group B believed that Member States should tackle other remaining, outstanding items in an efficient and constructive manner at this session.

17. The Delegation of Egypt, speaking on behalf of the Development Agenda Group (DAG), stated that the Group attached great importance to governance in WIPO. The Group recalled the proposal which had been submitted during the recent discussions held during the General Assembly. A proposal had been submitted in cooperation with the African Group. The DAG felt that the question of governance in WIPO had been discussed during many meetings of the PBC and many Member States had put forward their ideas concerning the development of this governance as could be seen in document WO/PBC/17/2 Rev. However, thus far, there had not been any agreement on the proposals, specifically at the PBC. This was why this item had been referred to the General Assembly. The DAG expressed their gratitude to the Chair for the efforts she had made during the consultations in order to reach a decision so that the work of the General Assembly would be successful. In this context, the DAG were pleased to accept the decision, read out by the Chair, which was to set up an information meeting with the Joint Inspection Unit (JIU) on their Review of Management and Administration of WIPO before the

next session of the PBC. The Group were expecting that excellent discussions would be held during this joint information meeting with the JIU in order that Member States could also study all the specific proposals made, so that these could be discussed and considered in the framework of the PBC and in order that the General Assembly could be made aware of these recommendations with a view to adopting them in the future. The DAG thanked the Chair for her efforts and expressed its satisfaction with the constructive proposals put forward on this subject.

18. The Chair wished to personally thank the Delegate of Egypt for his assistance to the Chair of the General Assembly during the last session concerning this particular issue.

19. The Delegation of Lithuania sought clarification as to whether it could deliver its statement on the issue of Agenda items 7, 9 and 10. The Chair responded that it could be read now or under any of these Agenda Items.

20. The Delegation of Lithuania passed the floor to the Delegation of the European Union and its member states.

21. The Delegation of the European Union and its member states recognized that in preparation for these Extraordinary General Assembly, the Chair had successfully brokered an agreement on a package of decisions on the CWS, the SCCR and on Governance issues. This was a package of agreements that did not meet all of the expectations of the Delegation of the European Union and its member states. However, in the spirit of compromise, which the Delegation hoped would be the hallmark of this Extraordinary General Assembly, the EU and its member states were willing to back these draft decisions.

22. The Chair thanked all delegations for their statements and proposed the following text as the agreed decision of the Assemblies under this agenda item. It was so decided.

23. The WIPO General Assembly:

(i) took note of the documents presented on "Governance at WIPO" under Agenda Item 30 (document A/51/1 – 51<sup>st</sup> Assemblies), including the proposal presented by the African Group;

(ii) requested the Secretariat to organize an information meeting with the JIU regarding their Report on the Review of Management and Administration of WIPO prior to the 22<sup>nd</sup> session of the PBC; and

(iii) invited the Member States to submit proposals on Governance at WIPO to be discussed at the 22<sup>nd</sup> session of the PBC.

## ITEM 8 OF THE CONSOLIDATED AGENDA

### CONSIDERATION OF THE CONVENING OF A DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A DESIGN LAW TREATY

24. Discussions were based on documents WO/GA/43/12, WO/GA/44/2 and WO/GA/43/22.

25. The Chair invited Mr. Marcelo Della Nina of Brazil, the Facilitator of the informal consultations on the convening of a diplomatic conference for the adoption of the Design Law Treaty (DLT), to report on the outcome of those consultations.

26. The Facilitator informed WIPO Member States that, during the 43<sup>rd</sup> session of the General Assembly in October 2013 and throughout a number of sessions during the two weeks prior to this extraordinary session of the General Assembly, he had conducted open-ended informal consultations with regional coordinators and interested delegations on the convening of a diplomatic conference for the adoption of the DLT. The Facilitator stated that, throughout the process, no delegation that had participated in those consultations had opposed to the convening of a diplomatic conference on a DLT. Several delegations, however, were of the view that the basic proposal should include provisions on technical assistance and capacity building for the implementation of the future DLT in the form of an Article. The Facilitator observed that there was no consensus on that particular matter, but no delegation was opposed to address the issue of technical assistance and capacity building in the context of the decision to convene a diplomatic conference on the DLT. The Facilitator indicated that all delegations agreed that technical assistance and capacity building activities, as well as associated resources under the future DLT, should follow the Program and Budget process of WIPO. As a result of the consultations, the Facilitator produced a draft text for the General Assemblies decision which was accepted by all delegations, except one single qualification relating to the legal nature of the technical assistance and the capacity building provisions under consideration. In an attempt to overcome that problem, the Facilitator proposed a compromise solution which consisted in qualifying the technical assistance and capacity building provisions on the basis of three alternatives indicated within brackets: [legal] [legally binding] [normative] provisions. The Facilitator thanked all the delegations that had participated in the consultations for their continued, constructive and intense engagement throughout the process. The Facilitator considered that, thanks to their hard work and commitment to reach a consensus, the resulting text, though short of resolving all issues, constituted an excellent basis for further discussions, with a view to bridging the remaining gaps and finding a solution agreeable to all delegations for the only pending issue in the text. The Facilitator read the text of the draft decision as follows:

“The WIPO General Assembly:

“(a) decides to convene a diplomatic conference in June 2014 with the mandate to negotiate and adopt a Design Law Treaty;

“(b) requests the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (the SCT) to expedite its work in order to consolidate the text for the basic proposal for the Design Law Treaty and agrees to hold one more session of the SCT in the first quarter of 2014;

“(c) agrees that documents SCT/30/2 Industrial Design Law and Practice – Draft Articles and SCT/30/3 Industrial Design Law And Practice – Draft Regulations, as aimed by the session of the 30th session of the SCT as well as any text or contributions proposed by members, will constitute the basic proposal for the Design Law Treaty which will include [legal] [legally binding] [normative] provisions concerning technical assistance and capacity building in particular for Developing Countries and Least Developed Countries for the implementation of the future Design Law Treaty. The technical assistance and capacity building activities and associated resources under the future Design Law Treaty shall follow the Program and Budget process of WIPO;

“(d) decides to convene a preparatory committee back-to-back with the next session of the SCT;

“(e) welcomes with gratitude the offer of the Russian Federation to host a diplomatic conference in June 2014.”

27. The Delegation of Belarus, speaking on behalf of the Group of Caucasian, Central Asian and Eastern European Countries (CACEEC), highlighted the importance of concluding the DLT. Expressing the view that consensus on this issue could be reached, the Delegation called on the other delegations to adopt a cooperative and flexible spirit.

