

SUBMISSIONS FROM MEMBER STATES ON DOCUMENT A/48/3
(MEDIUM TERM STRATEGIC PLAN FOR WIPO, 2010 – 2015)

This Annex to the General Report contains written comments on the Medium Term Strategic Plan (MTSP), as submitted by Member States following their consideration of the MTSP (A/48/3) at the 48th Series of Meetings of the Assemblies of the Member States of WIPO.

The record of the discussion of the MTSP by the Assemblies of the Member States is contained under Agenda Item 9 in this Report.

Written submissions for publication in the Annex were received from the following Delegations:

1. **Australia**
2. **Bangladesh**
3. **Belgium**
4. **Canada**
5. **Chile**
6. **Denmark**
7. Egypt on behalf of the **Development Agenda Group (DAG)**
8. **Equatorial Guinea**
9. **Sweden**
10. **Switzerland**
11. Syrian Arab Republic on behalf of the **Arab Group**
12. **Trinidad and Tobago**
13. **United Kingdom**
14. **United States of America**
15. **Uruguay**
16. **Zambia**

AUSTRALIA

Medium Term Strategic Plan

Australian Comments

Australia considers that the Medium Term Strategic Plan provides a high-level vision for the Organisation which carefully balances the roles of WIPO as an intellectual property service provider and norm-setting agency, while paying particular attention to the important development dimension of WIPO's work.

Australia has welcomed the inclusive and transparent consultative process and significant work that was undertaken in preparing the Medium Term Strategic Plan, and considers that the text strikes an appropriate balance between the diverse views of Member States. We also support the proposed mid-term review of the Medium Term Strategic Plan as a useful mechanism to ensure the continued relevance of the targeted strategic outcomes and defined strategies of WIPO.

In Australia's view, the Medium Term Strategic Plan will provide an effective road-map by which to ensure that the international intellectual property system is able to respond to the challenges that have arise in the rapidly evolving technological, economic and social circumstances in which we live, work, and create. We would like to draw attention to a number of areas of particular importance for Australia.

On **Strategic Goal One**, Australia welcomes the focus on the normative framework as integral to the functioning of the multilateral intellectual property system. The focus gives the organisation the opportunity to support member states in considering the current and future needs of an integrated global knowledge economy and ensure that the system is able to keep up with pace of change.

In this context, Australia notes that the past decade has been marked by a lack of progress on WIPO's normative agenda, with Member States unable to reach agreement in several areas. We welcome recent positive outcomes in the context of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore and the Standing Committee on Trademarks, but hope that Members can work together to achieve similar progress be made in the Standing Committee on Patents and the Standing Committee on Copyright and Related Rights.

On **Strategic Goal Three**, Australia welcomes the recognition of the particular needs of LDCs, developing countries and economies in transition. The needs of small and medium-sized IP offices differ, and the differential approach will provide suitable support in developing the capacities of those offices to contribute most effectively to the functioning and development of the system.

On **Strategic Goal Six**, Australia supports WIPO taking on a leadership role in building strategic international cooperation on intellectual property issues. Australia is strongly committed to the implementation and mainstreaming of the **WIPO Development Agenda**. In our view, the Medium Term Strategic Plan appropriately recognizes the need to balance the roles of WIPO as an intellectual property service provider and norm-setting agency, while paying due attention to the important development dimension of WIPO's work.

We emphasise the importance of a conservative approach to all areas of the WIPO program and budget, including the need to balance demands for services with actual income from WIPO's global intellectual property systems. In this respect, we note the fundamental importance that we place on continuing to reform the services of the Organization – including the PCT – so that they will be able to continue to deliver results which meet the needs of applicants, Offices and third parties. This is necessary to ensure that WIPO's services retain the central place that these have in the international intellectual property framework and the financing of WIPO. We consider the proposed strategic direction in the plan balances these aspects of WIPO's work appropriately.

Australia is mindful of the challenge posed by the fragile global economic recovery, which means that WIPO cannot predict income with confidence. Accordingly, we are conscious of the possible need to assess priorities in the short term and identify where cost savings can be made. We would welcome productive and focused discussion among Member States through normal program and budget processes on this issue.

BANGLADESH

Permanent Mission of the People's Republic of Bangladesh
Geneva

Submission by the Delegation of Bangladesh on the Medium Term Strategic Plan for WIPO, 2010 – 2015

Bangladesh appreciates the consultative process undertaken by the Secretariat in preparing the Medium Term Strategic Plan (MTSP).

We would like to express our appreciation to the Secretariat for reflecting the challenges and concerns of the Least Developed Countries in MTSP, especially under Strategic Goals II and III. As the WIPO Development Agenda is being mainstreamed into all activities of the Organisation, it is expected that the needs and challenges of LDCs would be increasingly factored into all programmes and activities of WIPO. Accordingly, this delegation would have liked to see a reflection of these challenges and concerns in the 'Foreword' by the Director General. As universally recognized, LDCs face specific systemic challenges in terms of devising the role of IP for promoting innovation, growth and development in their economies. These challenges would require well-calibrated and customized solutions as most LDCs around the globe continue to pursue a higher growth trajectory through greater industrialization.

This delegation would endorse the proposal to identify the WIPO Development Agenda as a cross-cutting frame of reference for MTSP. In this context, the Chart demonstrating the WIPO Development Agenda linkages with the WIPO Strategic Goals are particularly useful. The WIPO Development Agenda has indeed been a landmark development in the history of the Organisation which merits due recognition in a seminal document like MTSP. The **WIPO LDC Ministerial Declaration 2009** makes specific reference to the Development Agenda while charting the way forward for the Organisation in support of LDCs for developing their IP policies and infrastructure. The **LDC Ten-point Plan of Action** also remains a blueprint for designing WIPO's support services for LDCs in the short and medium term.

This delegation would like to take this opportunity make some general comments in this regard under some of the Strategic Goals under MTSP:

Strategic Goal I: Balanced Evolution of the International Normative Framework for Intellectual Property

A balanced and equitable international normative framework on IP would be crucial to ensure that LDCs attain the capacity to become true stakeholders in the international IP system. LDCs would require sustained and meaningful support from WIPO to facilitate their full and effective engagement in the international IP-related norm-setting process. The international agreements envisaged to be concluded in the medium term under this Strategic Goal should continue to have in-built provisions on flexibilities and exception and limitations in favour of LDCs that can be conducive to their development efforts. In this context, the background technical studies conducted by WIPO need to be balanced, objective and evidence-based in order to reflect both the common as well as nuanced variations in the challenges faced by LDCs. A broad-brush presentation of the situation of LDCs may often be counter-productive and there is a need for greater sensitivity in this regard. The international normative framework must essentially retain the policy space that would be critical for LDCs in calibrating their IP policies in support of their poverty reduction and national development strategies. LDCs would particularly benefit from a selective approach to those IP tools that could foster the growth of their Small and Medium Enterprises (SMEs) and help add economic and commercial value to their indigenous products and services. The importance of need-based and tailor-made capacity building support for LDCs in this context cannot be overemphasized.

Strategic Goal II: Provision of Premier Global IP Services

As a UN specialized agency, WIPO remains the premier IP services provider for LDCs. In fact, a major yardstick for measuring WIPO's success would continue to be the extent and impact of its services for LDCs. While the Organisation focuses on improving the quality of its services for its global customers, it should continue to remain engaged on designing and customizing its services for the benefit of users in LDCs. In this context, this delegation supports the four principal aims identified under the strategies under this Goal. In order to translate these aims into real-term deliverables, particularly for LDCs, it would be important to develop innovative services through multi-stakeholders participation. The recent WIPO initiatives to introduce services like aRD_i and ASPI in favour of LDCs and other developing countries are welcome developments in this direction. There is a need for innovating further customized products and services within services like PATENTSCOPE to make their use attractive for potential users in LDCs. The relevance of WIPO services would in fact create an impetus for LDCs to become Parties to the international IP instruments mentioned under this Strategic Goals. The policy advice given to LDCs in terms of accession to various international IP instruments should be based on sound and long-term cost-benefit analysis of such accession. The decision to accede to an international IP instrument should have to be taken from within the development policy considerations of LDCs, and not necessarily in response to the interest of IP rights-holders. WIPO should continue to advocate in favour of maintaining a robust public domain for facilitating the access of LDCs to global knowledge and technology.

Strategic Goals III: Facilitation the Use of IP for Development

It would be of high importance for LDCs to see meaningful realization of this Strategic Goal in MTSP to accelerate their development efforts. A balanced perspective on the use of IP would be key to achieving this. IP should be promoted as a tool to foster innovation and creativity, and not as an end in itself. The policy coherence issue addressed under this Strategic Goal should, therefore, help situate IP in its right context in terms of national development policies in LDCs. The focus on the use of IP in these countries should be geared at helping these countries develop new products and services for their internal and external markets through greater innovation and access. IP should be perceived as one of the vehicles for achieving the Millennium Development Goals to make IP protection factor into the national development policies of LDCs. Here again, it would be crucial to ensure need-based, customized approaches for providing capacity building support to LDCs. WIPO should continue to extend the reach of its technical assistance programmes beyond the traditional focus areas of capacity building and IP protection and enforcement, and help LDCs develop their capacity for meaningful participation in the international norm-setting process and bilateral negotiations. The WIPO Academy could consider specialized courses to cater to the particular human resource development needs of LDCs. The WIPO External Office policy should also consider how best such Offices would be able to serve the needs and interests of LDCs in different regions.

Strategic Goal IV: Coordination and Development of Global IP Infrastructure

Most LDCs are characterized by chronic shortage of adequate IP infrastructure that can help them effectively integrate into the global IP system. The present thrust on IP modernization and automation in many LDCs is a positive step in addressing this situation. In the medium term, WIPO should consider extending the scope of its activities in this regard. Such modernization would involve significant shift in the work culture of most LDCs and would perhaps be marked by various impediments at the initial stage. However, the experiences gathered in a particular setting could be helpful to devise useful strategies in other settings. It needs to be borne in mind that automation alone would not yield the desired results without factoring in the other key systemic issues addressed under the Strategic Goals I and III, in particular.

Strategic Goal VI: International Cooperation on Building Respect for Intellectual Property

The issues identified under this Strategic Goal are a growing challenge for many LDCs. It however needs to be recognized that the problems of counterfeiting and piracy fosters in an environment of lack of

access. The issues of counterfeiting and piracy cannot be addressed only through enhancing further respect for IP without dealing with some of the underlying issues that lead to these problems. While addressing these problems, LDCs should be allowed to preserve their policy space so as not to harm the growth of their domestic industries under the pretext of excessive IP protection. WIPO should continue to advise LDCs on appropriate policy and regulatory frameworks that help them strike the right balance in this regard. WIPO should also give sound policy advice to LDCs in terms of undertaking obligations beyond the TRIPS Agreement, especially in bilateral or plurilateral Free Trade Agreements.

Strategic Goal VII: Addressing IP in Relation to Global Policy Issues

While this delegation agrees with the broad thrust of the Strategic Outcome under these goals, it considers that WIPO should position itself as one of the leading UN agencies in addressing the interface between IP and global public policy issues. As WIPO is engaged in mainstreaming the development dimension into all its activities, the Organisation's inputs would particularly and increasingly important for global policy debates and norm-setting activities. However, such global policy issues need to be identified in member-driven process in order to uphold the UN-character of the Organisation. It would be crucial for LDCs to remain involved in such global discourse of IP issues in order to make the debates relevant for them. In terms of policy inputs, WIPO should focus on empirical and analytical studies that can help find practical solutions for many of the pressing and emerging global issues, especially in the context of LDCs. WIPO should develop a repository of global best practices and practicable innovation and licensing models that can be replicated in specific settings in LDCs.

Finally, this delegation looks forward to effective WIPO contribution and engagement during the lead-up to the UN LDC Conference scheduled in 2011 in Istanbul. Bangladesh remains ready to work together with WIPO and other delegations in this process.

