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AVIAN FLU PREPAREDNESS PLAN

prepared by the Secretariat

Introduction

1. In light of the threat of, and concern expressed, about an avian flu pandemic, towards the end of 2005, the United Nations (UN) system intensified inter-agency cooperation and coordination aimed at the timely preparation of a preparedness plan for each organization. In response, the Director General established an internal task force “Avian Flu Management Team (AFMT)” within the International Bureau of WIPO in October 2005. Since then the AFMT has played a coordinating role between the different sectors in order to develop an organization-wide preparedness plan, taking into account specific needs of the different programs administered by the Organization.

2. This document is intended to inform Member States about the threat of a pandemic, and to facilitate international cooperation with intellectual property offices of Member States which are also expected to make the necessary preparations. The preparedness plan of WIPO has been prepared and will continue to be developed and updated in coordination with the UN and relevant authorities of the host country, Switzerland, and neighboring France. An outline of the current preparedness plan is annexed to this document.

Risk Assessment

3. In coordination with other UN organizations, WIPO's preparedness plan is based on a series of six "phases of pandemic alert" system classified by the World Health Organization (WHO) in order to inform the world of the severity of the pandemic threat, thus necessitating the launch of preparedness activities. The designation of phases, including decisions on when to move from one phase to another, is made by the Director-General of WHO, and updated information is published on the WHO's website¹. The six phases are as follows:

Phase 1. No new influenza virus subtypes have been detected in humans.

Phase 2. No new influenza virus subtypes have been detected in humans. However, a circulating animal influenza virus subtype poses a substantial risk of human disease.

Phase 3. Human infection(s) with a new subtype, but no human-to-human spread, or at most rare instances of spread through close contact.

Phase 4. Small cluster(s) with limited human-to-human transmission but spread is highly localized, suggesting that the virus is not well adapted to humans.

Phase 5. Larger cluster(s) but human-to-human spread still localized, suggesting that the virus is becoming increasingly better adapted to humans, but may not yet be fully transmissible (substantial pandemic risk).

Phase 6. Pandemic: increased and sustained transmission amongst the general population.

4. At the time of writing this document, the world situation is presently classified by WHO as at *Phase 3*, i.e., the risk of an avian influenza pandemic threat remains potentially great, requiring the preparation of responses in case a pandemic emerges.

5. Given that the prime responsibility for the safety and security of the personnel and assets of all international organizations rests with the host country (Switzerland), Geneva-based UN agencies set up a mechanism in May 2006 under which a coordinator was appointed as a focal point to ensure effective coordination between UN agencies and relevant authorities of Switzerland, including Geneva, and of France where a number of UN staff reside. Inputs and information obtained from this coordination mechanism have been reflected in WIPO's preparedness plan.

6. The Assemblies of the Member States of WIPO and the Unions administered by WIPO are invited to note the contents of this document and its Annex.

[Annex follows]

¹ "Current WHO Phase of Pandemic Alert" at WHO web site
(www.who.int/csr/disease/avian_influenza/phase/en/index.html)

Outline of WIPO Preparedness Plan

WHO Phase 1 – operation remains normal

WHO Phase 2 – operation remains normal

WHO Phase 3 – operation remains normal

WHO Phase 4

1. As a result of an internal assessment of risks of greatest concern to WIPO, the preparedness plan for *WHO Phase 4*, suggests that activities should be undertaken with the appropriate precautionary measures.

WHO Phase 5; Declaration of Closure for Business

2. When considering emergency measures in response to *WHO Phase 5*, priority should be given to the maintenance of security, safety of staff and WIPO's "critical functions." Critical functions may be defined as activities that are core to the mission of WIPO or its ability to carry out its mission, and that cannot be suspended for up to one month without harming the mission or reputation of the Organization. WIPO critical functions include services which are related to intellectual property and are necessary to fulfil legal obligations and meet the prescribed time limits set forth under certain Treaties administered, and agreements concluded, by WIPO: the Patent Cooperation Treaty (PCT), the Madrid Agreement and the Madrid Protocol, the Hague Agreement, the Lisbon Agreement and the Paris Convention (regarding the notification under Article 6*ter*); and agreements with regard to services provided by the Arbitration and Mediation Center (AMC).