28. The Delegation of Japan, speaking on behalf of Group B, expressed its appreciation for the work of the Facilitator and the constructive engagement of Member States which participated in the informal consultations during the General Assemblies. The Delegation stated that Group B expected a positive agreement, which would allow negotiating the final details and finalizing the Treaty in Moscow. Supporting the convening of a diplomatic conference in 2014, the Delegation reiterated the appreciation of Group B to the Russian Federation for the offer to host such diplomatic conference.

29. The Delegation of the United States of America, recalling that the mandate set out by the General Assembly in 2012 for the General Assembly in 2013 was to take stock of, and consider, the text and progress made, and decide on the convening of a diplomatic conference, was concerned that some Member States had complicated the decision-making by attempting to establish a predetermined substantive outcome, through the inclusion of an Article on technical assistance and capacity building. The Delegation declared that it was ready to decide to convene a diplomatic conference for the adoption of the DLT, although it felt that it was necessary for the General Assembly in 2013 to elaborate upon what would be included in the basic proposal for the DLT beyond the traditional reference to the relevant SCT documents. Declaring that it was flexible on the language, the Delegation expressed its support for all, but one, of the alternatives reflected in paragraph (3) of the Facilitator's text. In particular, the Delegation supported references to legal provisions or normative provisions. The Delegation could also be supportive of deleting parts of paragraph 3, such as all of the bracketed language before the word "provisions". Additionally, the Delegation could support deletion of the entire paragraph 3, as it was not necessary to achieve the mandate from the General Assembly in 2012 for the General Assembly in 2013 to decide on convening a diplomatic conference for the DLT. Alternatively, recognizing that document SCT/30/2 included a draft Article/Resolution on technical assistance and capacity building, the Delegation could support a reference to an Article/Resolution in paragraph 3. Further, the Delegation could support an expansive formulation, "Article/resolution/agreed statement", listing all the various ways in which the concept of technical assistance could possibly be addressed in the DLT. The Delegation was flexible, but could not accept reference to "legally binding", as it would prejudice the outcome of the negotiation in the SCT and any diplomatic conference. The Delegation had unanswered questions as to how legally binding provisions on technical assistance and capacity building could be drafted. The Delegation stated that, during the informal consultations, it had learned that some articles of the treaties were not legally binding, and the Delegation was not aware of what language would be required to make the provisions legally binding. Finally, the Delegation questioned the legality of a provision whereby a subset of WIPO members, the future contracting parties to the DLT, attempted to legally bind the entire organization. As a result of these many concerns, the Delegation could not accept the General Assembly in 2013 instructing the SCT to draft legally binding provisions on technical assistance and capacity building. In conclusion, the Delegation was ready to support the convening of a diplomatic conference based on documents SCT/30/2, SCT/30/3 and any textual contributions by members. The Delegation said that it would be unfortunate if some members could block a decision to convene a diplomatic conference unless additional predetermined outcomes were agreed upon. By blocking the diplomatic conference, they would ensure that no progress could be made on the DLT.

30. The Delegation of Poland, speaking on behalf of the Group of Central European and Baltic States (CEBS), expressed its gratitude for the latest proposal of the Facilitator and reaffirmed its strong support for the earliest convening of a diplomatic conference for the DLT. Reiterating its support for the inclusion of a specific Article on technical assistance and capacity

building for the implementation of the future Treaty in the text of the Treaty, the CEBS Group expressed its full support for the text presented by the Facilitator and declared that it was flexible on the three options in brackets. The CEBS Group thanked the Russian Federation for its willingness to host the diplomatic conference in June 2014.

31. The Delegation of Trinidad and Tobago, speaking on behalf of the Group of Latin American and Caribbean States (GRULAC), thanked the Facilitator for his tireless work in facilitating this decision-making paragraph and the Russian Federation for its offer and willingness to host the diplomatic conference in 2014. The Delegation recalled that GRULAC had expressed the view at the General Assemblies in September that, in order to make progress with the negotiations and move towards a diplomatic conference in 2014, there must be an agreement on a provision for technical assistance and capacity building in the Treaty. The Delegation said that, after negotiations and intense informal consultations, GRULAC had discussed and considered thoroughly the proposal by the Facilitator and decided to adopt maximum flexibility for that proposal. GRULAC, in the spirit of compromise, retained maximum flexibility on all three options on the table, i.e. legal, legally binding and normative provisions. Finally, GRULAC would also open the door for the fourth option, which would be leaving the word "provision" without any qualifier.

32. The Delegation of Algeria, speaking on behalf of the African Group, thanked the Facilitator and the delegations which had participated in the informal consultations with a constructive spirit. The Delegation, recalling the context of the discussions, said that three years ago the Secretariat had made a proposal on the harmonization of industrial design law and practice. At that time, the African Group had clearly expressed its reluctance at harmonizing laws on intellectual property because of different levels of development of Member States and because harmonization could be damaging to certain States. Nevertheless, the African Group had been flexible and members continued discussing this issue. One year later, the Delegation was surprised by a request to convene a diplomatic conference to adopt the DLT. Here again, the African Group had been reluctant because it needed more time to continue discussing the articles of this Treaty. But once again the African Group had been flexible. The African Group had participated in the discussions at the SCT and had made a single request, namely that technical assistance and capacity building be part of the Treaty. That request was put forward a year ago. Delegations had had time to express themselves on whether this provision could be part of an Article or not. A year later, delegations still needed time. The African Group understood this need and did not say that any delegation was blocking things or damaging the process. While respecting the proposals of the Member States, the African Group stated clearly that there should be a reference to an Article on technical assistance in the decision to convene a diplomatic conference. The African Group was again flexible and agreed not to talk about an Article directly in the decision, but about legally binding provisions. The Delegation reaffirmed the African Group's strong position on this issue, and did not consider that this meant that the African Group was blocking the process or opposing to the diplomatic conference. The African Group had repeatedly said at the General Assemblies and in the SCT that it was in favor of convening a diplomatic conference. However, the African Group wished that its legitimate right on technical assistance and capacity building be recognized. Recalling that only one delegation did not agree with the inclusion of an Article on technical assistance and capacity building, the Delegation of Algeria said that it respected that decision, but requested that the African Group's legitimate request be likewise respected. The African Group wished to be given guarantee that technical assistance would become an Article in the Treaty. If there was not such a guarantee, then the delegations would need more time to reach a consensus. In conclusion, the Delegation said that the African Group was in favor of convening a diplomatic conference and hoped that a clear reference to legally binding provisions on technical assistance and capacity building would be made in the decision.