Geneva, 27 September 2010

BELGIUM

Written observations on the Medium Term Strategic Plan

The Delegation of Belgium thanks the Director General for his initiative regarding the Medium Term Strategic Plan (MTSP) for WIPO. This Plan is an important guiding tool, benefiting all WIPO Member States. It defines a global strategic framework intended to guide the preparation of the Program and Budget for the biennia 2012–2013 and 2014–2015.

This Plan is an important step in the implementation of the results-based management framework. The outcome indicators set for each strategic objective will allow Member States and WIPO to measure the progress made in achieving these objectives.

This Plan has been developed in the framework of a transparent consultation process of Member States since May 2010. This dynamic and inclusive process has ensured that fair and balanced results are obtained, which my Delegation fully supports.

Lastly, my Delegation welcomes the fact that this tool is sufficiently flexible and adaptable. This flexibility is essential so that, if necessary, the appropriate readjustments can be made in line with the economic, social and cultural developments within the framework of the intellectual property system and the Organization's activities.

General Counsel,

Jérôme DEBRULLE

CANADA

WIPO's Medium-Term Strategic Plan (MTSP) Canada's Comments September 2010

Statement

Canada supports the process that has led to the preparation of the MTSP and considers that it contains many positive aspects. Canada considers this strategic plan to be an important management tool for member states, as well as for WIPO managers. Specifically, this tool enables engagement with Member States and ensures that WIPO will achieve its objectives.

Canada supports the necessity to have clear medium term objectives, set goals and a defined list of strategic outcomes and performance measures and indicators. This is a major step towards a results based management organization.

Canada also considers that the work accomplished to date is positive and that Member States engagement will contribute in shaping the MTSP and will ensure that it attains the strategic outcomes successfully.

Comments

Canada supported the strategic framework in the Revised Program and Budget for 2009, as well as in the Program and Budget for the 2010-2011 biennium.

Canada supports the Director General's MTSP, as this strategic plan is a necessary step towards reaching the desired goals. By developing a common high-level view of the issues, the organization will move forward with success. Strategic planning will ensure WIPO focuses on priorities, while being in a position to adjust to continuous changes in its environment over time. Additionally, clearly setting goals and outcomes will greatly help in measuring WIPO's successes. This, along with high quality studies and documentation will contribute to better and fact-based decision making.

Canada believes the MTSP is balanced and reflects the views of the vast majority of Member States.

Canada supports the strategies identified to ensure WIPO remains the systems of first choice for users through attractive, cost-effective services which provide added value for users. Canada supports efforts made to expand the PCT services so that its coverage is global and, to this end, to enhance market research, to increase awareness of WIPO services, to simplify procedures and to add value to its services. Canada also supports adequate investment in the renewal and expansion of the use of WIPO's services. With a view to improve the system, Canada supports the establishment of clear IT strategies based on the differing stages of development of the IT infrastructure and services in each area, and to increase the participation of developing, least developed and transition countries in the various services and in the benefits that they offer.

Canada supports the creation of the Development Agenda Coordination Division (DACD) to respond to increased demand from Member States for optimization of the development component in WIPO's activities. Canada supports the Members States consensus on a coordination mechanism, as well as monitoring, assessing and reporting modalities for the implementation of the development agenda recommendations. Canada believes this will greatly contribute in WIPO becoming a result-based organization and improve management of the many initiatives and activities related to the Development Agenda.

Although the MTSP is a positive statement, Canada considers that adjustments may be made to the document.

CHILE

Comments from Chile Medium Term Strategic Plan for WIPO 2010–2015

I. Introduction

- As is mentioned in the foreword of the Medium Term Strategic Plan, 30 per cent of global economic output is today based on the knowledge and technology industry, the importance of which is on the rise, and it is therefore increasingly urgent to integrate developing countries in the process.
- In this context, the proposed Strategic Plan by WIPO's Director General is very timely, as it constitutes a concrete effort to promote the Organization as an advocate of development through intellectual property.
- Without prejudice to the above, the goals mentioned should go beyond the strengthening of activities and functions which are carried out by WIPO at the moment by adapting them to the needs of Member States with the aim of effectively contributing to their development.
- Aspects such as the management, enhancement and financing of IP are key factors in the promotion of innovation and consequently development. Also key are models for contracts, negotiations and the transfer of knowledge and technology in general. These subjects should, therefore, be incorporated to guide the general objectives of the Organization.

II. Comments on some of the Strategic Goals

- **Strategic Goal II - Provision of Premier Global IP Services**

WIPO must strengthen its work as the main provider of IP services not only in terms of what it currently provides but also by exploring new options for services which enable the promotion of innovation, technology transfer and knowledge sharing. These are aspects of which developing countries have very little knowledge, and include for example, the valuation of intangible assets, international licensing and auditing in business models.

Proposal: To identify all the services which enable capacity building and assess every stage, from generating innovation and knowledge to their marketing.

- **Strategic Goal III – Facilitating the Use of IP for Development**

In relation to the above goal, WIPO seeks to assist countries so that they effectively use the intellectual property system with a view to achieving their social, cultural and economic development. In order to do this it is necessary to build the capacity, both human and institutional, of countries.

In order to achieve the appropriate use of IP, however, it is necessary to train all the actors involved, that is to say, innovators and creators, universities, governments and industry, with regard to the advantages of the use of IP and the related tools.

Proposal: To make WIPO a reference point in terms of public and institutional IP policies, as well as a focal point for different parties involved (acting as a link between creators-innovators and industry and governments). In order to do this, it will be essential for regional WIPO offices, which understand the sensitivities of the respective actors and their cultures, to be involved with a view to submitting effective customized or tailored proposals.

- **Strategic Goal IV: Coordination and Development of Global IP Infrastructure**

In order to strengthen the infrastructure of developing countries, least developed countries and countries in transition, it is proposed that international cooperation is enhanced to improve infrastructure and data flow in the system and that global IP databases and voluntary participation platforms are established to increase technical cooperation.

Strengthening the IT systems, which are an important tool, must undoubtedly go hand in hand with complementary services which allow the real benefits to be derived from them.

Proposal: databases should be created which not only improve search tools, cooperation and streamlining in the patenting processes between offices, but which also promote the marketing of IP such as patent databases or software licensing databases, which could be grouped by region thus facilitating and promoting the completion of business models in the IP context.

- **Strategic enabling goals: VIII – A responsive communications interface between WIPO, its Member States and all stakeholders; IX efficient administrative and financial support structure to enable WIPO to deliver its programs**

Both goals are aimed at achieving the general goals set by the Organization, however, in order to achieve these effectively, it is necessary to have a complete understanding and timely knowledge of the needs of Member States.

Proposal: in order to meet the needs of Member States in a timely and sensitive manner, it is necessary to have offices in each region. Having regional WIPO offices would mean not only that the messages of the Organization could be adapted to the reality in each specific region, but would also, from an organizational point of view, provide an efficient support structure in line with the needs to be assessed on the ground.

III. CONCLUSION

Chile appreciates this valuable initiative, which will certainly contribute to strengthening WIPO's role as an advocate of innovation and intellectual property. However, the incorporation of elements – such as those mentioned which go beyond improving the efficiency of services and functions and which include a range of aspects from legal aspects, to financial (valorization and financing of IP) and business aspects – are key to tackle comprehensively and substantively the real issue of development through IP.

DENMARK

**Observations
to
the Medium Term Strategic Plan
for WIPO 2010-2015
by
the Danish Patent and Trademark Office
at the Assembly Meetings of the Member States of WIPO 2010**

The Danish Patent and Trademark Office would like to thank the Director General for his initiative in relation to the Medium Term Strategic Plan for WIPO 2010-2015. We support the Medium Term Strategic Plan in order to reach WIPO's strategic goals and the efforts made in order to stimulate innovation and creation and to promote effective use and protection of IP world wide. Further, we support to strive to achieve the utmost development within the IPR environment in the future, including among other things to achieve further harmonization within the patent area.

EGYPT ON BEHALF OF DAG

DEVELOPMENT AGENDA GROUP

Comments on WIPO MTSP 2010-2015 (A/48/3)¹

The Development Agenda Group views the Medium Term Strategic Plan as an important blueprint for guiding WIPO's work in the next five years, and as a key instrument for translating the broad strategic goals agreed to by Member States into concrete and actionable programs under the biennium Program and Budget documents. As stated by the Director General in his foreword to the MTSP, the original purpose for which the MTSP was proposed as a 'new mechanism' in 2006, was to increase the involvement of Member States in the preparation and follow-up to the Program and Budget. As such, the Group welcomes the Director General's initiative in submitting a draft MTSP and for eliciting the views of Member States in three rounds of consultations.

In view of the importance of this exercise, the Group fully shares the Director-General's view expressed in his foreword that the MTSP should represent shared ownership and a joint endeavor between the Secretariat and the Member States on the basis of a shared understanding and unified commitment, in order to ensure its successful implementation. In this spirit, the Development Agenda Group is committed to engaging seriously in an intense process of consultations and has already demonstrated this by providing detailed comments and specific amendments to the first draft of the MTSP, within the stipulated deadline. The proposed amendments reflect changes in the text sought by DAG in order to more accurately capture the collective views of its Member States on important elements in the MTSP. Some of these changes were reflected in the revised MTSP document dated 29 July 2010 and the latest version presented to Member States on 20 August 2010, although several important sections of the text remain unchanged.

Given the significance attached to this process by DAG Member States, the Group continues to be concerned about several elements in the text, that present serious difficulties to the Member States of the Group. The Group is particularly concerned about the inclusion of new ideas in areas like norm-setting and global challenges that have not been discussed or agreed to by Member States in any inter-governmental body in WIPO so far. The absence of a specific section in the MTSP on the implementation of the WIPO Development Agenda, the most important, overarching process to take place in WIPO in the medium term 2010-2015, is another area of concern. Finally, the lack of clear linkages between the narratives under various Strategic Goals to specific programs already being executed by the Secretariat, is another gap that needs to be addressed, if the MTSP is to act as a bridge between WIPO's Strategic Goals and the Program and Budget.

In this context, and with a view to collaboratively developing a commonly agreed strategic plan for WIPO in the medium term, DAG Member States offer further detailed comments along with specific proposals for modification with regard to issues that are of concern to the Members of the Group. While the Director General's Foreword contains elements with which DAG members are unable to agree, comments on the same have already been provided in DAG's first submission dated 12 July 2010 and are not being repeated here, since it is now understood that the Foreword represents the personal views of the Director General and not the collective vision of Member States. DAG comments on substantive elements of the MTSP text dated 19 August 2010 are given below. The DAG hopes that its views on these and other critical issues will be taken on board, paving the way for a collectively shared vision for the MTSP.

¹ Attached to these comments is a track changed version of the MTSP 2010-2015, with additional specific text changes and additions.

1. Mission

The mission statement is significant because it implies an agreement between Member States and the Secretariat about the direction that WIPO should take. Hence, the mission statement should broadly reflect the shared vision of Member States on a range of issues regarding the work of WIPO, and should be in conformity with the agreed objective of WIPO under the WIPO Convention and the responsibility of WIPO as a UN Specialized Agency under the WIPO-UN Agreement.

Under the WIPO Convention, the objective of WIPO is to *“promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization, and to ensure administrative cooperation among the Unions.”*

Under the WIPO/UN agreement, WIPO is responsible for *“taking appropriate action in accordance with its basic instrument, treaties and agreements administered by it, inter alia, for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development”*.

The mission proposed in the MTSP adequately extends the role of WIPO to broader promotion of innovation and creativity for development, but conditions the statement, noting that the way to achieve this is through a “balanced and effective” international IP system. The introduction of “balance” in the mission is positive. However, the term “effective” relates to stronger harmonized international IP standards, as is used in many IP agreements. Including it in the MTSP 2010-2015 would give the impression that the current system is ineffective.

