

WIPO General Assembly

Forty-Seventh (22nd Ordinary) Session
Geneva, October 5 to 14, 2015

REPORT

adopted by the General Assembly

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/55/1): 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25, 27, 31 and 32.
2. The reports on the said items, with the exception of items 7, 12, 13, 14, 15, 16, 17, 18, 24, 25 and 27 are contained in the General Report (document A/55/13).
3. The reports on items 7, 12, 13, 14, 15, 16, 17, 18, 24, 25 and 27 are contained in the present document.
4. Ambassador Gabriel Duque (Colombia) was elected Chair of the General Assembly; Mr. Jānis Kārklīņš (Latvia) and Mr. Mahmoud Esfahani Nejad (Iran (Islamic Republic of)) were elected Vice-Chairs.

ITEM 7 OF THE CONSOLIDATED AGENDA

COMPOSITION OF THE PROGRAM AND BUDGET COMMITTEE

5. Discussions were based on document WO/GA/47/1.
6. Following informal consultations among Group Coordinators, the following States were unanimously elected by the General Assembly as members of the Program and Budget Committee for the period October 2015 to October 2017: Argentina, Armenia, Azerbaijan, Bangladesh, Belarus, Brazil, Cameroon, Canada, Chile, China, Colombia (2015/16), Congo, Czech Republic, Ecuador, Egypt, El Salvador, Estonia (2016/17), Ethiopia, France, Germany, Greece, Guatemala, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Latvia (2015/16), Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Poland, Republic of Korea, Romania, Russian Federation, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland (*ex officio*), Tajikistan, Trinidad and Tobago (2016/17), Turkey, Uganda, United Kingdom, United States of America, Viet Nam, Zimbabwe (53).

ITEM 12 OF THE CONSOLIDATED AGENDA

REPORT ON THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

7. Discussions were based on document WO/GA/47/5.
8. The Chair opened Agenda Item 12, on the report on the Standing Committee on Copyright and Related Rights (SCCR), and invited the Secretariat to introduce the document.
9. The Secretariat referred to document WO/GA/47/5 and explained that, in the two sessions of the SCCR held after the 2014 Assemblies, Members of the Committee had discussed two main issues, namely the protection of broadcasting organizations and limitations and exceptions to copyright and related rights. In relation to the protection of broadcasting organizations, the Committee had pursued productive discussions on the basis of technical working non-papers prepared by the Chair of the SCCR, addressing issues relating to the categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting and cablecasting organizations in the traditional sense. Discussions on definitions had also been initiated. At its 30th session in June 2015, the Committee had heard a presentation on the report of the current market and technological trends in the broadcasting sector (document SCCR/30/5). That study, prepared by IHS Technology, had provided an excellent overview of the current market that broadcasters and cablecasters faced today. An information session on broadcasting, which included presentations and discussions with broadcasting experts, had also been held. The Committee had requested the Chair to prepare a consolidated text for its next session covering definitions, object of protection, and the rights to be granted. There had been broad consensus in the room and the Committee had made a lot of progress on this particular topic. With respect to limitations and exceptions, the topic of libraries and archives was the most fully developed. There had been broad consensus on the need to have limitations and exceptions for preservation. Professor Kenneth Crews had presented an updated version of his study on existing library limitations and exceptions, and Members had engaged in a fruitful discussion. A revised version of that comprehensive study, reflecting those discussions, had also been presented. With respect to educational and research institutions and persons with other disabilities, the SCCR had continued to discuss both items over the past year, but had not reached agreement on recommendations to the current session of the General Assembly. The Secretariat had been requested to prepare an updated study on the topic of existing limitations and exceptions for educational and research institutions, and to prepare a scoping study regarding limitations and exceptions for persons with disabilities other than print disabilities. The draft decision paragraph on this agenda item

proposed that the SCCR continue its work on those topics, and invited the General Assembly to provide direction and guidance to the SCCR regarding future action on the protection of broadcasting organizations and limitations and exceptions. The Secretariat and the current Chair of the SCCR would be available all week to support the work on a decision on that issue.

10. The Delegation of Japan, speaking on behalf of Group B, noted that the SCCR had made some progress on substantive discussions, in particular on the protection of broadcasting organizations. The Group had expected more advancement on that issue at the beginning of the year. At its 30th session, the Committee had reached a general shared understanding that, at a minimum, effective legal international protection should be granted to broadcasting organizations with respect to the transmission to the public of broadcast signals over any technological platform. That was the result of a series of technical discussions and clarifications in recent sessions. It had been a positive step forward, one that had moved the Committee closer to the stage for text-based negotiations, taking into account the consolidated text on the definition, object of protection and rights to be granted, prepared by the Chair. Concerning limitations and exceptions, the Committee had experienced rich discussions based on the study by Professor Kenneth Crews and had decided at the 30th session to use a non-paper by the Chair as a framework to give structure to the discussions, a decision on which Group B had shown flexibility. That meant that the Committee now had a clear methodology of work on the issue at future sessions. In that regard, the Group expected the SCCR to continue its work according to that methodology, so as to deepen its comprehension and reach a shared understanding on the issues. Last but not least, Member States had to keep in mind that the SCCR, as a standing committee, could continue its work on items without further specific instruction by the General Assembly.