33. The Delegation of Bangladesh, speaking on behalf of the Asia-Pacific Group, expressed its sincere thanks to the Facilitator for his untiring efforts to reach consensus. The Delegation recalled that the members of the Asia-Pacific Group supported appropriate provisions on technical assistance and capacity building in the form of an article of the Treaty. However, due to the new document by the Facilitator, the members of the Asia-Pacific Group were ready to further engage to reach a consensus on the textual formulation.
34. The Delegation of the European Union and its member states recalled that WIPO Member States had engaged in lengthy informal consultations on a decision to convene a diplomatic conference on a design formalities Treaty. The Delegation believed that the draft text of the Treaty was already mature at the General Assembly meeting in September and had been further improved by the successful outcome of the 30<sup>th</sup> session of the SCT. The small differences that remained should not keep members from the objective to convene a diplomatic conference in 2014. The Delegation thanked the Russian Federation for the offer to host the diplomatic conference in 2014. The Delegation also urged the small number of delegations that still entertained some reservations on a decision to convene a diplomatic conference to overcome their differences to allow a clear consensus to emerge.
35. The Delegation of Venezuela (Bolivarian Republic of) thanked the Facilitator for his efforts in conducting the informal negotiations, as well as the Russian Federation for the offer to host the diplomatic conference in 2014. The Delegation said that during the informal consultations, members had learned that many interpretations could emerge from an Article or a Resolution, but that there was no binding law if there was no political will. The Delegation said that the issue of technical assistance was present in the text, irrespective of the qualifiers used. The Delegation believed that the problem could be solved by deleting the options in square brackets. The Delegation urged Member States to show political will and to reach a consensus on the convening of the diplomatic conference.
36. The Delegation of Canada, reiterating its support for the convening of a diplomatic conference on a DLT in 2014, said that it had showed flexibility in the negotiations. However, the Delegation echoed the comments made by the Delegation of the United States of America and stated that it would only support the inclusion of two of the three options in the draft decision paragraph, namely “normative” or “legal”.
37. The Delegation of the Russian Federation stating that it was important to show political will, declared that it would be a great honor for its country to hold this diplomatic conference. Observing that the outcome of the diplomatic conference would have great positive impact on the economies of individual Member States and global economy in general, the Delegation said that the profit would be for those States who bet on creating new working places through small and medium-sized enterprises (SMEs). The Delegation said that this diplomatic conference could give a good chance to deal with economic challenges and make a contribution towards the development and wellbeing of all countries. Moreover, this would be in line with United Nations (UN) development goals. The Delegation said that analytical studies had been done, showing that for most of the countries which would sign and ratify the Treaty, a positive economic impact would be observed. Highlighting the fact that no delegation opposed to the principle of technical assistance and capacity building, the Delegation recalled a parable about the inhabitants of a village who could not agree on how to harvest. For many months, they argued and when the crop was lost, they came to the unanimous conclusion that the crop was lost. The Delegation said that if no political will was shown, the same would happen with the DLT. In conclusion, the Delegation invited all Member States to Moscow and assured them that the Russian Federation would make every effort to ensure the success of the diplomatic conference.
38. The Delegation of Egypt, noting that several WIPO instruments contained specific articles on technical assistance, said that the lack of political will to extend technical cooperation to

developing countries should be unthinkable. The Delegation believed that it was vital for an instrument of this nature that technical cooperation should be incorporated into it. Referring to the provisions on technical cooperation in the TRIPS Agreement and other treaties, the Delegation said that, if this new instrument was to be successful, reference to technical cooperation was imperative. The Delegation recalled that WIPO Member States had agreed on the importance of technical cooperation. The Delegation, thanking the Facilitator for making every possible effort to bring ideas together, stated that legally binding provisions would be more efficient and that overcoming these issues would ensure that the diplomatic conference would run smoothly. Noting that only one State did not agree to the inclusion of an Article on technical assistance and capacity building in the Treaty, the Delegation urged that Member State to drop its opposition and to ensure that all Member States would succeed in Moscow. Finally, the Delegation looked forward to resolving this issue as quickly as possible and to making sure that the diplomatic conference in Moscow would be a resounding success.

39. The Delegation of Cuba said that, in view of the different level of development of countries, it reiterated the importance of including technical assistance and capacity building provisions as a prerequisite to convene a diplomatic conference on the DLT. The Delegation expressed its support for the statement made by GRULAC.

40. The Delegation of Ukraine, recognizing the profound significance and substantial importance for all Member States of a DLT, expressed its support for convening a diplomatic conference for the adoption of a DLT in June 2014.

41. The Delegation of Spain thanked the Facilitator and Member States for their work over the last few weeks to try to reach an agreement, as well as the Russian Federation for offering to host the diplomatic conference. The Delegation, stating that it was in favor of convening a diplomatic conference for a DLT in 2014, said that it was conscious of the importance of technical assistance. For this reason, the Delegation opted, together with the European Union, for an article to address the issue of technical assistance. Noting that the objective of technical assistance could be achieved in different ways, the Delegation urged delegations that still had doubts to concentrate on the content of the provision, rather than on the form.

42. The Delegation of South Africa, aligning itself with the statement made by the African Group, said that the African Group and its Delegation had been extremely flexible on the technical assistance and capacity building issues. The Delegation recalled that at the last General Assembly, all delegations, except one, were ready to agree on the convening of a diplomatic conference. The Delegation underlined the work done during the informal consultations in order to try to accommodate the concerns of the Delegation which disagreed, in particular as regards a paragraph referring to the budget. The Delegation of South Africa said that the African Group had reached its maximum level of flexibility on this issue and wanted a clear reference to an Article. In the Facilitator's text there was no clear reference to an Article, but to "legally binding", "legal provision" or "normative" provision. The Delegation said that it would only agree to move forward with the convening of a diplomatic conference if there was a reference to an Article or the term "legally binding". The Delegation of South Africa appealed to the Delegation that could not agree to the text of the General Assembly in September to accept the term "legally binding".

43. The Delegation of Chile thanked the Facilitator as well as the Delegation of the Russian Federation for offering to host the diplomatic conference. The Delegation recalled that it had, from the outset, supported the holding of a diplomatic conference to adopt a DLT. The Delegation considered that, although industrial designs were not broadly used in developing countries, they could become an important intellectual property tool, which could be more easily used than patents. Taking into account this positive aspect of industrial designs as an intellectual property tool, the Delegation supported the holding of a diplomatic conference to adopt the DLT. The Delegation said that it had previously supported the idea of including an

Article on technical assistance and capacity building in the DLT, in order that the greatest number of countries could benefit from this Treaty. It recalled that its chief concern was that Member States would have a common understanding that technical assistance and capacity building would be available whenever a developing country requested it. The Delegation observed that, after several months of discussion, considerable headway had been made. There were no Member States opposed to the convening of a diplomatic conference, nor to the idea of providing technical assistance within the framework of this Treaty, although there were some divergences regarding the form in which this understanding should be drafted. The Delegation said that the issue should be discussed today in order to try to overcome this final point, which was more a question of form than a conceptual issue. In this way, the diplomatic conference would be convened, the rhythm that had been developed in Beijing and Marrakech would be maintained, and the role played by this Organization in this field would be reaffirmed.