Therefore, **the word “effective” in the mission statement should be replaced by the word “accessible”**. The use of the word “accessible” would be consistent with WIPO’s general mission statement available on its website.

2. The New Strategic Framework Chart

A box should be added in the chart on page 8 to tie in all the strategic goals to DA implementation.

The heading below the chart in page 9 - “WIPO Strategic Goals with Development Agenda Linkages” - should be changed to “WIPO Strategic Goals with Development Agenda Recommendations”.

3. A separate section on the Development Agenda Implementation

There is no specific section in the MTSP on the implementation of the WIPO Development Agenda, when it is the single, most important, overarching process to take place in WIPO in the medium term 2010-2015. It is therefore anomalous that the Development Agenda only finds a home in Strategic Goal III in the MTSP. The introduction of DA recommendations under each Goal in Chart 9 is also at odds with the descriptions under each goal. No goal specifically states how the Development Agenda will be mainstreamed, which sharply contrasts with the Program and Budget document which for the past two years has specified how WIPO was attempting to mainstream the Development Agenda under each area. As the MTSP is the main strategic document for WIPO in the medium term, DAG Member States request **that a separate section on the Development Agenda Implementation be added at the beginning of the MTSP to appropriately reflect that DA implementation is an overarching, agreed objective of the organization.**

In the new suggested section on the Implementation of the WIPO Development Agenda, a new strategic indicator of “Strong focus on development throughout the organization” should be inserted, with the outcome indicator as “strong focus on development throughout the organization, with effective mainstreaming of the Development Agenda principles and

recommendations in the work of all relevant Programs.” This would make DA implementation a necessary strategic outcome of the MTSP that refers to all WIPO strategic goals, rather than only to the attainment of strategic goal III. The text could then go on to indicate which specific DA recommendations fall under each goal, as is reflected in the Chart in page 9 of the revised MTSP.

The description of the Development Agenda in paragraph 4 and 5 in page 26, under the Strategic Goal III, should be moved to this new section.

4. Strategic Goal 1: Balanced Evolution of the International Normative Framework for Intellectual Property

There is no indication of how the Development Agenda will be mainstreamed or reflected in the WIPO norm-setting activities and discussions in the standing committees or related discussions in open forums etc. **It is requested that new language on the outcome indicator be added to qualify that the agreements to be reached should be balanced and equitable so as to promote socio-economic and cultural development of all countries. Thus, the outcome indicator in page 10 should be amended to read as “Balanced and equitable agreements reached by Member States within each area of the international normative IP framework”.**

The MTSP states in the first paragraph of page 11 that the subject matter of IP is “no longer bound by territorial barriers” and that, particularly in relation to the Internet, IP subject matter requires “an international approach to be effective”. This is highly misleading. IP as a regulation, continues to be territorial. Member states decide whether or not to be part of an international instrument to extend protection beyond their own borders and their own nationals. Moreover, Member states to date, have not even discussed, leave alone agreed that any new norm setting is necessary in WIPO with respect to the Internet, particularly on IPR protection. It will be up to member states to make proposals for norm-setting on any issue, and the Secretariat’s role on Strategic Goal 1 should be limited to servicing member states’ deliberations, rather than promoting a particular agenda for norm-setting that it believes member states should adopt. **Hence, the phrase “is no longer...” up to “Internet”, in paragraph 1, page 11 (lines 3-6) should be deleted, in order to correctly reflect current realities.**

Paragraph 2 in page 11 refers to a “lack of progress on the normative work of the organization” and the “failure of WIPO to provide the forum to giving attention to needed adjustments and changes entails a number of risks”. It fails to recognize the approval of the Development Agenda as a fundamental normative landmark in the history of WIPO. Though its recommendations have not been translated into a new treaty, it is, nonetheless, the basis for all the work to be conducted by the organization, particularly in the normative domain. Therefore, we believe that this is misleading and the push for quick norm-setting outcomes is unjustified. Norm-setting processes during the past 5 years have indeed advanced, if not concluded, **with progress achieved so far on greater convergence on issues, including on limitations and exceptions for the visually impaired and on the protection of Traditional knowledge and Folklore. This paragraph should be accordingly re-phrased to reflect accurately, the present realities.**

The last paragraph in page 11 refers to the need for Committee agendas to cover the full spectrum of technological developments “from the latest advances in digital technology to traditional knowledge systems”. **It is suggested that the following words be added after this phrase “... with adequate consideration of development and public policy implications.”**

The section on **patents** in the MTSP still refers to a pressing need to keep pace with development of new technologies in the life sciences, synthetic biology, nanotechnology, etc. and the need to understand actions needed at the international level to address these developments. This oversteps the discussions that member states have agreed to in WIPO in the Standing Committee on Patents (SCP). If member states wish to bring up these proposals, they may do so, but the Secretariat should not suggest future work in this area. In the absence of any inter-governmental discussion or agreement on these far

reaching issues, inclusion of these references would imply an attempt to expand the scope of patentability beyond the TRIPS agreement standards, to subject matter like life forms that are exempted from TRIPS. **These references should be eliminated in order to correctly reflect the current program being discussed, as agreed to, by member states in the SCP.**

The section on **copyrights** in the MTSP also continues to extend the mandate of what Member States have currently agreed to discuss in the SCCR. The focus on the internet and copyright enforcement in the digital environment is of concern since this is an issue that has not been discussed in any inter-governmental WIPO body so far by Member States, and on which there is no inter-governmental agreement. As mentioned in the DG's foreword, there are a variety of experiments with legislative solutions and new business models. Therefore, in the next five years, DAG Member States would urge WIPO to collate and share such experiences and best practices in order to identify potential solutions, rather than pre-judge and advocate an approach at the outset, in the MTSP. Moreover, the right venue and inter-governmental process to discuss the future of the Internet is not WIPO, but the Internet Governance Forum (IGF), which is a broader set-up of the UN system that includes not only all UN agencies and Member States, but also civil society and industry. Indeed, references in the Director General's foreword to internet and copyright enforcement and the statement that *"the time available for developing an accepted solution is not much longer than the time span of WIPO's Medium Term Strategic Plan"* are of concern to DAG Member States, given that this sort of language in the MTSP could pave the way for WIPO to promote overly simplistic "solutions" outside the multilateral fora, be it in plurilateral negotiations or through technical assistance.

DAG members would therefore strongly urge **that the references to internet and copyright enforcement in the digital environment be deleted, or at the least be placed in the context of the UN WSIS implementation and IGF discussions.**

The language included in the section on **brands, designs and geographical indications (GIs)** in the revised MTSP still gives the impression that member states agree that there is a need to work towards harmonization of standards of protection in these areas. Member States in the TRIPS agreement fought arduously to maintain flexibility in the mode of implementing their obligations on IPRs. In the case of GIs, it is important to maintain the flexibility in the approach to meeting such obligations, in particular, choosing the system for protection of GIs in order to ensure that it is aligned with national interests and also taking into account the costs of different options of systems for the administration and enforcement of GIs. Moreover, GIs is an issue under discussion in the WTO and therefore member states have maintained a freeze in these debates in WIPO. **It is therefore requested that the language "constitutes a major challenge for coherence in a world in which economic behavior is increasingly global" (penultimate paragraph, page 12) be deleted.**

In the section on **brands and designs**, the draft MTSP in page 14 also notes that the work of the SCT committee would be *"supplemented by regular thematic meetings to provide an informal forum for member states and interested parties to explore topics where the multilateral normative development could be appropriate, including unfair competition... if appropriate, lead to the initiation of more formal norm developing work in specific areas"* (second last bullet point). This language appears to contravene a clear DA recommendation specifying the principles for norm-setting, and is therefore of concern. The DA recommendation on norm-setting applies to all WIPO committees, and therefore there should be no specific language in the MSTP about the role of informal forums that is specific to the SCT. Therefore, **DAG Member-states request deletion of this language.**

With regard to the **Lisbon System on Appellations of Origin (page 19)**, DAG Member States request amendments as shown below, to **sub-point xviii**:

(xviii) An IT strategy needs to be deployed in the medium term to ensure that current investments are leveraged in the creation of a ~~fully~~ electronic registration and notification procedure, **to be used by interested Lisbon Member States.**

With regard to the 'Strategies' section under the **Madrid System (page 21)**, the following alternate language is proposed in place of the current text in **sub-point (xi)**, as shown below:

~~(xi) Encouraging Contracting Parties to examine the benefits of simplifying the System by moving to an environment based solely on the Madrid Protocol. Supporting the three Member States which are members of the Madrid Agreement, but not the Protocol, in acceding to the Protocol.~~

(xi) to enhance awareness among the Member States which are members of the Madrid Agreement, but not of the Protocol, about the eventual advantages of adhesion to the latter.

5. Strategic Goal 2: Provision of Premier Global IP Services

While we take positive note of the fact that the outcome indicators do not make any specific reference to WIPO dispute resolution mechanisms in the revised MTSP, we see that the narrative on challenges and opportunities contains specific goals on the dispute resolution system. The section on WIPO Arbitration and Media Center, clause (xxiv) in page 22 still refers to expansion of its dispute resolution services to *“areas of IP policy where there is likely to be a high volume of international IP transactions, such as transfer of technology agreements in relation to environmentally friendly technologies”*. This, would in our view, promote an IP centric approach towards issues of equitable access to green technologies and know-how. **Given the differences in substantive laws across nations, resolution of these disputes should continue to be under the national law by appropriate national adjudicating authorities.**

In respect of the PCT system, the DAG acknowledges, with thanks, the positive changes made to the document by recognizing the need to enhance the stake and ownership of developing countries in the PCT system.

6. Strategic Goal 3: Facilitating the Use of IP for Development

DAG is pleased to note that the description of the goal in the revised MTSP takes into account the comments submitted earlier. However, this goal refers narrowly to the technical assistance of WIPO that is limited to increasing the use of IP by developing countries. This goal is not about reforming WIPO or its activities and programs to make it a development-oriented organization, as envisaged by the Development Agenda recommendations. In this regard, the outcome indicators are inconsistent with the strategic outcome of “greater use of IP for development”. In particular, it is out of place that the revised MTSP refers more broadly to the Development Agenda implementation, rather than focusing on WIPO technical assistance, and that it adds as an outcome indicator the “strong focus on development throughout the organization, with effective mainstreaming of the Development Agenda principles and recommendations in the work of all relevant Programs.” **Paragraph 4 of page 26 is also at odds in Goal III, and should be moved to the new section we propose on “Implementation of the Development Agenda”.**

The strategic outcomes should be significantly modified to include specific indicators about how goal III will be achieved i.e. how WIPO will ensure that its technical assistance is in line with the DA recommendations, including principles to ensure transparency, providing neutral advice, including flexibilities and limitations and exceptions to IPRs etc.