11. The Delegation of Brazil, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), highlighted the Group's commitment to reaching an agreement on the SCCR's future work in the area of limitations and exceptions for libraries and archives and limitations and exceptions for educational, teaching and research institutions, as well as broadcasting. The Delegation stated that Member States should approve a work plan with a meeting schedule to allow the adoption of an appropriate legal instrument on limitations and exceptions for library and archives. The Group offered to continue discussions on broadcasting, taking into account the 2007 General Assembly mandate. GRULAC sought the Chair's guidance on how the General Assembly could reach the objective of drafting a future work program for the SCCR.

12. The Delegation of Romania, speaking on behalf of the Group of Central European and Baltic States (CEBS), felt encouraged by the engagement shown by the membership of the Committee in moving forward the question of the protection of broadcasting organizations. The Group was pleased with the agreement to renew text-based discussions. As emphasized on several occasions, it was high time for broadcasting organizations to receive an adequate and modern protection that would take into account the technological realities of the 21st century. While the Group was aware that more work needed to be done, it still believed that setting a road map towards convening a diplomatic conference in the next biennium would help Member States to make progress on that important goal. The Delegation restated the interest of the Group in the sharing of experiences and best practices with regard to copyright limitations and exceptions for libraries and archives, as well as for educational, teaching and research institutions and for persons with other disabilities. The flexibility provided within the existing international system offered ample possibilities that the Group was willing to discuss in depth, so that Member States would be better equipped in the crafting of limitations and exceptions.

13. The Delegation of China stated that China would actively take part in copyright related international affairs, under the guidance of the World Intellectual Property Organization (WIPO), regarding the protection of broadcasting organizations and exceptions and limitations on

libraries, archives and other items. The Delegation expressed its intention to actively participate in the elaboration of the new rules for international copyright under WIPO's guidance.

14. The Delegation of Iran (Islamic Republic of) stated that, in a digital environment where the rights to access to knowledge and exchange of information were essential, the existing copyright system had brought about new challenges to the full enjoyment of those rights. The limitations and exceptions envisaged in the existing copyright treaties did not sufficiently address emerging technological changes. Those shortcomings should be properly rectified. In this regard, the Delegation called for pragmatic norm setting solutions. The Marrakesh Treaty was a good example on which the Committee could build and which could extend to other areas. The Delegation was of the view that a robust system and legally binding international instruments for limitations and exceptions were highly necessary to ensure access to knowledge. It welcomed the commitment of the Committee to continue its work on the subject in a global and inclusive approach. The Delegation believed that the work of the SCCR should provide a clear example of development oriented norm setting activity. On the issue of broadcasting organizations, it attached great importance to the continuation of the work on the subject of signal-based protection of broadcasting organizations in the traditional sense, consistent with the 2007 General Assembly mandate. It was the Delegation's conviction that the proposed legal framework should not restrict the free access of the public to knowledge and information by establishing a second layer of protection for broadcasts. At the same time, the proposed legal instrument should not create any contradiction between the rights of traditional broadcasting organizations and rightholders of the content of programs. Finally, the impact of the various elements of the proposed instrument on the public domain, access to knowledge, and freedom of expression, as well as users, performers, and authors, needed to be assessed in advance.

15. The Delegation of the European Union and its member states stated that the European Union and its member states had been actively involved in the discussions on the treaty for the protection of broadcasting organizations. They had been encouraged by the high level of commitment demonstrated in the SCCR to find a broad consensus as to the extent of the protection to be granted. Further work remained to be done on matters that could be complex and required technical insight, as to the scope and the application of the treaty, the catalogue of rights to be vested in broadcasting organizations and the definition of the beneficiaries. The Delegation was, however, confident that further engagement by the Committee could accelerate this work. It also hoped that with that aim, a road map could be established that would lead the Committee to the convening of the diplomatic conference in the 2016-2017 biennium. The Delegation expected the General Assembly's decision under this agenda item to reflect that position. The European Union and its member states were also ready to continue discussing limitations and exceptions for libraries and archives, as well as educational, teaching and research institutions and persons with other disabilities. They believed that for such discussions to be meaningful, clarity on the direction and expected result of the work should be pursued. With a clear objective in mind, the Committee would be in a better position than it had been in the past year to hold meaningful discussions. The Delegation believed that the current international copyright framework already empowered WIPO Member States to introduce, maintain and update limitations and exceptions that could meaningfully respond to local needs and traditions, while continuing to ensure that copyright was an incentive and a reward for creativity. The Delegation further believed that discussions would be most useful if they focused on how limitations and exceptions could function in the best possible way in the framework of the existing international treaties. The Delegation's proposed approach was one where WIPO Member States took responsibility for their own legal frameworks, supported by an exchange of ideas, guidelines and best practices. The Delegation had seen some examples of this type of work in the past two sessions of the SCCR, which had been encouraging, due to the significant involvement of delegations and their concrete focus. Work in the Committee should not be dedicated to normative work or the goal of a legally binding instrument, which for the Delegation was not warranted and did not meet consensus in the Committee.