44. The Delegation of Cameroon expressed its support for the position put forward by the African Group. The Delegation recalled that the aim of this work was to reach human development. Therefore, it was important that all States achieved the same level to avoid that the gap was widened between developed and developing countries. To this end, technical assistance and capacity building were paramount.

45. The Delegation of Tunisia, thanking the Delegation of the Russian Federation for offering to host the diplomatic conference in 2014, concurred with the statement made by the African Group that technical assistance should be clearly included in a provision of the future Treaty.

46. The Delegation of Hungary declared that it supported the statements made by the CEBS Group, the Delegation of the European Union and its member states, and several other delegations that supported the calling for a diplomatic conference without additional conditions. The Delegation considered that simplifying design formalities was beneficial to all WIPO Member States, regardless of their economic development. The Delegation declared that it could go along with any of the alternative proposals put forward by the Facilitator. The Delegation agreed with those delegations that had stated that the political will to provide technical assistance had never been put into question by any delegation and that the content was much more important than the form. Finally, the Delegation thanked the Facilitator for his tireless efforts, as well as the Russian Federation for the offer to host the diplomatic conference.

47. The Delegation of Zimbabwe, associating itself with the statement made by the African Group, declared that this statement was a desperate plea by African countries for technical assistance and capacity building, which should be taken into account by the sponsors of the DLT. The Delegation further pointed out that the inclusion of technical assistance and capacity building provisions in Treaties was not new, since there was a similar provision under the TRIPS Agreement in Article 67.

48. The Delegation of Iran (Islamic Republic of) associated itself with the statement made by the African Group. The Delegation observed that the mandate given by the General Assembly to the SCT in 2012 had explicitly referred to the importance of including appropriate provisions on technical assistance and capacity building for developing countries and least developed countries (LDCs) in the DLT. The Delegation believed that a successful diplomatic conference could take place next year if Member States could reach a consensus on the legally binding nature of a provision on technical assistance and capacity building in the DLT. A decision as to the nature of this provision should be finalized before going to a diplomatic conference in the Russian Federation.

49. The Delegation of China, noting the efforts and progress made during the SCT as regards the DLT, expressed its support for convening a diplomatic conference for the adoption of a DLT in 2014 when the conditions would be ripe. Thanking the Russian Federation for the offer to

host this diplomatic conference, the Delegation expressed the hope that this Assembly would make substantive progress as soon as possible on issues of technical assistance and capacity building. The Delegation, expressing the wish to see a provision on this matter in order to respond to the request of developing countries, said that such provision would encourage wide acceptance of the DLT. The Delegation expressed the hope that all countries would show flexibility in order to make real and substantive progress on the issue.

50. The Delegation of Senegal, aligning itself with the statement made by the African Group, recalled that this Group supported the convening of a diplomatic conference in June 2014 in the Russian Federation. The Delegation further added that it supported the draft decision proposed by the Facilitator, if the terms “legally binding” were chosen in that text.

51. The Delegation of Nigeria lent its support to the statement made by the Delegation of Algeria, on behalf of the African Group. The Delegation called for an equal treatment of the legitimate concerns of each Member State which had supported the convening of a diplomatic conference in June 2014, in Moscow.

52. The Delegation of Morocco thanked the Facilitator, as well as the Russian Federation for offering to host the diplomatic conference. The Delegation further endorsed the statement made by the African Group. The Delegation, observing that in many WIPO and non WIPO instruments there was usually inclusion of legally binding provisions for the purpose of technical assistance and capacity building, did not understand why such provisions could not be included in the future proposed Treaty. The Delegation expressed the hope that all delegations would view things in a participatory manner such as to ensure that a large number of developing countries could accede to this Treaty.

53. The Delegation of Greece, associating itself with the statement made by the Delegation of the European Union and its member states, stated that, while demands for technical assistance and capacity building should be accommodated, they should not prevent efforts to harmonize and improve the intellectual property system. Therefore, the Delegation called on all delegations to work towards a balanced solution in the spirit of cooperation, and looked forward to a positive decision of the Assembly.

54. The Delegation of Italy, supporting the statement made by the Delegation of the European Union and its member states, highlighted the consensus on the importance of WIPO technical assistance for developing countries. The Delegation observed that what remained to be done was only to find the appropriate formula in the Assembly decision.

55. The Delegation of Algeria, thanking the Russian Federation for the generous offer to host the upcoming conference, as well as the Facilitator for all the efforts he had made to seek a consensus, endorsed the statement made by the African Group. The Delegation said that technical assistance was a legitimate claim for any developing country which aspired to develop and join worldwide growth. Without the political will on the part of developed countries, developing countries would be left aside from any progress. Technical assistance was the proof of this political will to ensure a beneficial progress for all in a fair and equitable way. In conclusion, the Delegation expressed the hope that there would be a legally binding specific provision which would ensure a win-win conclusion of the forthcoming conference.

56. The Delegation of India thanked the Facilitator for his hard work, as well as the Russian Federation for offering to host the diplomatic conference. The Delegation said that, although the question of a resolution or an Article for technical assistance had not been yet resolved, much progress had been made, particularly on the text regarding technical assistance and capacity building. In the last session of the General Assembly, the Delegation of India had expressed its preference for an Article on technical assistance and capacity building, which was essential for developing countries and LDCs. The Delegation said that, while it still had a preference for

legally binding text regarding technical assistance and capacity building, it would not like to foreclose this option by not arriving to a consensus. In order to move ahead, the Delegation encouraged all delegations to try to reach a consensus on this decision paragraph during this General Assembly, and expressed its willingness to work with the concerned delegations in order to reach that consensus.

57. The Delegation of Ethiopia thanked the Russian Federation for the generous offer to host the diplomatic conference on the adoption of the DLT. The Delegation, aligning itself with the statement made by the African Group, noted the progress made in the negotiation process of the DLT. The Delegation further believed that in view of the disparity in the level of development among Member States, there was reason not to exclude a substantive provision on technical assistance and capacity building in the future DLT. Hence, the Delegation subscribed to the inclusion of a clear reference to technical assistance and capacity building in the draft text.