Other outcome indicators focus almost exclusively on technical assistance to developing, least developed and transition countries within the framework of the Development Agenda. These do not spell out WIPO strategic approach to technical assistance in light of the Development Agenda. From this perspective, **the following issues need to be added in the MTSP in strategic goal III (as possible strategic outcomes):**

- 1) **How current WIPO technical assistance is being or will continue to be transformed due to the Development Agenda,**
- 2) **how WIPO will help countries integrate IP policies into national development plans, or how WIPO will ensure that a development-oriented framework is promoted that includes use of flexibilities,**
- 3) **How WIPO will become cross-disciplinary in providing technical assistance while ensuring that the secretariat has the needed new expertise.**

7. Strategic Goal 6: Building Respect for IP

The goal description in the revised MTSP now states that the strategic goal on building respect for IP will be guided by DA recommendation 45, as was suggested by DAG. This is an important improvement that is noted with appreciation. However, this is not reflected in the envisaged strategic outcome (page 38) that refers to developing a “*shared understanding and cooperation among Member States to build respect for IP*”. To maintain coherence between the narrative and the envisaged outcomes, it is requested that the **strategic outcome should be qualified by containing an explicit reference to, or the language of, recommendation 45 of the WIPO DA.**

The outcome indicators call for increased international cooperation among Member States, NGOs, IGOs and the private sector, balanced policy dialogue in ACE, and enhanced capacity among member states to address piracy and counterfeiting. There is no outcome indicator to reflect how the WIPO activities within (in ACE) and in its relations to other IGOs, and NGOs and private sector, will be guided by recommendation 45 of the DA. The phrase “taking into account development-oriented concerns” needs to be further elaborated in the text. **It is suggested that new outcome indicators be included, or those now in place be modified, to spell out how WIPO is changing its approach from the traditional “more IP enforcement” to a “balanced respect for IP” approach, in line with the DA.**

In the section on strategies, there is also no mention of how WIPO has changed its approach to its activities in the area of enforcement in light of the DA and the deeper understanding of the associated development concerns. **The strategies must reflect the changing dynamics and discussions in the ACE in light of the DA recommendation 45, mirroring the language included in the Program and Budget 2008-09 and 2009-10 under this goal.**

8. Strategic Goal 7: Addressing IP in Relation to Global Policy Issues

Overall, the text of the revised MTSP on strategic goal 7 continues to be troubling. **We request close re-examination of Strategic Goal 7 and extensive redrafting.**

In DAG's view, the text in goal 7 is very forward in assuming that WIPO already has the requisite knowledge about the role of IP with respect to global policy issues and that its role is to cement its leadership at this intersection among UN agencies and increase WIPO's prominence in the global debates on these issues. The idea of member states asking WIPO to include issues of global challenges in its work was rather to bring external expertise on these issues to the realm of WIPO's work, and to initiate a reflection of how the international IP system has to change to respond to the ongoing and new global challenges. These are in fact new issues for WIPO, and the newly created division in WIPO, should be aimed at finding more evidence to allow for a transparent and realistic debate among member states about this complex and uncertain relationship, rather than unilaterally pre-judging and determining the nature of WIPO's role. Accordingly, WIPO should not, in the medium term, include as the strategic outcome “to make international discussions fully informed of IP as a policy tool for promoting innovation and technology transfer” when this is not a mandate that member-states have given WIPO with respect to global challenges. In our view, WIPO should in the first instance, explore how the international IP system must adapt to adequately respond to the growing complex social, economic and cultural challenges, including climate change and need for new technologies for adaptation and mitigation, food insecurity,

misappropriation of traditional knowledge, folklore and GRs, and public health crisis affecting the developing and developed countries. We would therefore request that:

Outcome indicator 1 is redrafted as: “WIPO recognized as the leading UN agency on IP issues,”

Outcome indicator 3 is redrafted as: “IP-based mechanisms are part of the debate on global issues,”

Strategy (i) is deleted,

Strategy (iii) is redrafted as: “Developing partnerships and collaborations for facilitating the use of IP and means of mitigating barriers created by IP as a policy tool to achieve public welfare outcomes by promoting innovation, transfer and diffusion of key technologies to deal with global challenges such as climate change, food security, public health, etc. in line with the ongoing negotiations on specialized fora such as the UNFCCC, WHO and FAO”.

WIPO’s involvement in developing partnerships and collaborations in relation to global public policy issues such as climate change, pandemic threats, neglected diseases, crop production, etc. should again, not be driven by an objective to only promote the use of IP, as stated in the MTSP. Rather, WIPO’s involvement on these issues should be balanced and look at the relevance and role of IP in relation to these issues in consideration of differences between countries in their levels of development.

It must be ensured that WIPO’s contribution to these global public policy discussions is balanced and reflects the positions of all Member States, and that the position of WIPO on these issues is Member-State driven. It also needs to be spelt out how WIPO will work together with other organizations. It is insufficient to note that “partnerships” will be built; it must elaborate the basis for those partnerships. It must also spell out how the WIPO DA will guide the implementation of this goal.

The strategic outcome should therefore be redrafted as “*promoting a balanced, evidence-based perspective on IP and global public policy issues*”, and the outcome indicators should accordingly be redrafted to suggest what WIPO will do to accomplish that. This should include, increasing evidence-based studies on the interface between IP and global policy issues; increasing the number of joint events with other UN agencies each respecting their areas of main competence,; as well as mainstreaming of the DA by, for instance, examining the role of flexibilities and limitations and exceptions in addressing global challenges.

It is also noted that this section does not refer to important programs such as Innovation Promotion and Technology Transfer that are currently being undertaken under this goal. Innovation promotion and Technology transfer and issues of keen interest to all developing countries and address the development and global dimensions of IP. Hence, DAG considers it important that adequate importance be given to these issues under this section, which are currently missing. It is also necessary to link up the Strategic outcomes and the Programs on the ground.

9. Strategic Goal 9: An Efficient Administrative and Management Support Structure to enable WIPO to deliver its Mandate

In its submission of 12 July, 2010, on the draft MTSP, the DAG highlighted the key concerns it has with the issue of the language policy in WIPO. The Group requested that paragraph xi under the Strategies section stipulate the following:

“xi. Formulate a comprehensive language policy to address the language divide, and that aims to use all the six official languages of the United Nations, including as working languages, on a fair and equitable basis and responsive to the needs of Member States. The comprehensive language policy will be implemented gradually over this Medium

Term, to be carried out systematically towards its full and complete implementation by the end of 2015. This comprehensive language policy will cover WIPO documents, publications, interpretation, and all WIPO web sites. WIPO will review all its legal instruments and related procedures to reflect this comprehensive language policy.”

(Attached to these comments is a track changed version of the MTSP 2010-2015, with additional specific text changes and additions.)

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Proposed amendments by DAG

MISSION

The promotion of innovation and creativity for the economic, social and cultural development of all countries, through a balanced and accessible effective international intellectual property system

A/48/3 page 3
Proposed amendments by DAG

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II. IMPLEMENTATION OF THE DEVELOPMENT AGENDA

<u>Strategic Outcome</u>	<u>Outcome Indicators</u>
<u>Strong focus on the development throughout the organization</u>	<u>Strong focus on development throughout the organization, with effective mainstreaming of the Development Agenda principles and recommendations in the work of all relevant programs.</u>

The WIPO Development Agenda represents a new, cross-cutting approach to addressing the development dimension of all WIPO's work. It provides a unique opportunity to reach beyond WIPO's traditional technical assistance programs and to ensure that the Development Agenda principles and recommendations are integrated into the work of the entire Organization. The principles and Recommendations of the Development Agenda apply not only to activities carried out under Strategic Goal III, but to activities carried out under all nine Strategic Goals of the Organization. This is reflected in the respective narratives throughout the Medium Term Strategic Plan. The summary table on page 9 charts the linkages between the Strategic Goals and the 45 Recommendations of the Development Agenda.

Within the medium term, WIPO has the challenge of translating the Development Agenda aspirations into reality. This includes ensuring that the human and financial resources dedicated to the Development Agenda deliver value for the Member States, and that the results are evaluated and can demonstrate positive impact.

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Proposed amendments by DAG

WIPO Strategic Goals with Development Agenda Recommendations Linkages²:

<p><u>Goal VIII</u></p> <p>A responsive Communications Interface between WIPO, its Member States and all Stakeholders</p> <p><u>DA Recommendations</u></p> <p>2, 3, 5, 14, 30, 40, 42, 43</p>						
<p><u>Goal I</u></p> <p>Balanced Evolution of the international Normative Framework for IP</p> <p><u>DA recommendations</u></p> <p>1, 4, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 36, 40, 42, 44, 45</p>	<p><u>Goal II</u></p> <p>Provision of Premier Global IP Services</p> <p><u>DA recommendations</u></p> <p>1, 6, 10, 31</p>	<p><u>Goal III</u></p> <p>Facilitating the Use of IP for Development</p> <p><u>DA recommendations</u></p> <p>1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45</p>	<p><u>Goal IV</u></p> <p>Coordination and Development of Global IP Infrastructure</p> <p><u>DA recommendations</u></p> <p>1, 6, 8, 10, 11, 12, 19, 20, 24, 25, 27, 28, 30, 31, 40</p>	<p><u>Goal V</u></p> <p>World Reference Source for IP Information and Analysis</p> <p><u>DA recommendations</u></p> <p>1, 6, 34, 35, 36, 37, 38, 39</p>	<p><u>Goal VI</u></p> <p>International Cooperation on Building Respect for IP</p> <p><u>DA recommendations</u></p> <p>1, 6, 13, 42, 45</p>	<p><u>Goal VII</u></p> <p>Addressing IP in Relation to Global Policy Issues</p> <p><u>DA recommendations</u></p> <p>2, 5, 6, 7, 19, 23, 24, 26, 27, 29, 36, 39, 41</p>
<p><u>Goal IX</u></p> <p>An Efficient Administrative and Financial Support Structure to Enable WIPO to Deliver its Programs</p> <p><u>DA Recommendations</u></p> <p>1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45</p>						

² This illustrative chart is based on the approved 2010/11 Program and Budget document, specifically on the “Development Agenda Links” section under each Program within the nine Strategic Goals.

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Proposed amendments by DAG

STRATEGIC GOAL I

Balanced Evolution of the International Normative Framework for Intellectual Property

Strategic Outcome	Outcome Indicators
Full engagement of Member States to reach agreements on legislative and practical measures in areas of common interest to adjust the existing international IP framework	1. Balanced and equitable Agreements reached by Member States within each major area of the international normative IP framework

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Proposed amendments by DAG

STRATEGIC GOAL I Balanced Evolution of the International Normative Framework for Intellectual Property

This Strategic Goal aims to ensure that the development of international IP law keeps pace with the rapidly evolving global technological, geo-economic, social and cultural environment, while taking into account implementation of the recommendations of the Development Agenda on norm-setting. A balanced evolution is critical to ensuring that the international intellectual property system continues to serve its fundamental purpose of encouraging innovation and creativity; that it takes into account the needs and interests of countries at different stages of development, including through the flexibilities within international IP agreements; and that it strikes the right balance between (i) the rights of creators and IP owners and the rights of users and the public; and (ii) the encouragement of innovation and creativity and the diffusion of the social benefit of innovation and creative works.

CHALLENGES AND OPPORTUNITIES

Intellectual property (IP) is covered by a complex web of national, bilateral, plurilateral, regional and multilateral agreements. In today's digitally driven and globalized world, however, the subject matter addressed by IP – new technologies, novel designs, brands and creative works — increasingly crosses is no longer bound by territorial borders. ~~Frequently, any attention that needs to be given to the subject matter requires an international approach in order to be effective (this, for example, is almost inevitably the case for matters relating to behavior on the Internet).~~ WIPO, the custodian of 24 multilateral treaties and four major global service systems, has the ongoing challenge of promoting balanced multilateral solutions to ensure that the international normative architecture remains relevant, that it serves its purpose of encouraging innovation and creativity worldwide; and that it facilitates participation by all countries in the benefits of technological and cultural advances.

The approval of the Development Agenda was a normative landmark in the history of WIPO, mandating that the norm-setting work in WIPO must be conducted in a balanced manner taking due account of the needs and interests of countries in different stages of development and the full use of flexibilities within international IP agreements.. ~~Though negotiations on various other issues have not been concluded, there has been an increasing convergence among Member States in several areas, including limitations and exceptions for the visually impaired and on the protection of Traditional Knowledge and Folklore. Though its recommendations have not been translated into a new treaty, it is, nonetheless, the basis for all the work to be conducted by the organization, particularly in the normative domain. In some other areas, however, consensus could not be reached. The past decade has been marked by a lack of progress in the normative work of the Organization, with Member States unable to reach agreement in several areas. The lack of progress in norm-making contrasts sharply with the rapid pace of technological change, which, in many instances, directly impacts the environment in which IP operates.~~ There is a need to achieve balanced outcomes in multilateral negotiations in WIPO, otherwise these multilateral processes risk being undermined. Failure on the part of the Organization to provide the forum for giving attention to needed adjustments and changes entails a number of risks. The role of the Organization in **economic** rule-making will wither. Multilateral approaches may be replaced by bilateral or plurilateral processes in other fora; and solutions may be developed by default by the market or by technology, rather than by public policy under the influence of governments.