16. The Delegation of Ecuador thanked the Secretariat for the report in document WO/GA/47/5, which summarized the discussions that had taken place in the Committee under the Chair. Supporting the statement made by GRULAC, the Delegation emphasized the importance of the copyright system in the life of communities. The Committee had witnessed the success of the Marrakesh Treaty when it was adopted. The Treaty had clearly mentioned human and social development, consistent with the main objective to have binding limitations and exceptions for the benefit of those with visual disabilities, so that they would have access to printed material. The Delegation said that Ecuador had been undertaking the necessary procedures within its Government for ratification. It hoped that in the near future it would be able to deposit its instrument of ratification. The Marrakesh Treaty had shown the possibility of achieving consensus on the essential balance within the international copyright order. That same balance should also reflect flexibilities and a vision for the future, so that the Committee could take the correct road and develop an international instrument, which the Delegation would like to be a treaty, with adequate protection for libraries and archives in the digital world, as well as teaching and research institutions. Ecuador had contributed to numerous text proposals and, together with Brazil, the African Group and India, had put forward a consolidated document on limitations and exceptions for libraries and archives, as a contribution to the work of the Committee in order to develop an international instrument. The Delegation also believed that it was important for the Committee to continue to work on the protection of broadcasting organizations and to seek the necessary consensus, so as to eventually hold a diplomatic conference. The Delegation called on the General Assembly for action following the General Assembly, for the benefit of those millions of persons waiting for concrete results, be it through international instruments or specific decisions deriving from the discussions within the multilateral community. It urged the Committee to achieve that goal.

17. The Delegation of South Africa stated that it was committed to working constructively on all the issues in the Committee: broadcasting, exceptions and limitations for libraries and archives, and exceptions and limitations for educational and research institutions and for persons with other disabilities. The Delegation said that South Africa had a vibrant and competitive economy, full of industry, with commercial, cultural and artistic success. Local production and content were growing and South Africans were eager to share their stories with the world. However, South Africa's industry was confronted with the threat of signal piracy, which if not urgently addressed had the potential to seriously damage its broadcasting and content industries, which had now become engines of growth, generating employment opportunities and socio cultural introspection. The Delegation was of the view that the SCCR had made significant progress, drawing closer to a shared common understanding of the scope and object of the treaty. It wished to see the work of the Committee expedited through the adoption of a broadcasting treaty in line with 2007 mandate for a signal-based approach, while cognizant of the fact that the treaty needed to be consistent with the WIPO Development Agenda (DA), with regard to access to information, education and research. In that regard, the Delegation reiterated its commitment to prohibiting the hijacking, or piracy, of the signal, subject to some limitations, such as the use of short excerpts for the reporting of current events and the purposes of education and scientific research. The Delegation said that, as a developing country, South Africa appreciated the importance of access to education and information as integral elements to development and socio-economic growth. Libraries and educational and research institutions played a critical role in providing access to information and in the dissemination of knowledge, empowering individuals to make well informed decisions. However, restrictive copyright laws often hampered the work of libraries, creating unnecessary hurdles in the path of learning. That was further complicated in a world of rapidly evolving technologies, where the current copyright regime was outdated and legislative reform was required to keep pace with the digital world. The updated Crews Study was useful in providing a holistic view of current practices in 188 WIPO Member States. It had also identified fundamental gaps such as cross-border exchange that only a multilateral treaty could address. The Delegation said that, in that regard, South Africa looked forward to text-based negotiations on the issue.

18. The Delegation of Qatar thanked the Director General for his efforts to raise the standards of defence for IP, as an incentive to economic development and national progress, as well as promoting the WIPO DA. The session was being held shortly after the adoption of the Post-2015 Sustainable Development Goals (SDGs). The Delegation reaffirmed its interest in bringing to a successful conclusion all the questions dealing with copyright, especially limiting the piracy of signals and facilitating innovation and creativity. Progress was needed on different items in a balanced way. Taking into account the positions of all the various countries, the Delegation believed that the time had come to adopt a treaty to protect broadcasting organizations. Pending the adoption of that treaty, it recommended the adoption of measures to provide protection for broadcasting organizations and to ban piracy.

19. The Delegation of Chile supported the statement of GRULAC that the work of the SCCR was based on three pillars. It was of the opinion that the progress in the SCCR should have an internal balance and should not emphasize one area of work over another. The General Assembly should therefore adopt a decision that would give a mandate to the SCCR to continue with its work program in the three areas. As for broadcasting, it felt that the discussions during the previous session had been constructive, but had shown that there was a lack of common understanding with respect to key concepts, including the determination of the scope and the object of the protection under the new international instrument. In the area of limitations and exceptions, it reaffirmed its interest in moving forward towards an international instrument to provide a common approach and understanding in that important area. Only a mandate that included that possibility could be regarded as being balanced.