58. The Delegation of Mali thanked the Facilitator for his excellent work, as well as the Russian Federation for agreeing to host the diplomatic conference on DLT. The Delegation concurred with the African Group and other delegations which had stated that technical assistance and capacity building was necessary.

59. The Chair decided to break for informal consultations.

60. The Chair reopened Agenda Item 8 and gave the floor to the Facilitator, Mr. Marcelo Della Nina.

61. The Facilitator thanked all delegations involved in this long process of consultations, which started during the General Assembly in September 2013, for their continued and unrelenting engagement in the process to come to a consensus. The Facilitator said that, unfortunately, it had not been possible to reach a consensus on a decision to convene a diplomatic conference on the DLT, although a consensus had been extremely close. Actually, the last version of the Facilitator's text had only one pending issue to be resolved. The Facilitator indicated that during the day, in intensive discussions and negotiations, several different possibilities had been proposed by the Facilitator and delegations in terms of language and approaches. The Facilitator, observing that there was only one pending issue to be resolved, said that one word was still subject to debate. The Facilitator observed that, before the start of this plenary session, he had consulted with different delegations, especially with those concerned in the final debate, on whether the informal consultations should continue. The concerned delegations had said that they did not see the point of continuing the discussion in informal consultations. In this context, the Facilitator read the text of the proposed decision, as follows:

“The WIPO General Assembly:

“(a) requests the SCT to expedite its work in order to consolidate the text of the basic proposal for a Design Law Treaty as per the decision of the General Assembly taken at its 41<sup>st</sup> Session, document WO/GA/41/18, paragraph 231;

“(b) will in 2014 take stock of and consider the text, progress made, and decide on convening a diplomatic conference.”

62. The Delegation of Belarus, speaking on behalf of the CACEEC, took note of the very sad fact that a consensus could not be reached. The Delegation, expressing its disappointment, asked that this issue was discussed at the next session. The Delegation, expressing the view that at this stage of the discussions it and other delegations were hostages to certain delegations that had not been able to reach an agreement, observed that this decision would be

a negative precedent for international treaties in this Organization. Nevertheless, the Delegation expressed its willingness to work constructively in the future in order to conclude an agreement. The Delegation also thanked the Facilitator for all the work he had done in trying to reach a consensus.

63. The Delegation of the United States of America thanked the Facilitator for his hard work in trying to bring a successful solution that all could agree to, which unfortunately did not take place. The Delegation said that it wished to clearly express to all members that it fully supported the convening of a diplomatic conference for the DLT, using as a basis documents SCT/30/2 and SCT/30/3 and any other textual contributions. The Delegation, recalling that Article 21 of document SCT/30/2 contained brackets around Article and Resolution, said that those brackets recognized that WIPO had a mandate to provide technical assistance and that technical assistance would continue to be provided regardless of whether the DLT addressed technical assistance. The Delegation, noting that some delegations wanted technical assistance to be addressed in an Article and others in a Resolution, indicated that those two positions were clearly bracketed in the text. Thus, the Delegation thought that those two brackets should give comfort to Members to enable the General Assembly to convene the diplomatic conference. The Delegation, stating that it had considered the possible contents of such an Article, was of the view that it had shown maximum flexibility in giving assurances to other delegations that an Article might be possible, whereas no reciprocity that a Resolution was also possible had been given to its Delegation. Charting its flexibility to the General Assembly, the Delegation said that it was willing to accept the wording “legal provisions” or “normative provisions”. The Delegation could also be supportive of deleting parts of paragraph (3), such as all of the bracketed language before the word “provisions”. Additionally, the Delegation could support deletion of the entire paragraph 3, as it was not necessary to achieve the mandate from the General Assembly in 2012 for the General Assembly in 2013 to decide on convening a diplomatic conference for the DLT. As mentioned previously, recognizing that document SCT/30/2 included a draft Article/Resolution on technical assistance and capacity building, the Delegation could support a reference to an Article/Resolution in paragraph 3. Further, the Delegation could support an expansive formulation, “Article/Resolution/agreed statement”, listing all the various ways in which the concept of technical assistance could possibly be addressed in the DLT. The Delegation, indicating that this language was clearly not its preferred language, said that, after discussion with its capital, it was willing to accept it. Unfortunately, this was not enough for one group. There was only one bracket that the United States of America could not accept in the draft decision to convene a diplomatic conference in 2014. The Delegation could not support the reference made to “legally binding”, as it would prejudice the outcome of the negotiation in the SCT and any diplomatic conference. The Delegation had unanswered questions as to how legally binding provisions on technical assistance and capacity building could be drafted. In the many long hours of informal consultations, the Delegation had learned that some articles of the treaties were not legally binding, and the Delegation was not aware of what language would be required to make the provisions legally binding. The Delegation also learned from the Legal Counsel of WIPO that it was not possible to bind the Organization as it was not a Contracting Party to the Treaty, and therefore this phrasing was not accurate. As a result of these many concerns, the Delegation could not accept the General Assembly in 2013 instructing the SCT to draft legally binding provisions on technical assistance and capacity building. In addition, the Delegation, stating that the General Assembly could not dictate to the parties to the diplomatic conference what the Treaty in the end would include, said that the most the General Assembly could do was to decide on convening a diplomatic conference based on the proposed text that the SCT had recommended. The Delegation, observing that it was a strong supporter of technical assistance both as a provider and as a potential recipient, acknowledged that technical assistance might be necessary for some delegations to implement the DLT, including perhaps the United States of America. The Delegation indicated that it was troubled by any suggestion that its inability to agree had anything to do with its shared sense of the importance of technical assistance and stated that this dispute was only about form and not substance. The Delegation added that it

had repeatedly explained that a Resolution was a legal document that enabled technical assistance to be delivered immediately to the widest possible set of recipients, whereas an Article would only allow for technical assistance to be delivered after the Treaty came into force. The Delegation expressed its disappointment that one group could not accept giving the SCT the mandate to continue to explore technical assistance provisions without also requiring that technical assistance provisions were an Article. In conclusion, the Delegation, stating that it was ready to support the convening of a diplomatic conference based on documents SCT/30/2, SCT/30/3 and any textual contributions by members, said that it strongly rejected any assertions that the Delegation was blocking the convening of the diplomatic conference.