3. The UN system and the host country had not completed the preparedness plan at the time of preparation of this document. It is also uncertain how rapid it would be for a shift to *Phase 5* to lead to a sudden and significant reduction in the number of staff members at work. According to the UN Medical Services Staff Contingency Plan Guidelines, it is expected that, when entering into *WHO Phase 5*, most staff members would be instructed to stay at home until the pandemic wave has passed. It is prudent that, as soon as the entry into *Phase 5* is confirmed by WHO, WIPO should consult with the host country and other UN agencies and should decide to declare that the IB of WIPO is officially closed for business with regard to intellectual property services mentioned in paragraph 2 above. The declaration of closure will be published and notified to users of WIPO's services, intellectual property offices and other relevant organizations.

4. During the period of closure, it would be important to have a limited number of staff members group together any incoming mail and courier items by date, so that the date of receipt could be clearly derived later, and to store any incoming items in a manner that will permit their processing in the quickest and most well-organized manner when staff are able to return to work in significant numbers. If sufficient manpower exists in the operations area, continuation of scanning and indexing of incoming papers would also be helpful.

5. However, by the time the IB declares closure for business, it is most likely that, partly due to medical instructions and also as a result of measures adopted by the host country and the Geneva authority, only a minimum number of staff members would be present in the

Office. It would be important to study the possibility of teleworking allowing for minimum operation such as the remote management of websites, e-mail systems and telephone services, which would enable staff members at home:

- to update the website content concerning closure of the IB;
- to send prescribed notifications and messages to applicants, holders of international registrations and intellectual property offices of the Contracting Parties, users of the AMC's services, and subscribers to information services; and
- to respond to their inquiries.

6. Emergency procedures would be set up to make every effort to ensure the essential operations. However, applicants, holders of international registrations and intellectual property offices of the Contracting Parties should not expect the communications in question to be processed as usual during a period of closure, due to the limited number of staff available and the possible disruption of the IT systems and means of electronic communication.

7. In the event of closure, there are built in protection measures for applicants, for example, Article 4(C)(3) of the Paris Convention², PCT Rule 80.5, Rule 4(4) and Rule 5 of the Common Regulations under the Madrid Agreement and Protocol, Rule 4(4) and Rule 5 of the Common Regulations under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement, and Rule 2(3) of the Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration.

8. It would also seem sensible to urge intellectual property offices of the Contracting Parties affected by the pandemic, to also declare themselves officially closed during this period. WIPO's preparedness plan may be useful to the Contracting Parties for making necessary preparations.

9. The IB has made initial consultations with the Contracting Parties of the PCT Union and the Madrid Union. A working document outlining emergency measures was presented at the eighth session of the Working Group on Reform of the PCT held from May 8 to 12, 2006, and a similar working document was also presented at the second session of the Ad Hoc Working Group on the Legal development of the Madrid system for the international registration of marks from June 12 to 16, 2006³. Both Working Groups welcomed the initiatives taken by the IB and noted proposed emergency measures including the closure for business at WHO *Phase 5*. Following approval by the Working Group on Reform of the PCT, the International Bureau has also set up an online repository on WIPO's PatentScope website (www.wipo.int/pct/en/emergency/emergency_preparedness_plans.html) for making information on emergency preparedness measures of national Offices centrally available.

² Article 4(C)(3) of the Paris Convention reads: "If the last day of the period is an official holiday, or a day when the Office is not open for the filing of applications in the country where protection is claimed, the period shall be extended until the first following working day."

³ See working documents "Emergency Preparedness Measures" (PCT/R/WG/8/8 and MM/LD/WG/2/10) and the Reports PCT/R/WG/8/9 and MM/LD/WG/2/11.

WHO Phase 6; WIPO Premises in Hibernation

10. In a *Phase 6* scenario, WIPO would be completely shut down. No one would be on the premises of WIPO. All activities will cease.

[End of Annex and of document]