20. The Delegation of the United States of America supported updating protection for broadcasting organizations under the terms of the 2007 WIPO General Assembly mandate, which had called for a signal based approach for the activities of broadcasting organizations in the traditional sense. Consistent with that mandate, it believed that such protection should be narrow in scope and should focus on the unauthorized simultaneous, or near-simultaneous, retransmission of broadcast signals to the public over any type of platform, including the Internet. Such a right would permit broadcasters to receive remuneration for authorized retransmissions and prevent unauthorized retransmissions. The Delegation said that, within that framework, the United States of America was actively preparing for the next session of the SCCR. It was committed to working with other Member States on limitations and exceptions. The Delegation had played a leadership role in the diplomatic conference that had resulted in the Marrakesh Treaty. However, it did not support further norm-setting work that would require countries to adopt copyright limitations and exceptions. The current international framework for copyright limitations and exceptions provided the appropriate flexibility, consistent with well-established international standards, for countries to enact limitations and exceptions in their national legislation to advance their own national social, cultural and economic policies. The Delegation supported further work in the SCCR to develop high-level principles for improving national copyright exceptions for libraries and archives and educational activities. Once those principles had been developed, Member States could work together to implement them. The Delegation also supported work aimed at deepening the understanding of the SCCR of national copyright limitations and exceptions for persons with disabilities other than visual impairment, such as the proposal for a study on the topic, commissioned by WIPO. Finally, the Delegation was opposed to any linkage between the proposed draft treaty on broadcasting and copyright limitations and exceptions. Work on the broadcasting treaty was considerably more advanced and should be considered in its own right. As a result, the Delegation would oppose any claim that work on the broadcasting treaty could not move forward without work on copyright limitations and exceptions.

21. The Delegation of Japan appreciated the meaningful discussions of the SCCR during previous sessions and it welcomed substantial progress in the discussion on the protection of broadcasting organizations. In order to deal with the advances of digital technologies, it was important to prioritize the early adoption of the broadcasting treaty. During SCCR/30, Member

States had recognized that the SCCR should move on to text based discussions on substantial issues. It believed that text-based, concrete discussions would deepen the mutual understanding among Member States, and eventually facilitate the convening of a diplomatic conference at the earliest opportunity. The Delegation said that Japan was keen to establish a work program with regard to the issue of exceptions and limitations, as it was essential to ensure an appropriate balance between the interests of rightsholders and the accessibility of works. In that sense, it was beneficial to share all national experiences on the matter. It was clear that the three-step test principle had worked well in the many Member States that had already established appropriate exceptions in their national laws, based on the existing international framework and on the respective social and cultural background in each country. The Delegation said that, therefore, Japan believed that each Member State should be given flexibility to take measures within the existing international framework in light of its domestic situation. It hoped that the discussions on the issue would focus on the sharing of national experiences and practices.

22. The Delegation of Mexico thanked the Chair and referred to the important work being done by the SCCR in copyright and related rights, in particular, the Marrakesh and Beijing Treaties. It said that, on July 29, 2015, Mexico had deposited its instrument of ratification for the Marrakesh Treaty. The Delegation was convinced that some of the most vulnerable people in society were those with some type of disability and, above all, those who suffer from visual disabilities, taking into account the importance of eyesight for education. The lack of alternative writing systems meant that children with visual impairments did not have access to equal opportunities for learning, and this was a disadvantage to them in class and in interactions with their other classmates. Taking into account the fact that the Marrakesh Treaty was an international and legally binding standard, guaranteeing access to books in special formats, as well as cross-border transfer of books for the benefit of millions who could not use visual texts, the Delegation urged other delegations to ratify the Treaty so that it could enter into force shortly. The Delegation also referred to the great importance its Government attached to the Beijing Treaty. The performer was one of the strongest links in the production chain of the television and cinema industries and international protection for performers was thus essential. It said that, consequently, at the national level, Mexico was involved in the ratification of that important Treaty and it hoped to deposit its instrument of accession with the Director General of WIPO as quickly as possible. The Beijing and Marrakesh Treaties were negotiated in the SCCR, and were adopted thanks to the active participation, willingness and the flexibility shown by Member States. Therefore, the Delegation hoped that the Committee would be able to finalize the instruments currently being negotiated, with a balance between the public interest and copyright. The Delegation reiterated its commitment to continuing to facilitate the negotiations that would lead to agreements on limitations and exceptions for libraries and archives and for educational and research institutions, as well as protection for broadcasting organizations, taking into account the genuine interests and needs of all WIPO Member States. In that context, it supported the balanced continuation of the work of the Committee.