64. The Delegation of Venezuela (Bolivarian Republic of), expressing its full support for convening a diplomatic conference, concurred with the statement made by the Delegation of Belarus that a number of countries had been held hostage by a number of delegations. The Delegation, observing that the best way to show flexibility would be to demonstrate some respect to the Russian Federation, as well as to people outside of this Assembly, who would be disappointed with the current situation. The Delegation, underlining the important work that had been done and the generous offer made by the Russian Federation to host the conference, reiterated that it was in favor of convening a diplomatic conference and expressed its belief on the importance of including technical assistance in a provision.

65. The Delegation of Bangladesh, speaking on behalf of the Asia-Pacific Group, expressed its thanks to the Facilitator and all the delegations for their hard work, as well as to the Russian Federation for its offer to host the diplomatic conference. The Delegation, expressing its disappointment on not reaching a consensus to host a diplomatic conference, said that the preference of its Group had always been to have an Article on technical assistance and capacity building in the proposed Treaty since an Article would be legally binding and would be in the main body of the Treaty. However, the Asia-Pacific Group stated that it would always remain constructively engaged in the negotiations.

66. The Delegation of Iran (Islamic Republic of) thanked the Facilitator for managing this process and associated itself with the statement made by the Delegation of Bangladesh on behalf of the Asia-Pacific Group. Expressing the view that discussions on the DLT had been on the right track with the constructive engagement of all Member States, the Delegation hoped that this process could be continued in the same manner, taking into account the most important concerns of the Member States. In that regard, the Delegation highlighted once again the concerns of developing countries and LDCs with regard to the importance of including appropriate provisions on technical assistance and capacity building in the DLT. The Delegation expressed its sincere gratitude to the African Group and to its coordinator for taking this difficult task and responsibility on behalf of developing countries and LDCs. The Delegation indicated that the inclusion of such provision in the main body of the Treaty would make it possible to ensure certainty, predictability and balance between delegations as sought in the draft Treaty. The Delegation considered that if there was political determination to adopt such an approach, there were legal mechanisms to ensure the inclusion of that provision and at the same time to ensure their legal safeguard. Finally, expressing its appreciation to the offer of the Russian Federation to host the diplomatic conference, the Delegation called upon Member States to finalize the negotiation on Article 21 for paving the way to convene the diplomatic conference in the Russian Federation.

67. The Delegation of Algeria, speaking on behalf of the African Group, thanked the Facilitator who had never lost hope about this issue and had always tried to give an innovating spirit to try to find solutions to this question. The African Group, associating itself with the delegations who had expressed their disappointment on not reaching an agreement on a question which should be so simple for convening a diplomatic conference, said that it supported the holding of a diplomatic conference and was in favor of the adoption of the DLT. The Delegation said that the African Group had made one request, namely that technical assistance and capacity building

were part of the Treaty, which was also supported by the Asia-Pacific Group and concerned all developing countries. The African Group, expressing its support to the Russian Federation for finding a solution to hold the diplomatic conference, underlined the fact that its Group had showed enormous flexibility, on the borders of sacrifice, which unfortunately had not been enough. The African Group recalled that it had always wanted a language which would be binding although it had accepted a reference to the terms “legal provisions” and not anymore “binding provisions”. The African Group reiterated its disappointment since it thought that an agreement would be good for all delegations. The African Group said that it would continue to show its commitment in order to reach a solution as soon as possible, so that a diplomatic conference could be held to adopt this Treaty.

68. The Delegation of Canada expressed its appreciation for the work done by the Facilitator who had tried everything he could in the past few weeks, but also today, to find a solution with all delegations. As previously raised, the Delegation was supportive and ready now to convene a diplomatic conference on a Design Law Treaty. It had been Canada's position in the past SCT meetings to advocate for a Resolution on technical assistance and capacity building to accompany the future Treaty. Nevertheless, the Delegation said that it had worked cooperatively with Member States to find a mutually acceptable solution and had tried to be as flexible as it could, ready to build discussion in order to soothe the broad spectrum of options and positions in play. However, while continuing to be flexible on the language to be included in a General Assembly decision, the Delegation still needed to see its concerns adequately reflected. The Delegation, stating that it was very unfortunate that this Assembly could not reach a consensus on a decision to convene a diplomatic conference, said that, in order to ensure the success of such a conference, it was however important for all Member States to feel comfortable with the general parameters of the text under negotiation. Highlighting the fact that some good work and cooperation had been shown, the Delegation expressed the view that a solution was close and that it did not want to see all the delegations' efforts wasted. Finally, the Delegation, observing that it deeply regretted that this issue remained unresolved, assured that Canada was fully committed to the swift conclusion of the DLT and the convening of a diplomatic conference and was open to further discussion and to any creative solution that could help to reach agreement in the near future.

69. The Delegation of Poland, speaking on behalf of the CEBS Group, expressed its deepest disappointment with the fact that it was not possible to reach an agreement on convening a diplomatic conference for the adoption of the DLT. The CEBS Group said that it had always been very supportive and ready to convene such a conference, as well as flexible and very active in the whole process of the informal consultations. The Delegation stated that it fully remained committed to the DLT and would like to have it adopted as soon as possible, if not in 2014, then in the earliest possible moment. The Delegation thanked again the Facilitator for his hard work and all that he had done in this regard, as well as the Russian Federation for its readiness to host the conference next year, which hopefully could be postponed to the nearest future.

70. The Delegation of Japan, speaking on behalf of Group B, thanked the Facilitator, as well as the Russian Federation for offering to host the diplomatic conference. Recognizing that this Treaty could benefit not only large companies in developed countries, but also SMEs and individual creators in developing countries, the Delegation expressed regret that the convening of the diplomatic conference had been postponed in spite of the maturity of the substantive text of the Treaty. The Delegation, stressing the fact that norm-setting activities to establish a better IP environment for innovation were at the core of this Organization, urged delegations to maintain the momentum for consensus which had been created so far with a view to convening a diplomatic conference at the earliest time.

71. The Delegation of Lithuania passed the floor to the Delegation of the European Union and its member states.

72. The Delegation of the European Union and its member states, thanked the Facilitator for his unyielding efforts throughout the last few weeks of consultations. As one of the main demandeurs for the DLT, the Delegation expressed regret that no agreement had been possible at the stage despite a high level of preparation. The Delegation declared that it would continue to support the convening of a diplomatic conference at the earliest possible opportunity. The Delegation also expressed the hope that the Russian Federation would keep open the offer to host a diplomatic conference on the DLT. The Delegation said that the DLT would bring benefit to all WIPO members and their failure today represented a loss for all delegations. The Delegation thanked the Chair for the guidance through the challenging Assemblies and saluted the adoption of a budget for the forthcoming biennium.