Addressing this challenge requires the Secretariat to provide an impartial and professional environment – ensuring Committee agendas are comprehensively and fairly covered as far as possible – which facilitates

the decision-making of Member States, in order to arrive at multilateral solutions and enable balanced rules to be set across the full spectrum of technological development, from the latest advances in digital technology to traditional knowledge systems, with adequate consideration of development and public policy implications. The opportunity now exists to build confidence among Member States by improving mutual understanding of normative questions, thus preparing the ground for future advances in normative discussions.

The dynamic global economic and social environment requires that the evolving international IP system in all areas carefully balance the interests of all stakeholders, including countries at different stages of development, rights holders, and the public.

Against this background, some of the **specific challenges and opportunities** facing the Organization in the medium term in the main areas of normative activity (patents, copyright, trademarks, geographical indications, industrial designs and traditional knowledge) may be summarized as follows:

- **Patents.** ~~New technologies in the life sciences, synthetic biology, nanotechnology, materials science, environmental science and energy, and other fields are being developed and deployed at a rapid pace.~~ There is a pressing need to keep pace with ~~these~~ technological developments to understand what, if any, actions may be needed in the international arena to address ~~the~~ se developments. There is also a need to ensure that countries at different levels of development, while respecting their international obligations, adopt patent law and policies that are appropriate to their development needs, and are able to make informed policy choices regarding use of the flexibilities available under international agreements.
- **Copyright.** ~~Digital technology and the Internet mean that creative content — and new forms of cultural expression — are available to an unprecedented extent on a global basis, while copyright law remains territorially based.~~ The global availability of creative content presents both opportunities and challenges to the institution of copyright. Technological and market-driven changes ~~have resulted in severe stress on the current system, and have~~ brought about new questions on how to promote, protect and reward creativity, while ensuring access to protected works and works in the public domain.
- **Distinctive Signs.** The traditional approach to the creation, use and legal protection of trademarks, industrial designs and geographical indications (including unfair competition) is undergoing fundamental change. Investment in the development and maintenance of brands – as the vectors that tie intangible reputation and goodwill to tangible products and services – is becoming a key aspect of IP policy.
- **Designs.** The variety of legal and administrative approaches to the protection of industrial designs that exists in Member States constitutes a-an opportunity for the exchange of views and practices as a possible basis for global frameworks. ~~major challenge for coherence in a world in which economic behavior is increasingly global.~~
- **Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources.** The consensual adoption of the mandate of the Intergovernmental Committee (IGC) for 2010/11 presents a historic opportunity for the global community to achieve explicit international recognition of, and respect for, traditional knowledge (TK) and traditional cultural expressions (TCEs) as IP, and for developing an appropriate means of dealing with the interface between IP and genetic resources (GR). The balanced protection of TK, TCEs and IP in relation to GRs would represent a significant normative shift in IP and recognize the universality of the IP system. The first milestone challenge under the new mandate, will be for the IGC to agree and to submit the texts of an international legal instrument (or instruments) to the WIPO General Assembly for the Assembly to decide on the convening of a Diplomatic Conference.

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Proposed amendments by DAG

Brands and designs

Strategies will include:

- (vii) In the *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications* (SCT):
- supporting wide Member State participation in the SCT as the main vehicle for the development of brand-relevant IP rights. Maintaining a flexible approach to the format of potential outcomes of SCT work in different areas, ranging from use of soft law instruments to international treaties;
 - exploring the opportunity to advance work on the convergence of industrial design registration procedures in the form of an international design law treaty comparable to the Singapore Treaty (trademarks);
 - exploring the scope for work on the protection of trademarks on the Internet;
 - building capacity in the area of geographical indications, and encouraging multilateral cooperation including through exchanging experience and sharing of information on geographical indications;
 - use of the existing institutional framework to produce outcomes if feasible and appropriate, such as the Singapore Treaty Assembly for amendments of the Regulations under the Singapore Treaty, and the Paris Union Assemblies for specific recommendations;
 - ~~supplementing work within the established institutional framework by regular thematic meetings, providing an informal forum for Member States and interested parties to explore topics where new multilateral normative development could be appropriate, including unfair competition. Such topical issues would be addressed in an open and informal manner, such as through symposia or other forms of conferences, enabling the representatives of governments and stakeholder groups to engage in an informal and non-prejudicial exchange of views, some of which may, if appropriate, lead to the initiation of more formal norm-developing work in specific areas;~~
 - preserving a strong public domain and avoiding misappropriation of signs.

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Proposed amendments by DAG

The Lisbon System (Appellations of Origin)

- (xvii) The Lisbon Agreement is now over 50 years of age and enjoys a membership of less than 30 Contracting Parties. The difficulty of the task of transforming the Lisbon System into a system that enjoys wide international participation should not be under-estimated, as the negotiations in the World Trade organization (WTO) on the establishment of a multilateral notification and registration system for GIs show. Nevertheless, the mandate from the Lisbon Union Assembly to the Working Group on the Development of the Lisbon System provides an opportunity to identify ways to improve the System so as to make it more attractive for States and users.
- (xviii) An IT strategy needs to be deployed in the medium term to ensure that current investments are leveraged in the creation of a ~~fully~~ electronic registration and notification procedure, to be used by interested Lisbon Member States.-

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Proposed amendments by DAG

Madrid System - Strategies

- (ix) Identifying factors hindering accessions to the Madrid Protocol. Engaging more actively with non-Madrid Member States in identifying and addressing their specific concerns. Developing tailored strategies to enlarge the geographical coverage, and outreach programs to communicate more effectively the potential impact of accession to the Madrid Protocol in specific national contexts.
- (x) Working with the Contracting Parties to determine if the necessary IP policies and legal provisions are in place to fully implement the System, and assisting these Parties in developing and applying the necessary measures to achieve this objective.
- (xi) ~~Encouraging Contracting Parties to examine the benefits of simplifying the System by moving to an environment based solely on the Madrid Protocol. Supporting the three Member States which are members of the Madrid Agreement, but not the Protocol, in acceding to the Protocol.~~ To enhance awareness among the Member States which are members of the Madrid Agreement, but not of the Protocol, about the possible eventual benefits/advantages of adhesion to the latter.
- (xii) Engaging in an ongoing assessment of operations to deliver a more streamlined and efficient service.
- (xiii) Fostering an organizational culture oriented towards quality service delivery, and monitoring user satisfaction
- (xiv) Completing the IT Modernizations Phases I, II, and III, including the establishment of an external strategic partnership for the execution of Phase III, able to assume responsibility for the ongoing support of the resultant system.

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Proposed amendments by DAG

WIPO Arbitration and Mediation Center - Strategies

- (xxi) Enhance awareness of IP Alternative Dispute Resolution options.
- (xxii) Increase market research into the needs of users of dispute resolution services and understanding of the factors that influence the decision to use ADR.
- (xxiii) Increase the attractiveness of dispute resolution services offered by the WIPO Arbitration and Mediation Center by:
 - adapting the Center’s procedures and case infrastructure to the evolving needs of users, including through IT-based business solutions;
 - working with IP owners, users and institutions to establish tailored procedures specifically adapted to the particular features of recurrent disputes in their areas of activity.
- (xxiv) Engage with areas of IP policy where there is likely to be a high volume of international IP transactions and a need for neutral, efficient and cost-effective dispute resolution services. ~~such as transfer of technology agreements in relation to environmentally friendly technologies.~~ The availability of neutral, affordable procedures for the resolution of disputes between stakeholders could contribute to the successful functioning of mechanisms designed to promote ~~green~~ technology transfer.

A Survey on Dispute Resolution in International Technology Transactions, conducted by the Center, will be of practical assistance in improving understanding of user needs, with a view to increasing the effectiveness of the services offered by the Center.

STRATEGIC GOAL III
Facilitating the Use of IP for Development

Strategic Outcome	Outcome Indicators
Greater use of IP for development	1. A strong focus on development throughout the Organization, with effective mainstreaming of the Development Agenda principles and recommendations in the work of all relevant Programs.
	<u>Development of balanced and nationally appropriate IP and Innovation Strategies and corresponding national IP legal frameworks in consonance with national development goals and priorities in developing countries, LDCs and countries in transition, as well as with international IP treaties and agreements, while making full use of available flexibilities, in order to promote domestic innovation and thereby enhance the stake of developing countries in the international IP system.</u>
	<u>Enhanced human and technical infrastructure of IP institutions, including SME support institutions, in developing countries, LDCs and countries in transition, providing modernized, user-friendly services and with the capacity to manage and use IP effectively for development.</u>
	2. Increased number of developing countries, LDCs and transition economies with balanced policy/legislative frameworks
	3. Increased number of developing countries, LDCs and transition economies with strong and responsive IP and IP-related institutions
	<u>WIPO's technical assistance is in line with Development Agenda Recommendations and is transparent, neutral and reflective of the flexibilities in the international IP system and limitations and exceptions to IP rights.</u>
	4. A critical mass of human resources with relevant skills in an increased number of developing countries, LDCs and transition economies

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Proposed amendments by DAG

Economies in transition. The goal of facilitating the use of IP for development applies to diverse countries with widely differing levels of development and different levels of IP infrastructure. Many countries with economies in transition, for example, have recorded significant progress in their ability to utilize IP to help accelerate their economic, social and cultural development. In respect of these countries, the challenge for WIPO is to provide more specialized assistance to meet their particular needs, as well as to promote the exchange of experiences, lessons learned and best practices between such countries.

SMEs represent over 90 percent of enterprises in most countries worldwide, and contribute significantly to economic vitality. But the majority of entrepreneurs, micro-enterprises and SMEs make little or no use of the IP system. As a result, SMEs are becoming increasingly vulnerable in today's highly competitive, increasingly international and knowledge driven, IP-intensive environment. There is a need to reach out to SMEs in order to increase understanding of the potential of IP as a tool for extracting value from their creativity and inventiveness, and of the potential contribution of active IP asset management to the success of a business.

~~Moved to the new section under the Development Agenda. The WIPO Development Agenda represents a new, cross-cutting approach to addressing the development dimension of all WIPO's work. It provides a unique opportunity to reach beyond WIPO's traditional technical assistance programs and to ensure that the Development Agenda principles and recommendations are integrated into the work of the entire Organization. The principles and Recommendations of the Development Agenda apply not only to activities carried out under Strategic Goal III, but to activities carried out under all nine Strategic Goals of the Organization. This is reflected in the respective narratives throughout the Medium Term Strategic Plan. The summary table on page 9 charts the linkages between the Strategic Goals and the 45 Recommendations of the Development Agenda.~~

~~Within the medium term, WIPO has the challenge of translating the Development Agenda aspirations into reality. This includes ensuring that the human and financial resources dedicated to the Development Agenda deliver value for the Member States, and that the results are evaluated and can demonstrate positive impact.~~

Mobilizing resources. As overall demand increases for the services WIPO provides to support developing countries use the IP system, so does the need for partners and resources to help ensure those needs are met in a way which maximizes their development impact. WIPO's external relations and partnership building activities (Strategic Goal VII) are key elements in supporting developing countries in the use of the IP system and in mobilizing and providing access to resources for IP projects in developing countries. This is not to replace the central role of WIPO's regular budget funding for these activities, but rather to accelerate this work, to increase WIPO's capacity to respond to Member State needs, and to improve the effectiveness of WIPO's technical assistance and capacity building work. The key challenge in this regard is to build on the momentum achieved by the WIPO Conference on Building Partnerships for Mobilizing Resources for Development (November 2009), in particular by reaching out to the mainstream development agencies and charitable foundations to increase their awareness and readiness to support developing countries' IP projects for development.