23. The Delegation of the Russian Federation supported continued work on the protection of the rights of broadcasting and cablecasting organizations, as well as limitations and exceptions, in order to assure a balanced approach. With regard to broadcasting organizations, although there had been discussions and some progress had been made over the last few years, the work on a draft treaty to protect the rights of broadcasting organizations had not yet been completed. Indeed, there were still different positions within the Committee on the issue. The Delegation supported the continued work in that direction and believed that the developed draft should improve mechanisms for legal protection in comparison with current conventions governing such rights. Taking into account the accumulated national experiences and legislation with regard to the protection of the rights of broadcasting organizations, the Delegation said that the Russian Federation was very interested in the rapid achievement of progress and believed that work should be stepped up with a view to convening a diplomatic conference. With regard to limitations and exceptions on copyright, the Delegation noted that

the topic was a very important element for ensuring a balance between the interests of society and those holding rights. With the assistance of WIPO, it believed limitations and exceptions could be extended not only to libraries and archives, but also to people with disabilities and to educational and research institutions. It said that the Russian Federation and many other countries already had such limitations and exceptions and, in this respect, the Russian Federation was ready to exchange experiences.

24. The Delegation of Kenya stated that it supported the work being done on the three agenda items in the SCCR. On the question of the new treaty for broadcasting, it supported the progress and wished to see a diplomatic conference convened during the next biennium.

25. The Delegation of Indonesia expressed support for the Committee's efforts to conclude its work on the protection of broadcasting organizations in the form of an international legal instrument, in the context of a signal-based approach, in the traditional sense. It urged Member States to move the discussions on limitations and exceptions for libraries and archives forward, with the objective of concluding the discussions with a legally binding instrument. The Delegation reiterated that limitations and exceptions were a means of achieving a balance between IP rightholders and the public interest in access to knowledge. It emphasized that the discussions on limitations and exceptions had to be held in a constructive and flexible manner, taking into account the need for access to the knowledge provided by libraries and archives. The Delegation acknowledged that limitations and exceptions often created a dilemma, as its own experience had shown that misappropriation of genetic resources (GRs), traditional knowledge (TK) and folklore mostly occurred from research activities. Consequently, the Delegation highlighted the need to set precise parameters regarding the scope of limitations and exceptions. In that regard, it reminded the Committee of the positive outcomes achieved by Member States in concluding the Marrakesh Treaty. As Indonesia had signed the Treaty, it asked the Assembly to instruct the SCCR to expedite the discussions on limitations and exceptions, in the spirit of the Marrakesh Treaty. In the development of its copyright system, through the new copyright law enacted in October 2014, its Government had already achieved great advancements on its implementation, resolving problems related to collective management organizations (CMOs) that had come up before the new copyright law had been enacted. The Delegation noted that ten commissioners had been appointed to run the national CMO for music and song. Furthermore, regarding the transfer of rights, Indonesia had achieved a breakthrough. In fact, according to its new law, copyright switched back to the authors 25 years after the agreement had been concluded. That provision strengthened copyright authors' position and enabled them to recycle their works.

26. The Delegation of Japan, speaking on behalf of Group B, referred to the request to have informal consultations on the work program during the General Assembly. As the Group had previously stated, the SCCR could continue its work without further specific instruction from the General Assembly. Another SCCR Session would take place in December. There would, therefore, be no need for informal consultations on the work program during the General Assembly, which would excessively burden the Assembly. The Delegation stated that its Group was not in a position to accept the launching of a consultation process on the work program during the General Assembly.

27. The Delegation of Brazil, speaking in its national capacity, emphasized the need to adopt a very balanced work program that included the three issues under discussion in the SCCR. It said that the topic of limitations and exceptions for libraries and archives the meetings should aim at the adoption of an appropriate legal instrument. The Delegation referred to the statement made by the Delegation of Japan, on behalf of Group B, and believed that if there were different views on whether or not to have a work plan, informal consultations should be held. Although an SCCR session would come soon, the General Assembly provided an opportunity to discuss the balance among issues. It was not possible for a delegation to choose which subjects would

or would not be the subject of informal consultations, which were more conducive to reaching agreement on the issues.

28. The Delegation of South Africa supported the intervention made by the Delegation of Brazil and noted that delegations should take advantage of the fact that the Chair of the SCCR was available. It was important to seek balance and maintain such a balance in the SCCR. The Delegation restated its commitment to all three topics in the SCCR.