73. The Delegation of China said that it regretted the result of the discussions under Agenda Item 8. The Delegation thanked the Facilitator, as well as the Russian Federation for offering to host the diplomatic conference. The Delegation, citing the Chinese proverb “good fortunes and bad lucks always go together”, said that, although the outcome was very regrettable, it at least showed the limits of flexibility by the parties. The Delegation urged delegations to reinforce mutual understanding. Based on this, and provided that all the relevant parties could show their readiness and political will, the Delegation believed that the DLT would be concluded and the relevant diplomatic conference would be convened at an earlier date.

74. The Delegation of South Africa, aligning itself with the statement made by the Delegation of Algeria on behalf of the African Group, thanked the Facilitator for his outstanding work during the inter-sessional period and during the General Assembly. The Delegation also thanked the Russian Federation for the offer to host the diplomatic conference. The Delegation noted that Member States tried to get to a successful conclusion on this particular issue and looked at different formulations of language but, unfortunately, those formulations were not acceptable. The Delegation, citing a saying in its own language, said that it was not the end if the Member States had not been able to come with a decision, as the delegations would continue going forward to build bridges between Member States. The Delegation expressed its commitment to reach a decision in the inter-sessional period, as demonstrated in the General Assembly, where an agreement had almost been reached. The Delegation thanked the Chair and all the Member States that had constructively engaged in discussions.

75. The Delegation of Morocco, associating itself with the statement made by the Delegation of Algeria on behalf of the African Group, thanked the Secretariat and the Director General for all efforts. The Delegation also thanked the Facilitator and all the delegations who had participated in this session. The Delegation, expressing regret that all these efforts had not brought success, said that it committed itself to this work. Expressing the wish to go to Moscow to ensure that this year would be a success for the third consecutive time, the Delegation thanked the Russian Federation for its offer to host the diplomatic conference. The Delegation was convinced that next time, all Member States would take account of the issue of capacity building, which was vital for developing countries.

76. The Delegation of Egypt, aligning itself with the statement made on behalf of the African Group, thanked the Russian Federation for the offer to host the diplomatic conference, as well as the Facilitator for his great efforts, and the African Group, the Delegation of the European Union and its member states and the Delegation of South Africa for their proposals on capacity building. The Delegation stressed the fact that the constructive approach shown reflected the determination to conclude the Treaty. The Delegation said that, in its view, the real problem was not the substantive Article in itself, but more a question of the refusal of some delegations to adopt an Article that referred to technical cooperation and capacity building. The Delegation was surprised by that because this was part of the remit of the Organization, which was supposed to provide assistance and support countries that required technical assistance on intellectual property-related issues. Pointing to Articles 51 and 67 of the TRIPS Agreement, which said that the most developed countries had a responsibility to support developing

countries that required technical assistance, the Delegation expressed its disappointment over the fact that this principle was challenged and not supported. The Delegation expressed the hope that the Russian Federation would be able to host this conference and that a solution to Article 21 would be found as quickly as possible in order to ensure the convening of this conference in 2014.

77. The Delegation of Ghana expressed its gratitude to the Chair and thanked the Facilitator for the excellent work. The Delegation stated that Ghana had always cherished the idea of harmonious and productive discussion between Member States in a common pursuit of a just and equitable international order. The Delegation expressed regret that the delegations were not able to find common ground on the issue of technical assistance, which would have allowed for the convening of a diplomatic conference. The Delegation shared the frustration of all delegations and expressed the hope that the current impasse would not persist. The Delegation extended its gratitude to the Russian Federation and expressed the hope that this unfortunate impasse would not diminish its willingness to host the conference. The Delegation expected that the coming months would provide an opportunity for all to reflect and deepen the sense of balance and purpose. Stating that the normative work of this Organization should remain of paramount importance and interest to all, the Delegation declared that it wished to find an opportunity to iron out the differences that had made it impossible to get to a decision on this issue.

78. The Delegation of the Russian Federation, expressing its disappointment over the result of the negotiations, said that the substantive part of the negotiations would in the end make a very important contribution in finding a solution to the very big problem that had been faced. Without technical support there was actually no progress in any treaty adopted in the area of intellectual property. Urging all Member States to get organized to show dedication to the ideals of intellectual property and to decide on convening a diplomatic conference in 2014, the Delegation stated that it had no power to confirm the validity of the offer to host a diplomatic conference at a later stage. The Delegation said that, however, if a decision at the next Extraordinary Session of the General Assembly in May was to be taken, there would be a possibility to hold the conference in December 2014. The Delegation called upon all Member States to bear this idea in mind in order to reach a decision in May and to hold the conference in December.

79. The Delegation of Hungary, thanking the Facilitator for his dedication and efforts throughout these days, expressed its disappointment for not reaching a consensus on convening a diplomatic conference, which was, in its view, a clear loss for all the membership. The Delegation believed that substantive advancement on the Articles had been made at the last SCT, which should have given enough comfort to all the delegations to go to the diplomatic conference, discuss the different positions there, and finally close the deal. The Delegation expressed regret that, notwithstanding the broad support for the conference, there had not been understanding of each other's view and a decision had not been taken. The Delegation, thanking the Russian Federation for its offer, said that it supported the last proposal put forward by the Russian Federation.

80. The Delegation of Italy associated itself with those who thanked the Facilitator for its tireless efforts and enormous patience in listening to all the opinions and voices, as well as the Member States who had participated at the informal discussions. The Delegation expressed regret that, despite the efforts displayed, it had not been possible to reach the common goal. The Delegation expressed the hope that this momentum would not be lost and that a diplomatic conference would be convened at the earliest possible time in the Russian Federation.

81. The Delegation of Benin thanked the Facilitator for his determination and hard work, and all the delegations who had been involved in the negotiations. The Delegation expressed regret that Member States had failed to reach a consensus because of a lack of necessary flexibility.

The Delegation invited all delegations to show greater flexibility in order to ensure that the forthcoming negotiations would attain a satisfactory outcome. The Delegation also thanked the Russian Federation for its generous offer to host the diplomatic conference, and expressed the hope that it would take place as quickly as possible.

82. The Delegation of Egypt expressed support for the statement made by the Delegation of the Russian Federation. Stating that, in its view, a constructive way ahead for this matter would be to reflect it on the agenda of the May meeting, the Delegation believed that it would also be possible to take stock of the work of the SCT. The Delegation expressed the hope that the conference would take place in 2014 and proposed to reflect the proposal in the Assembly decision.