STRATEGIC GOAL VI

International Cooperation on Building Respect for Intellectual Property

Strategic Outcome	Outcome Indicators
Shared understanding and cooperation among Member States to build respect for IP, guided by Development Agenda recommendation 45	<ol style="list-style-type: none">1. Increased international cooperation with Member States, NGOs, IGOs and the private sector2. Balanced policy dialogue within the auspices of the WIPO Advisory Committee on Enforcement (ACE), taking into account development-oriented concerns3. Enhanced capacity among Member States for addressing piracy and counterfeiting.

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Proposed amendments by DAG

STRATEGIC GOAL VII
Addressing IP in Relation to Global Policy Issues

Strategic Outcome	Outcome Indicators
<p>International discussions on global public policy issues are fully informed about the role of IP as a policy tool for promoting innovation and technology transfer</p>	<ol style="list-style-type: none"> 1. WIPO recognized as the leading UN <u>agency forum for addressing the interface between on IP and global public policy</u> issues 2. WIPO's input is increasingly reflected in international discussions on global public policy issues 3. IP-based mechanisms are <u>addressed as part of the debate</u> part established to of the debate -address on global public policy issues

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Proposed amendments by DAG

STRATEGIC GOAL VII Addressing IP in Relation to Global Policy Issues

This Strategic Goal reflects WIPO's potential to serve as ~~the leading~~ an intergovernmental forum for addressing the intersection between IP, innovation and global public policy issues. It implies ~~proactive and~~ substantive engagement with other UN, intergovernmental, and non-governmental organizations in order to contribute to the search for shared solutions to the major challenges facing humanity, including climate change, food security, public health, the protection of biodiversity and meeting the Millennium Development Goals (MDGs). The most immediate impact of many of these global problems is borne by developing and least developed countries, and the programs under this Strategic Goal will be closely involved in the realization of development objectives and Development Agenda recommendations.

CHALLENGES AND OPPORTUNITIES

Technology has, historically, provided the means by which humanity has addressed social and environmental challenges. In a broad sense, it has offered ways to improve our response to isolation and distance, to inadequate agricultural productivity, to threats to public health, to lack of readiness for hurricanes and typhoons, and so forth. Not surprisingly, rights that restrict use of new technologies may engender controversy. On the other hand, if there are no new technologies, there will be not only no controversies, but also no improvements to our capacity to respond to challenges. Balance between incentivizing investment in new technologies, on the one hand, and giving access to the social benefit of the new technologies, on the other hand, is a key principle.

Because of our increased reliance on technology, the discussion concerning the interface between IP and global public policy issues can be contentious and difficult. The importance of the issues at stake, and the common interest in improved information tools to support and guide policy debate and in clearer linkages between policy debate and technical analysis, provide both an opportunity and a challenge for WIPO.

The challenge is to ensure that WIPO can contribute its distinctive IP expertise to these crucial policy debates and, in doing so, work in partnership, as required and upon invitation of, ~~with a host of~~ agencies and processes within the United Nations system and ~~in~~ other inter-governmental fora. Successfully addressing this challenge presents an opportunity to establish WIPO as the first point of reference on the interface between public policy issues and IP. To achieve this goal, WIPO needs to ensure that its contribution is of the highest quality, that it is balanced and evidence-based, that it is targeted accurately, that it takes into consideration adequately the concerns of its Member States, and that it is supported through partnership building.

This also requires a clear understanding of the priorities in terms of WIPO's partnerships and engagement according to where it can have greatest positive impact on the key public policy issues. Key partners among the UN System of organizations will include, for example, the World Health Organization (WHO) on the interface between IP and public health; the UN Framework Convention on Climate Change (UNFCCC), the UN Environment Programme (UNEP), and World Meteorological Organization (WMO) on issues relating to IP, technology and climate change; the Convention on Biological Diversity (CBD) on aspects of biodiversity which are relevant in particular for WIPO's work in the area of traditional knowledge and genetic resources; the UN Industrial Development Organization (UNIDO), the UN Development Programme (UNDP), and

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Proposed amendments by DAG

the UN Conference on Trade and Development (UNCTAD) on issues relating to IP and development; the International Telecommunications Union (ITU) on addressing IP issues in the context of the information society; the UN Educational, Scientific and Cultural Organization (UNESCO) for the relationship between IP and culture; as well as the World Trade Organization (WTO) on a number of cross-cutting issues. WIPO must also look at leveraging these and wider networks and partnerships to support the Organization's work through joint activities and resource mobilization (see also Strategic Goal III (Facilitating the Use of IP for Development) and VIII (A Responsive Communications Interface between WIPO, its Member States and all Stakeholders)).

In recent years, major IP discussions have taken place outside WIPO and without its active participation. In order for WIPO to realize its full potential in addressing the interface between IP and global policy issues, it must ensure the trust of potential partners by providing significant contributions that not only move the debates forward in terms of better understanding of the issues, but also generate confidence as to the impartiality of its contributions.

STRATEGIES

The following strategies would guide WIPO's approach in this area:

(i) WIPO facilitates and promotes a balanced, evidence-based perspective on IP and global public policy issues in accordance with the Development Agenda recommendations and the perspective of all Member States, to complement discussions involving IP and global public policy interface in other forums, in its capacity as the leading UN agency on IP issues.

~~Ensuring WIPO's engagement in all relevant public policy process and negotiations (e.g. related to public health, climate change, food security, the digital divide and the MDGs) to provide support to those processes and help establish WIPO as the forum and reference point for Member States on the interface between the international IP system and global public policy issues.~~

(ii) Developing sound information tools on the basis of patent data in sectors of technology of public policy interest in a form that is useful for practical policy-makers (in collaboration with the work undertaken under Strategic Goal IV (Coordination and Development of Global IP Infrastructure) and Strategic Goal V (World Reference Source for IP Information and Analysis)). This would include patent landscaping and other information on the legal status of patents on environmental technologies, and information on practical ways of ensuring access to, and local development of, such technologies in developing countries.

(iii) Developing partnerships and collaborations for the use of IP and in means of mitigating barriers created by IP as a policy tool to achieve public welfare outcomes by promoting innovation, ~~and~~ transfer and diffusion of key technologies, ~~especially~~ to deal with global challenges such as climate change, food security, public health, etc. in line with the ongoing negotiations in specialized fora such as the UNFCCC, WHO and FAO.

(iv) Developing voluntary innovation structures for these purposes through such mechanisms as:

- collaborative innovation;
- more effective and responsible licensing schemes;
- product development partnerships;
- patent commons and pooling initiatives; and
- dispute resolution mechanisms designed to minimize interference with the intended functioning of such structures.

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Proposed amendments by DAG

- (v) Building and maintaining confidence in the new Performance Management and Staff Development System (PMSDS) by ensuring that it is applied fairly, objectively and consistently across the Organization.
- (vi) Improving service delivery and reducing transaction costs across the administration and management functions through streamlining and re-engineering the management and administrative processes and supporting them with a robust, integrated and state-of-the-art Enterprise Resource Planning (ERP) System and clearly defined service level agreements (SLAs).
- (vii) Reviewing and strengthening the procurement and travel policy, process and associated procedures, including the use of demand forecasting, better planning, the development of alternative sourcing strategies and the negotiation of framework agreements for commonly used goods and services.
- (viii) Developing and implementing a comprehensive ICT strategy that tracks and exploits advances in information technology and responds to business needs.
- (ix) Developing and mainstreaming environmentally friendly practices, including “green” procurement, that will help the Organization reduce its carbon footprint and move towards carbon neutrality.
- (x) Identifying and implementing actions to move WIPO steadily towards an environment that is accessible to the physically, cognitively and visually impaired.
- (xi) Elaborating a comprehensive language policy, developed in consultation with Member States, which responds to the needs of Member States and covers meeting documents, interpretation, publications and the WIPO website. [It should address the language divide, aiming to use all the six official languages of the United Nations, including as working languages, on a fair and equitable basis and in a manner that is responsive to the needs of Member States. The policy will be implemented gradually over this Medium Term, to be carried out systematically towards its full and complete implementation by the end of 2015. This comprehensive language policy will cover WIPO documents, publications, interpretation, and all WIPO web sites. WIPO will review all its legal instruments and related procedures to reflect this comprehensive language policy.](#)
- (xii) Reviewing and streamlining the policies and procedures governing the production and distribution of meeting documents; streamlining the accreditation process of delegates and visitors at conferences, meetings and special events to enable WIPO to offer a more secure and user-friendly registration process for delegates and visitors.
- (xiii) Reviewing and streamlining the policies and procedures governing records management and archiving services, including the introduction of electronic archiving and retrieval technology in order to facilitate access to the institutional memory of the Organization.

EQUATORIAL GUINEA

Republic of Equatorial Guinea
Permanent Mission to the United Nations and Other International Organizations in Geneva, Switzerland

MEDIUM TERM STRATEGIC PLAN FOR WIPO 2010-2015 OBSERVATIONS ON DOCUMENT A/48/3

DELEGATION OF EQUATORIAL GUINEA

The Delegation of Equatorial Guinea considers document A/48/3 to be valid and welcomes it given that it covers some points of vital importance, including:

1. WIPO's commitment in the field of technology.
2. Commitment in the economic and legal field.
3. This document also highlights the importance of cooperation between WIPO and Member States.

It is important to note, therefore, that the initiative presented in this document is in fact the embodiment of the proposal approved by the Member States in 2006, which legitimizes this initiative.

Recommendations

Equatorial Guinea underlines the need for the unanimous adoption of this Plan and stresses the importance of the action plan prepared and presented by the WIPO Secretariat. We would therefore like to see the implementation of this Strategic Plan, which has been presented to us, become a reality.

Lastly, we urge WIPO to continue to work towards its healthy goals set out in this strategic document, in which we place our trust.

Thank you very much.

SWEDEN

27 September 2010

Ministry of Enterprise, Energy and Communications Sweden

Written comments from Sweden concerning the WIPO Medium Term Strategic Plan as presented in document A/48/3.

The Swedish delegation thanks the Director General for his initiative regarding WIPO's Medium Term Strategic Plan (MTSP). This plan provides WIPO with a robust framework empowering the secretariat by giving strategic direction in accordance with the already agreed strategic goals for the years ahead of us. It will also be an important and helpful guidance in the preparation of the programme and budget for the 2012-2103 and 2014-2015 biennia.

The MTSP is also an important tool in the implementation of a results oriented management. We welcome the identification of fixed indicators for each strategic objective, which will be a valuable help for the organisation and its member states (MS) to follow and evaluate progress in the realization of these objectives.

The strategic objectives, as expressed in the MTSP, emphasise the original mission of WIPO to be the world intellectual property organisation and it is important that the future activities of the organisation aim to fulfil this mission.

The MTSP expresses the flexibility necessary to allow the plan, the actions and the different initiatives to be adjusted in the ever changing, evolving economic, social and cultural environment of the world today, an environment strongly affecting the global IP system and the activities of WIPO.

We would like to compliment the secretariat for the extensive, transparent and dynamic consultation process with the member states during the development of the MTSP. We are aware that many different views have been expressed during the process and that the document is a result of the consultation. This of course means that not all views can be entirely reflected in the plan, including some of ours, but we would nevertheless want to express our full support for the plan as such and the vision it embodies.

SWITZERLAND

Comments from Switzerland on the Medium Term Strategic Plan for WIPO

- Switzerland supports the Medium Term Strategic Plan for WIPO 2010-2015 (hereinafter “the Plan”) as it is a strategic approach and commitment for our Organization for the coming years.
- Switzerland welcomed the inclusive consultation process launched by the Director General this year which enabled the initial project to move forward so that the many observations made in the consultations could be taken into account in a balanced manner. It is noteworthy that the compromise reached was widely backed at the last meeting of the Program and Budget Committee.
- The Medium Term Strategic Plan will be a useful guide in WIPO’s work in the coming years and will strengthen WIPO’s results-based management system without, however, being excessively rigid. It is expected that it will be able to continue evolving depending on future needs and developments.