29. The Delegation of Nigeria commended the Chair and Secretariat of the SCCR for their excellent work and also recognized that the onus predominantly rested on Member States to progress the work of the SCCR. The Delegation aligned itself with the statement of the African Group. It said that the last two sessions of the SCCR had witnessed spirited efforts to advance discussions on a treaty for broadcasting organizations and progress on exceptions and limitations for libraries and archives and educational and research institutions. It added that, while these negotiations may not have achieved a common understanding to enable the process to move forward, the Delegation placed high premium on the advancement of WIPO's normative work in the SCCR. In the Delegation's view, the importance of these negotiations could not be overemphasized, as emerging developments continually demanded a re evaluation of the global framework for protection of rights of creators and creativity. The Delegation said that, at the national level, Nigeria had taken significant steps to improve its domestic copyright framework, including working towards the ratification of relevant copyright treaties. Its draft comprehensive copyright reform bill would be available for public viewing and comments on its website before the end of 2015. The reforms delicately balanced Nigeria's responsibility for the protection and promotion of copyright, its ability to respond to the challenges of the digital environment, and compliance with its international copyright obligations. To this effect, it commended WIPO initiatives in support of strengthening the copyright frameworks of its Member States. As a country with a vibrant and successful creative industry, Nigeria wished to reference particularly the organization's TAG of Excellence project. It believed that the project should be driven by the full engagement, input and direction of Member States, national copyright offices and relevant stakeholders. It welcomed the current stage of capacity building, awareness building and technical assistance activities for the TAG of Excellence project, and requested that the project remained steadfast to a voluntary and inclusive structure. The Delegation said that it was happy to report that the electronic copyright registration facility of the Nigerian Copyright Commission, launched in 2014, had become operational and guaranteed real time processing of registration of copyright works of Nigerian authors from any part of the world, as well as access to information on such registered works. It wished to use this opportunity to further express its appreciation to WIPO for supporting the take off of the Electronic Copyright Registration system with facilitation of a study tour and training program for officials of the Commission. The Delegation concluded by stating that it remained committed to constructive engagement on topics within the SCCR.

30. The Chair referred to the statements that had been delivered and the different weight given to results on the work of the SCCR. He noted that the Chair of the SCCR was available and stated that "Plan B" would be acknowledging and taking note of the information contained in the report of the SCCR and redirecting the work for discussions in the SCCR. There was a benefit in having the Chair of the SCCR available for consultations. He said that the agenda item would, therefore, remain open at that stage and that the Chair was being directed to try to find a compromise on a decision paragraph regarding a clearer mandate for the SCCR.

31. The Representative of the Third World Network (TWN) indicated that a recent memorandum from the library of Harvard University had urged faculty members to publish research work through freely available open access journals and to resign from editorial boards of publications that charged exorbitant subscription fees. According to the United Kingdom newspaper The Guardian, "The memo from Harvard's faculty advisory council said major publishers had created an 'untenable situation' at the university by making scholarly interaction

'fiscally unsustainable' and 'academically restrictive', while drawing profits of 35% or more. Prices for online access to articles from two major publishers have increased 145% over the past six years, with some journals costing as much as \$40,000, the memo said". The Guardian had also reported that "More than 10,000 academics have already joined a boycott of Elsevier, the huge Dutch publisher, in protest at its journal pricing and access policies". In the name of protecting the author's rights, the publishing industry had increasingly used copyright to further its commercial interest at the cost of access to knowledge. Such misuse of copyright resulted in keeping academic work away from students and scholars. From a development perspective, the excessive prices of academic work created a knowledge divide and often limited the technology absorption capabilities in developing countries. Thus, the excessive pricing of academic work delayed the technological catching-up process of developing countries. Furthermore, it also violated the right to science guaranteed under Article 15.1(c) of the International Covenant on Economic, Social and Cultural Rights. According to the report of the Special Rapporteur in the Field of Cultural Rights for the 28th session of the Human Rights Council: "Copyright laws should place no limitations upon the right to science and culture, unless the State can demonstrate that the limitation pursues a legitimate aim, is compatible with the nature of this right and is strictly necessary for the promotion of general welfare in a democratic society". The Special Rapporteur had recommended: "Further studies should be undertaken to examine what reforms are needed to better enable access to copyrighted materials in all languages, at affordable prices". A reform of the international copyright regime was clearly needed. It was high time to put in place clear limitations and exceptions, and to deploy instruments such as compulsory licences, to ensure access to knowledge and the right to science. Against that background, it was of utmost importance for the SCCR to focus on creating robust limitations and exceptions to ensure access to knowledge and the right to science instead of focusing on creating more new rights such as a broadcasting treaty that would even cover webcasting.

32. The Representative of the European Broadcasting Union (EBU) stated that as the EBU represented 73 public broadcasters in Europe, its view on the broadcasting treaty was obvious. The Representative stated that broadcasters contributed to the creative industries more than twice as much as the music sector and more than three times as much as the film industry. Broadcasters represented the most robust safeguard for media pluralism, as well as for cultural diversity. Broadcasters were crucially important for local creators and talent, making them known to the general public. Broadcasters were also the absolute key players in ensuring fundamental democratic values, such as the freedom of expression. As broadcasters provided greater benefits to society than anyone else in the copyright sector, the Representative asked why then did broadcasters have no WIPO treaty to fight online piracy. The Representative said that it could not be right that, in a time where broadcast services were received by cable, satellite, online streaming, broadband, tablets, connected TV's, smart phones and even videogame consoles, none of the international rules for broadcasters took into account of any of those platforms. At SCCR/30, experts from India, Brazil and the African and Caribbean regions had confirmed the need for a treaty all over the world. In a few years, there would be the 5G network, a super-fast mobile Internet. Online piracy would then be unstoppable. That meant that today there were two options: either the drafting work must be completed in 2016, or the broadcasting sector must consider the WIPO norm-setting process as failed. If the latter occurred, as explained, the entire society would lose out, in every country of the world. A final roadmap to complete the treaty was needed.