83. The Delegation of the United States of America expressed the view that the phrase “to consolidate the text of the basic proposal” in the proposed decision paragraph required clarification, and proposed to go back to the original mandate of paragraph 231 of document WO/GA/41/18.

84. The Director General suggested the following language: “to request the SCT to expedite its work on the text of the basic proposal”.

85. The Delegation of Algeria proposed to refer to the text resulting from the last SCT meeting.

86. The Delegation of Hungary, observing that over the last year, different SCT meetings had been held and the SCT had made a progress in its work, stated that it did not agree with the proposal to request the SCT just to expedite its work. The Delegation said that a new decision could be taken, requesting the SCT to finalize its work on the text of the basic proposal for the DLT.

87. The Chair read the following decision:

“The WIPO General Assembly:

“(a) requests the SCT to finalize its work on the text of the basic proposal for a Design Law Treaty building upon the outcome of the thirtieth session of the SCT;

“(b) will at the Extraordinary Session of the General Assembly in May 2014 take stock of and consider the text, progress made, and decide on whether to convene a diplomatic conference in 2014 in Moscow. If the Extraordinary Session of the General Assembly in May so decides, a preparatory conference will be held immediately after that session of the General Assembly.”

88. The Legal Counsel, in reply to a question by the Delegation of the Russian Federation, referring to the draft of the decision paragraph, said that a preparatory “committee” for the diplomatic conference would take place immediately after the Extraordinary Session of the General Assembly in May, if so decided.

89. The WIPO General Assembly:

(a) requests the SCT to finalize its work on the text of the basic proposal for a Design Law Treaty building upon the outcome of the thirtieth session of the SCT;

(b) will at the Extraordinary Session of the General Assembly in May 2014 take stock of, and consider, the text, progress made, and decide on whether to convene a diplomatic conference in 2014 in Moscow. If the Extraordinary Session of the

General Assembly in May so decides, a preparatory committee will be held immediately after that session of the General Assembly.

## ITEM 9 OF THE CONSOLIDATED AGENDA

### MATTERS RELATING TO THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

90. Discussions were based on documents WO/GA/43/13, WO/GA/43/22 and WO/GA/44/4.

91. The Chair opened Agenda Item 9 and stated that during informal consultations she had conducted it was agreed to submit for approval the following text: "The WIPO General Assembly (i) takes note of the information contained in document WO/GA/43/13; (ii) takes note of the statements made by Delegations at the forty-third and forty-fourth sessions of the WIPO General Assembly in 2013; and (iii) requests the Standing Committee on Copyright and Related Rights to continue its work regarding the issues reported on in that document." The Chair opened the floor for comments from delegations.

92. The Delegation of Poland, speaking on behalf of the CEBS Group, regretted the fact that the issue in question was being referred back to the SCCR since it had hoped that a decision regarding a road map towards a treaty on the protection of the broadcasting organizations would be taken during the session, especially considering that the issue was of great importance for the Group. It pointed out that in a spirit of compromise and cooperation, it accepted to refer the topic to the SCCR, stressing that while other issues on the SCCR agenda were important, the main priority should be given to find a way forward to finalize the proposal for a treaty on the protection of broadcasting organizations. The objective was to reach a decision to convene a diplomatic conference as soon as possible and most preferably in 2014. Ensuring adequate protection at the international level for broadcasting organizations was urgently needed and an update for the 21<sup>st</sup> century was long overdue. The Group recognized and supported the ongoing call from the broadcaster community to introduce a global solution to signal piracy, which jeopardizes necessary investments in that market. It expressed the view that such a development would be the key element of social cohesion, pluralism, as well as cultural enrichment of all societies. It emphasized that it was high time to achieve the goal and prepare the ground for calling a diplomatic conference. It believed that the first step was a stable and reasonable road map for the work of the SCCR, which was why the Group drafted the proposal submitted during the 51<sup>st</sup> series of the Assemblies of the Member States of WIPO.

93. The Delegation of Lithuania gave the floor to the Delegation of the European Union and its member states.

94. The Delegation of the European Union and its member states stated that the discussions on the treaty on protection of broadcasting organizations remained a priority. The Delegation was eager to see improvements on this issue that were both meaningful and adapted to specific problems faced by broadcasting organizations, while at the same time respecting the rights of rightholders in works or other protected subject matter carried by broadcast signals. It looked forward to having further constructive discussion on limitations and exceptions for libraries, archives, and educational and research institutions and for persons with other disabilities on the basis of an exchange of views regarding national experiences in the area. The Delegation stated that the possibilities and flexibilities allowed under the existing treaties, including the Berne Convention, the 1996 WIPO treaties and the Beijing Treaty on Audiovisual Performances, to establish limitations to copyright in national legislation were an essential element of the international framework. It did not believe that in that context an international instrument was necessary to address any possible issues related to the activities of libraries, archives, educational and research institutions and persons with other disabilities.

95. The Delegation of the Venezuela (Bolivarian Republic of) stated that, contrary to the previous interventions, it thought that the SCCR had other priorities such as the implementation of the Marrakesh VIP Treaty and the development needs of persons who are visually impaired. It expressed the view that the work on flexibilities for libraries and archives and persons with other disabilities should be continued. The Delegation had doubts about giving broadcasting organizations a human right such as protection of intellectual property and asked how broadcasting organizations could be protected when they are not persons.

96. The Chair indicated that all the interventions would be reflected in the report and stated that since no objections to the adoption of the decision were raised it was adopted as proposed.

97. The WIPO General Assembly:

(i) took note of the information contained in document WO/GA/43/13;

(ii) took note of the statements made by delegations at the 43<sup>rd</sup> and 44<sup>th</sup> sessions of the WIPO General Assembly in 2013; and

(iii) requested the Standing Committee on Copyright and Related Rights to continue its work regarding the issues reported on in that document.

#### ITEM 10 OF THE CONSOLIDATED AGENDA

##### REPORTS ON OTHER WIPO COMMITTEES: COMMITTEE ON WIPO STANDARDS (CWS)

98. Discussions were based on document WO/GA/44/5.

99. Following consultations conducted by the Chair since the 43<sup>rd</sup> session of the General Assembly, the following draft decision, included in said document WO/GA/44/5, was submitted and approved by the General Assembly.

100. The WIPO General Assembly:

(i) took note of the information contained in document WO/GA/43/16 in relation to the Committee on WIPO Standards (CWS);

(ii) took note of the statements made by delegations in this respect at the 43<sup>rd</sup> and 44<sup>th</sup> sessions of the WIPO General Assembly in 2013; and

(iii) requested the CWS to continue its work regarding the issues reported on in that document.

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