Specific comments

- Switzerland attaches great importance to Strategic Goals I, II, III, IV and VII which are at the heart of WIPO activities.
- With reference to the comments in the Plan regarding the lack of progress in standard-setting activities in recent years, Switzerland underlines the importance of developing the international IP framework at WIPO in line with developments in the legal and technology fields. Switzerland, therefore, calls for particular attention to be paid and sufficient resources allocated to substantive units, especially those that will be dealing with patent, trademark and copyright issues in the coming years. This is so that the Secretariat can better support the work of the committees in order that concrete progress is finally made in important areas such as the harmonization of patent rights, the protection of country names and other issues linked to the use of distinctive signs on the Internet or the draft treaties on audiovisual and broadcasting organizations.
- Switzerland also continues to place great importance on global IP registration services. Effective and high quality means should be available to right holders to protect their intellectual property rights at the international level. These services are also crucial for the financial stability and growth of the Organization. Hence, they should continue to be among the most attractive in the future. Switzerland, therefore, supports the initiatives proposed in the Plan aimed at ensuring adequate investments to develop and extend the use of these services and encourages the participation of new Member States, especially for the Madrid and Hague systems. Switzerland is also committed to the reforms planned for the PCT to address the problem of the backlog of applications. As well as dealing with issues regarding the administrative burden that some offices face, it is also important to make the necessary investments in infrastructure by researching IT solutions such as databases and translation tools.
- On a similar note, Switzerland supports the Secretariat’s initiatives aimed at developing and improving WIPO’s global intellectual property infrastructure. This infrastructure is fundamental if the intellectual property system is to work properly. It can make the protection systems considerably easier for intellectual property offices, right holders and the general public everywhere to use. The development of global databases to improve access to information is a key aspect in order for the intellectual property systems to be more efficient and productive. Likewise, Switzerland would like to express its support for the on-going projects under the Madrid and Nice Unions.
- Switzerland underlines the increasing need for WIPO to develop activities aimed at facilitating the use of intellectual property for development. Switzerland supports WIPO’s work in this area and stresses the need to enhance synergies, coordination and continuity in the work undertaken. This is necessary to avoid the duplication of work and ensure the sustainability of work done on the ground, thus maximizing

the use of available resources and their concrete results. The initiatives launched and mechanisms recently implemented (such as the results-based management project and the ERP project) are crucial, and they must be allocated sufficient resources to ensure that all the desired effects are brought about; added to this is the CDIP coordination and evaluation mechanism .

- With regard to global challenges, WIPO must position itself as the global reference point in the interface between public policy issues and intellectual property given WIPO's role and specific expertise. Switzerland therefore supports the proposed strategies, particularly the development of partnerships with other international organizations and UN agencies – with respect to this, the conclusion of the partnership agreement with the FAO should be duly noted – governments, the academic world and industry.
- Finally, Switzerland attaches great importance to the internal reforms underway in the Organization as part of the Strategic Realignment Program and fully supports these in order to improve the quality and efficiency of the Secretariat's work. The administrative support units should receive the necessary resources, both human and in terms of infrastructure (for example, the ERP project). Switzerland highlights the fact that it is important for WIPO to have highly qualified staff with the required expertise. As part of results-based management and for reasons of good governance, Switzerland points out the need for WIPO to set up an internal audit and supervision structure which is comprehensive and fully operational as soon as possible.

SYRIAN ARAB REPUBLIC ON BEHALF OF THE ARAB GROUP

Proposal submitted by the Arab Group Member States of WIPO on the Medium Term Strategic Plan for WIPO 2010-2015

Add a new paragraph no.5 to Strategic Goal III "Facilitating the Use of IP for Development, in the Challenges and Opportunities section, page 21:

v-Overcoming the Language Divide. A large number of developing and least-developed Member States face a challenge in being able to comprehend, positively communicate and interact in the important discussions, deliberations and negotiations in all WIPO bodies, including important deliberations with legal implications, due to the language barrier of the unavailability of documents and publications in all of the official languages of the United Nations. This is also the case with regard to the benefit that these Member States can gain from WIPO's publications and documents at the experts' national level. As a result, this has a negative effect on the extent to which WIPO can benefit these Member States, and likewise, limits the ability of consensus building.

Add a new paragraph under Strategies (vi) of the above Goal III, page 22:

-Bridging the Language Divide. WIPO will adopt the language policy as stipulated in Strategic Goal IX below in order to facilitate and achieve positive interaction with IP issues, both in its various bodies in Geneva, as well as at the national level in Member States.

Replace paragraph 11 of the strategies in the Strategic Goal IX "An Efficient Administrative and Management Support Structure to enable WIPO to deliver its Mandate" page 39, with the following paragraph:

-Formulate a comprehensive language policy to address the language divide, and that aims to use all six official languages of the United Nations, including as working languages, on a fair and equitable basis and responsive to the needs of Member States. The comprehensive language policy will be implemented gradually over this Medium Term plan, to be carried out systematically towards its full and complete implementation by the end of 2015. This comprehensive language policy will cover WIPO documents, publications, interpretation, and all WIPO web sites. WIPO will review all its legal instruments and related procedures to reflect this comprehensive language policy.

TRINIDAD AND TOBAGO

WIPO General Assemblies, Geneva, Switzerland, September 20-29, 2010

COMMENT: **Agenda Item 9 - Medium Term Strategic Plan (MTSP)**

The delegation of Trinidad and Tobago has considered documents A/48/3 and A/48/24 and offers the following comments:

We wish to commend WIPO for the tremendous work and consultations that obviously went into the preparation of this plan and this document as well. It presents a wealth of valuable information from several Committees and negotiating fora all together for ease of reference. The foreword by the Director General was particularly insightful as to the prevailing trends and anticipated frontiers in intellectual property. More important is the encouragement this Plan provides and the glimpse into an interesting future for IP development all around. The thrust outlined in the Plan actually reflects a similar vision Trinidad and Tobago has for the future development of IP in Trinidad and Tobago and how WIPO should be evolving to meet similar kinds of developmental needs. Like many countries taking IP development seriously, Trinidad and Tobago has progressed from achieving TRIPs compliance and being occupied with norm-setting to raising awareness of IP in the general population. The IP-awareness being sought is to the degree that creators and users of the IP system become IP-savvy and able to benefit from and strategically use IP. It could be considered moving from theoretical IP to applied IP.

Even before WIPO or notions of IP existed historically, people have always been creative. That creativity was not always with a defined sense of ownership due to the low value that was placed on knowledge and the ease with which knowledge entered the public domain. Over the years, the formal IP system is catching up with the way knowledge is labeled, dispersed and utilized because knowledge evolves as much as the modes of creation and distribution of knowledge, as can be seen in the digital work. Future creation and distribution will doubtless be something not thought of or experienced before but the IP system will need to be flexible and fearless enough to accommodate it. In that regard, the agreed Strategic Goals and Strategies appear to be able to endow WIPO with the capacity to assist member states in closing the IP divide and promoting applied IP. It also appears to give WIPO the pliability to accommodate future knowledge and perhaps other forms of "old knowledge" as discussions on traditional knowledge may open up other avenues.

Trinidad and Tobago has never regarded WIPO as a static entity. IP is a dynamic area that is constantly evolving. Therefore, the challenge for WIPO in achieving these strategic goals is for WIPO to be as dynamic as the very IP system it seeks to administer. If WIPO moves to become a sort of nexus of global intellectual property, we are sure it will recognize the responsibility and deep trust that goes along with such an objective. The process that has already begun of extensive consultation and transparency will serve to deepen trust. That trust will engender the confidence necessary among users and member states to see the attainment of those Strategic Goals.

The limitation foreseen in execution of the various Strategies is perhaps the newer technical competencies and capacities that WIPO may have to develop or acquire. Here the essential human resource component that delivers on trust and yields the high customer satisfaction comes to the fore. Therefore, it may become necessary to revisit the Desk-to-desk Assessment as a necessary pre-requisite to engaging in the MTSP process.

It seems that all of these Strategic Goals will impinge on the human resource capacity of WIPO. Even as WIPO seeks to engage in Results-Based Management, any assessment will be seen through the perspective of the review team. Issues may be similar to those that arise in the review of technical assistance currently provided by WIPO. Technical assistance for development is expected to guide developing countries on a path of using IP to benefit economic, cultural and social development. As the

emphasis is on developing countries, the technical assistance providers ought not to presume that member states would necessarily know what type, extent and duration of technical assistance would be required to achieve the said economic, cultural and social development goals.

It has been observed, particularly in the Caribbean region, that there have been too many instances of technical assistance activities attempting to foist a one-size-fits-all program on a number of member states at various levels of IP development. The programs may be intrinsically sound and well meaning but are sometimes inappropriately timed or targeted. The generally low awareness of IP in the Caribbean region means that often recipients may be impressed and appreciative of the activity but building real IP capacity will fall short if there is no short term application of what is learned or disseminated. For example, a technology licensing activity is of prime interest but actual application to practice will be depend on where participants are on the IP developmental curve and if they have any IP or potential IP to license.

In assessing a case as given previously, there are two prime sources of guidance and formulation of activities that are prime determinants in the success, failure and delayed attainment of a goal. Very often the focus is on the program itself and the intrinsic merit. Member states may request certain activities or WIPO may suggest certain activities. Therefore, measurable success in terms of effectiveness, impact, efficiency and relevance may depend as much on how well formulated the request of the member state was, the readiness of the participants, follow up and implementation by the national authority and the support the national authority received from the respective government. These factors in addition to program and project management and coordination of technical assistance for development may depend on the experience and skill of the program officer. This relates directly to the possible quality of the WIPO/Member State/Stakeholder interface as outlined in Strategic Goal VIII and other related Goals.

It has been the experience of the Trinidad and Tobago Intellectual Property Office that industry or IP experience plays a significant role in how well program officers interpret requests from member states to formulate appropriate activities under technical assistance. The perspective may differ depending on experience within the challenges faced by national authorities in developing countries. We would like to suggest the methodology should include such a background assessment. The present methodology focuses on the end results and empirical success. A well planned and executed program may fail for incomplete support by member countries and a poorly executed program may succeed or fall short slightly by dint of the efforts of the member state to make the best of a bad situation. The backgrounds and preparedness of the organizers will also determine the gap analysis – how an activity could have been improved or how it could have turned out much worse. A consideration to improve the quality of the WIPO/Member State/Stakeholder interface should therefore be closely linked to a review of the human resources capacity of WIPO especially with respect to the IP industry, operational and examination experience.

Trinidad and Tobago looks forward to any opportunity to participate in the MTSP process and can provide more specific feedback if the need arises.

UNITED KINGDOM

From: Delegation of the United Kingdom
Sent: Mon Sep 27 14:05:51 2010
Subject: MTSP

WIPO Medium Term Strategic Plan 2010-2015 United Kingdom contribution to the Annex of the Report of the Assemblies

The United Kingdom welcomed the proposed MTSP document which was presented at the September 2010 PBC session, and was ready to adopt this proposed version as it stood. There were further elements that we would have welcomed, and these are listed below.

Patents

In regard to the current language (p19, para vii), "The PCT system should contribute to sufficient disclosure of knowledge that would enable the transfer and dissemination of technology to all Member States", we prefer the wording from p20 ("The PCT system should contribute to sufficient disclosure of knowledge that would enable the transfer and dissemination of technology to all Member States in a user-friendly manner and in accordance with national conditions.") given that sufficiency is a substantive patent law issue which is determined by national law - the PCT is not intended to harmonize points of substantive patent law.

Copyright

In reference to others' comments on the references to internet and copyright, we feel that the effect of the internet is so profound that it must be discussed in WIPO, otherwise we will ignore a major driver and forming system on copyright. Whilst 'the internet' as an holistic concept may be more correctly discussed elsewhere it should still be referenced in WIPO.