33. The Representative of the North American Broadcasters Association (NABA) stated that, as they spoke, broadcasters were covering typhoons and flooding striking the Philippines and China, and the hurricanes in the Bahamas and other parts of the Caribbean and the United States of America. They were also reporting on the mud slides in Guatemala and wildfires in Indonesia. Broadcasters were there educating, informing and assisting. Be it natural or man-made disasters or pandemics or emergencies that were local, national, regional or international, broadcasters were there to inform, assist and educate. As the Representative

spoke, broadcasters were also covering the Rugby World Cup and the Cricket Championships. They provided coverage of the Football World Cup, the Olympics, the British, French and Australian Opens and so much more sports and entertainment programming. Broadcasters were there to entertain us. The financial, organizational and personnel resources necessary to create, promote and disseminate the signals providing this news and entertainment programming were enormous, running into billions of dollars. So were the losses broadcasters were suffering from the misappropriation of those signals, thereby inhibiting their ability to continue providing them, especially by new technological means. These losses were being suffered by broadcasters large and small in countries worldwide. The Representative said that, at the opening session, the Delegation of Nigeria had referenced culturally rich Africa. As referenced by the Delegation of South Africa, however, as African broadcasters attempted to disseminate their signals worldwide over the Internet, to spread that culture to Africa's diaspora and others, they were being hindered by others who stole or otherwise misappropriated their signals. The Representative stated that he was 68 years old. The last time the protection of broadcast signals had been addressed in an international treaty he had been 14 years old. The first WIPO conference that he had attended to address the current effort to modernize broadcasters' rights internationally had been in the Philippines in 1997, when he was 50 years of age. Since then, there had been at least 15 regional seminars, as well as symposiums, conferences, consultations and 30 SCCR meetings. There had been multiple reports and studies. The need for a broadcaster treaty, its potential scope, beneficiaries, and objects of protection had been dissected and vivisected. There had been green papers, non-papers, and chairman's papers and drafts. There had been draft treaty texts numbering 10 pages and scores of pages. The broadcasters beseeched the General Assembly to provide the resources and guidance necessary for the SCCR to engage in text-based treaty discussions, leading to a diplomatic conference before the Representative became 70 years old. Broadcasters needed solutions to the problems that plagued them in all parts of the world and threatened the continued quality of broadcast services from which the public benefited.

34. The Representative of International Federation of Library Associations and Institutions (IFLA), also speaking on behalf of the European Bureau of Library Information and Documentation Associations (EBLIDA) and the Chartered Institute of Library and Information Professionals (CILIP), thanked the Member States for engaging with libraries and archives at the SCCR. The Representative expressed support for the normative text contained in the consolidated document prepared by the African Group, Brazil, Ecuador, India and Uruguay, document SCCR/29/4, and thanked those Member States for their efforts and support for libraries and archives and the researchers, educators, and members of the public who used them. IFLA valued the current framework of the Chair's Non-Paper, which provided an opportunity to discuss specific issues, where limitations and exceptions would address cross-border barriers to the work of libraries and archives. Such an approach provided opportunities to move forward in a constructive and informed manner. The Representative noted its frustration with the barriers that some Member States had presented to finding effective international solutions for libraries and their users, who sought improved access to information to improve their lives. It also indicated its continued support for the Member States who recognized the barriers libraries and archives faced and for those who strived with IFLA for an international solution that would place all institutions on equal ground. Norm setting activities at WIPO should be evidence-based and serve the legitimate interests of all stakeholders. At the SCCR in 2015, library and archive organizations had described real barriers that librarians and archivists who undertook preservation work faced, due to a lack of cross-border minimum standards. IFLA had identified characteristics of limitations and exceptions that would lift those barriers. It looked forward to continuing with that approach. The Representative observed that library and archive collections in one country often contained materials of unique cultural and historical significance to people in other countries due to national border changes, emigration, shared common languages, or joint research interests. Cross-border issues could only be solved through international solutions. It hoped that continuing the discussion of specifics using the Chair's Non-Paper would lead to informed analysis and a pathway to consensus. Library

and archive organizations were committed to undertaking both national and international efforts to improve access to information, knowledge and culture. The Representative requested that the General Assembly adopt a decision on the future work of SCCR that continued the commitment to limitations and exceptions for libraries and archives, in the interests of everyone who benefited from a well-functioning copyright system.