Economic work

We would prefer to include further text in Strategic Goal V under Strategies, perhaps as a separate point: "ix. *The development of an agreed approach to define the knowledge economy, through intangible investment in line with national offices and intergovernmental organizations concerned with IP*"): given that a lot of the MPST is based around the notion of a knowledge economy, it seems odd not to define it, so we need a macro framework to measure the 'knowledge economy'. We think it makes sense for WIPO (and its economists and analysts) to work within the intangible assets framework. This would allow us to count the investment countries make into IP and be able to link this to the IPRs that are used. Having that type of macro picture - or indeed any complementary macro picture - would tie the knowledge economy debate to national accounts and the global growth agenda. Without it, we cannot provide an overall picture of how IP and IPRs input into the economy.

The general request for linking the economists' network and building of the evidence base with the communications interface has not been reflected (Strategic Goal VIII): we suggest amending Strategic Goal VIII, to extend the sentence at the end of para (ii) Honest Broker to read "*and facilitating the meeting of IP economists*".

Development

In Strategic Goal III we would amend the indicators to read:

- 'Increased number of developing countries, LDCs and transition economies with balanced policy/legislative frameworks and nationally appropriate IP and innovation strategies.'
- and
- 'Increased number of developing countries, LDCs and transition economies with strong and responsive IP and IP-related institutions with the capacity to manage and use IP effectively for development.'

Mission statement

We would prefer to keep the current word 'effective' instead of a proposed change to 'accessible' in the mission statement. This already implies any new method must remain effective, and does not call into question the effectiveness of the current system.

UNITED STATES OF AMERICA

Comments by the United States Regarding the WIPO Medium-Term Strategic Plan, 2010-2015
September 2010

General Comments:

WIPO's Medium Term Strategic Plan for 2010-2015 illustrates a significant effort to build a responsive and efficient Organization to meet its mandate in providing global leadership on intellectual property issues.

The United States welcomes WIPO's MTSP as a complimentary element to WIPO's results-based management framework, which is designed to track performance and achieve results. The MTSP will contribute to WIPO's ability to demonstrate accountability and to produce results.

The MTSP is a strategic document concerning the direction of the Organization and elements on what WIPO can do. We recognize that it represents the personal vision of the Director General on the tasks WIPO could tackle for the next five years. The recently approved Strategic Realignment Process provides the details on how the Secretariat will perform and execute its work programs. These work programs have been based on decisions reached by Member States through the Program and Budget Committee. The MTSP provides welcome guidance on the factors WIPO should consider in fulfilling its mandate.

The United States supports adoption of the MTSP, as presented in A/48/3. The Director General undertook an unprecedented consultative process on the MTSP for 2010-2015 prior to its submission to the General Assemblies. The MTSP presented in A/48/3 is a balanced document that already largely reflects the views of all Member States participating in the consultative process, and it has found overwhelming support for its implementation. The United States applauds WIPO for its extraordinary efforts at transparency and extensive consultations. Moreover, in light of a further round of consultation with the Chair of the Program and Budget Committee, the United States welcomes this additional opportunity to submit further comments to fully inform the WIPO General Assembly upon taking note of the Plan. In this regard, additional comments from the United States follow.

Specific Comments:

The detailed and helpful plan/strategies to address the core services of WIPO are all welcomed and strongly supported by the United States. We think it is worthwhile to highlight in particular Strategic Goals I, II, III, IV, and VII. The draft strategies to tackle the challenges and opportunities in these goals are of great importance to the U.S.

The United States strongly supports the need to continually evolve the international intellectual property framework to keep pace with legal and technological developments. The U.S. urges the International Bureau to devote sufficient resources to the substantive divisions, particularly those dealing with Patents, Trademark and Copyright law, so that the International Bureau may conduct the necessary studies and continue its tradition of preparing excellent working documents.

Provision of premier global IP services is critical to ensure rightholders' have a cost-effective and efficient means to protect their intellectual property. Moreover, these services are central to the financial stability and growth of the Organization. We support WIPO's aim to ensure adequate investment in the renewal and expansion of the use of the services and to increase the participation of developing, least developed, and transition economies in the services and the benefits they offer. In particular, to address the backlog challenges under the PCT system, more investment should be provided for information technology solutions, such as electronic file access and machine translation tools. In this regard, serious reform of the Patent Cooperation Treaty (PCT) is needed to address the administrative burdens many Patent Offices are facing, leading to significant backlogs in processing these applications. The United States

strongly supports the PCT Working Group focusing on this problem through technical solutions as well as minimizing duplication of search and examination by national offices. Moreover, in an effort to ensure wider participation of the PCT system, more examination should be undertaken to address PCT fee structures. The United States continues to support the reduction in fees where possible, as a means to stimulate innovation and economic development. The harmonization of patent laws among Member States is highly desirable to address barriers to trade and to access information, particularly those relating to prior art issues.

On Coordination and Development of Global IP Infrastructure, the U.S. applauds the IB for seeking to further develop and improve WIPO's IP infrastructure assets. IP infrastructure is critical to the good functioning of the IP system and can greatly facilitate use of the system by rightholders, IP offices and the public in all countries—developed, developing, least developed and economies in transition. In particular, the strategies to strengthen infrastructure at the national level, to create automated systems in countries and to develop global databases to improve access to information are critical components to achieve increased efficiency and productivity in IP systems.

In our view, related to the strategic goal of improving IP infrastructure is the growing need for WIPO to develop activities aimed at facilitating the use of IP for development. The United States strongly supports WIPO's ongoing work in this area. In particular, the regional bureaus of the Technical Assistance and Capacity Building Sector work closely with the recently established Development Agenda Coordination Division (DACD) to respond to increased demand from Member States for optimization of the development component in WIPO's activities. Specifically, we believe WIPO should focus on working with countries to develop National IP Strategies to meet their national needs and to increase economic growth. National IP Strategy documents, formulated by governments with input from the private sector and universities/research institutions, will help guide governments in making their choices as to how to use IP to promote and strengthen scientific and technological research, development, and commerce. We also support more resources being devoted to increase distance learning courses and targeted "training of trainer" programs to better optimize technical assistance resources.

Though not specifically highlighted in the MTSP, the U.S. believes WIPO needs to ensure and specifically note that there is greater efficiency being provided in the implementation of Development Agenda related projects and activities under the Committee of Development and IP (CDIP). WIPO's recent efforts in addressing this issue are applauded with respect to the creation of a budgetary process for CDIP projects, recently agreed to at the 2010 Program and Budget Committee meetings, the results-based management framework initiative, the Coordination and Monitoring Mechanism under CDIP, and the ERP (Enterprise Resource Planning System) which this past PBC decided should devote significant resources to improving WIPO's management and administration performance. All of these initiatives will help to ensure that the Organization is properly tracking performance, resources and results related to Development Agenda activities.

Lastly, on Addressing IP in Relation to Global Policy Issues, the U.S. strongly supports WIPO establishing itself as the primary point of reference on the interface between public policy issues and IP, because WIPO has distinctive IP expertise to lend to these critical IP policy debates. The strategies identified to meet that goal are welcomed by the U.S., and in particular we believe that the development of partnerships and collaborations in promoting innovation and diffusion of key technologies in using IP as a tool to address certain aspects of public welfare issues holds great promise. Partnerships among UN agencies, IGOs, governments, academia and industry are key in leveraging funding, technical resources and expertise of both the public and private sectors. The US Government strongly supports such endeavors to maximize the impact of these resources, and encourages enhanced development of such partnerships.

URUGUAY

COMMENTS BY THE DELEGATION OF URUGUAY ON THE MEDIUM TERM STRATEGIC PLAN (DOCUMENT A/48/3) TO BE ANNEXED TO THE REPORT OF THE WIPO ASSEMBLIES

The Delegation of Uruguay welcomes the opportunity to submit comments in writing on the Medium Term Strategic Plan (MTSP) for WIPO, for inclusion in the Annex to the report of the Assemblies on the corresponding agenda item.

We would like to express Uruguay's support for the drafting of a Medium Term Strategic Plan to guide the Organization's work in the next five years in order to promote innovation and creativity for the economic, social and cultural development of all countries through a balanced and effective international intellectual property system as defined in the mission statement of this Plan (Document A/48/3). With regard to "all countries", we would like to point out that there are different levels of development, and in order for the intellectual property system to be effective it should adapt to these levels and allow for the leeway contained in the international treaties on the subject.

In addition and taking into consideration what the Director General, Mr. Francis Gurry, stated in the foreword, this Plan constitutes a joint initiative between the WIPO Secretariat and Member States, and is in line with the strategic approaches agreed on by these Member States. However, to adopt this Plan a consensus should have been reached, following a negotiation process, which ensured an adequate balance of interests of all countries. Given the way in which the Strategic Plan is presented, Uruguay is concerned by the fact that the development dimension is not clearly shown in some chapters of the Plan. Uruguay is concerned that in the legislative activity proposed the impact or scope of amendments to the existing IP system has not been considered first. And Uruguay is particularly concerned by the idea of WIPO as the leading organization in the debate regarding the interface between intellectual property and global public policy issues.

With regard to the latter point in particular, Uruguay believes that intellectual property is not the predominant issue in public health, food security and climate change, *inter alia*, which is why WIPO could not lead the interface on these subjects, but rather could provide technical and political input as an intergovernmental organization.

By way of example, at the moment Uruguay is facing an international lawsuit brought by the tobacco company Philip Morris (a company whose profits are double Uruguay's GDP) against the public health policy on tobacco control in Uruguay, arguing that some of its makes are being expropriated, and ignoring the impact that the marketed products have on the health of the population and the reason for the national public health policies. Protecting health is one of the Millennium Development Goals (MDGs) and is especially enshrined as a principle in Article 8 of the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. If IP rights were considered to take precedence over the right to health, we would be allowing companies, whose products cause diseases and increase the mortality of the population, to operate unregulated.

Finally, we would like to mention the statement made by the Minister of Industry, Energy and Mining of Uruguay, Mr. Roberto Kreimerman, a chemical engineer, at the High Level Segment of the WIPO Assemblies on the support given to the MTSP which meets the needs of all WIPO Member States.

Lastly, we would like to express our support for the statement made by Egypt on behalf of the Development Agenda Group, and our commitment to continue working constructively with the Secretariat and other WIPO Member States in order to achieve a balanced IP system which respects the interests of all countries.

September 27, 2010

ZAMBIA

Government of the Republic of Zambia

**Zambia's Position on the WIPO Medium-Term Strategic Plan
(MTSP) for the period 2010 - 2015**

September 2010

Zambia welcomes the WIPO Medium-Term Strategic Plan (MTSP) which it considers vital in defining the organization's strategic direction and ensuring a shared vision for its future.

The Plan is particularly critical as it will be the basis upon which WIPO resources will be expended during the biennium 2012/13 and 2014/15. For this reason, the Plan should be developed with due care and caution to ensure that it adequately and effectively responds to the diverse needs of the WIPO membership. From Zambia's point of view, as a developing country, the Plan should focus at addressing the gap between developed and developing countries in infrastructure for generating intellectual property assets. Zambia would urge that the Plan be skewed towards building capacity for generating of IP assets in member states such as ours.

In view of the above, Zambia would like the Development Agenda to be streamlined in the Plan. Our considered view is that the lack of capacity to generate IP explains the minimal use of international filling system like the PCT and the Madrid System. In the case of the Madrid system, it is a manifestation of lack of goods and services that can be marketed internationally - which takes us back to the question of capacity.

Further, the Plan does not seem to address itself to the rampant ills of copyright piracy and trademark counterfeiting. At the very least, WIPO is better placed, through its expertise, to assist countries in mapping out strategies for confronting these challenges. Equally, WIPO is in a unique position to bring members states together and collectively address these them, particularly where counterfeited and pirated products originate from across borders.

[Annex II follows]