35. The Representative of the CILIP stated that the SCCR report by the Chair had indicated that the SCCR was not in a position to make any recommendations to the General Assembly concerning the work on limitations and exceptions for libraries and archives. CILIP supported the consolidated document SCCR/29/4, put forward by the African Group, Brazil, Ecuador, India and Uruguay and thanked these Member States, and the regional groups with which they worked, for their understanding and strong support for the library and archive case at WIPO and, by extension, their support for culture, education, scientific research and learning, which was what libraries and archives were all about. The Representative hoped that the SCCR's discussions on limitations and exceptions for libraries and archives would focus on identifying those issues that would need an international approach to find a solution to ensure national laws could work with each other on the Internet, as well as those issues which might be better addressed through national level legislation, with technical assistance from the WIPO Secretariat, working together with library and archive organizations. CILIP supported the Chair's Non-Paper as the means to achieve that. It was worthwhile to consider the example of the European Union, which was working to modernize its own copyright framework so that it could support a Single European Digital Market that would sweep away national borders in the online world, within the European Union and the wider European Economic Area, for many activities and services. It was clear from European Commissioners' statements that facilitation of cross-border information transfer and services was the driving force for European Union copyright reform and that such reform must include the work of libraries and archives. Indeed, achieving this could lead to the European Union imposing firmer norms for copyright limitations and exceptions on all its Member States by means of a regulation in areas where diversification of approach at national level would not be enough to achieve the objectives of a Digital Single Market. WIPO's recently updated research study by Professor Kenneth Crews had shown that a national law approach alone was inadequate for libraries and archives to fully provide the information services across national borders that users demanded. Interventions by the library and archive community at SCCR meetings had illustrated the problems their users faced with the continuation of an exclusively national approach to library and archive copyright exceptions. It was clear that national approaches to certain topics did not work on the Internet, unless common global norms were established that all adhered to, which was what the SCCR discussions should be about. Research, education and learning were all two-way streets so both developed and developing countries needed to find the right approach.

36. The Representative of the European Bureau of Library, Information and Documentation Associations (EBLIDA) stated that it represented more than 70,000 libraries throughout Europe and about 400,000 information professionals. The challenges libraries and archives faced were global and were not limited by national frontiers, even within a so called borderless Europe or beyond. There had been support for in-depth discussions on library and archive limitations and exceptions from a large number of countries and EBLIDA supported and thanked the African Group, Brazil, Ecuador, India and Uruguay for their consolidated document SCCR/29/4, bringing together all the proposals on limitations and exceptions for libraries and archives. The Representative said that EBLIDA and its members believed that WIPO, as a body of the United Nations (UN), should be able to fulfil its duty to facilitate the building of a common international set of rules and minimum standards for those library and archive topics identified by SCCR as needing international treatment, without pre-empting the form such rules could take. It should also to identify other avenues by which support for libraries and archives on the other topics could be offered. EBLIDA was of the opinion that the SCCR Chair's Non-Paper would help the Committee to do that. It supported the improvement of the circulation of knowledge, especially cross-border, relying on the approval of Member States of international

minimum norms for library and archives limitations and exceptions that would work in the digital environment, so that scientific research, culture and heritage would be equally accessible to all people from one country to another, in a way that would impact positively on research, education and learning in both developing and developed countries. The evidence put forward in Professor Crews' original study and its update showed that few countries had been addressing the emerging issues of a digital environment and that, in most countries, "the recent changes have been modest, resulting in little appreciable alteration of the substance of the law." The Representative urged the General Assembly to support having the SCCR undertake discussions on limitations and exceptions for libraries and archives that would lead to effective proposals that could be translated into meaningful recommendations for upcoming SCCR sessions. Where these discussions might lead could be left to a later time. The establishment of agreed proposals by the SCCR should in itself clarify the way forward towards implementing them.

37. The Representative of the International Confederation of Music Publishers (ICMP) stated that ICMP represented music publishers around the world, 95 per cent of whom were small single-owner businesses. The publishers were adapting in an increasingly demanding digital world. They were concerned about any further broadening of exceptions to copyright as copyright is what safeguarded their investment and provided incentives to authors, composers and publishers; copyright provided for the livelihood of all. The Representative said that ICMP acknowledged the work of WIPO and looked forward to working closely with WIPO and the Members of the SCCR to ensure that copyright remained a modern and effective tool to support creativity and innovation, to improve access to quality content, to bolster investment in economies, and to promote cultural diversity.

38. The Chair announced that Agenda Item 12 "Report on the Standing Committee on Copyright and Related Rights (SCCR)" would remain open, pending informal consultations conducted, as Facilitator, by the current Chair of the SCCR, Mr. Martin Moscoso.

39. During the session, the Chair and the Facilitator provided regular updates on the evolution of those informal consultations to the plenary. The updates included as follows.

40. The Facilitator stated that the regional coordinators met in a constructive atmosphere to share views on how to organize the work. Basic texts corresponding to his proposals as Chair of the SCCR were distributed to launch the consultations.

41. On a further update, the Facilitator stated that a significant number of bilateral meetings had been held in order to look at the feasibility of arriving at an agreement on the paragraphs that had been put forward during SCCR/30. That process was still under way.

42. The Delegation of Nigeria, speaking on behalf of the African Group, noted that it continued to support the Facilitator and the proposals he had made for reaching a decision on the progress of the SCCR discussions. As had been stated before, the African Group had a more ambitious proposal, but in light of the progress which had been made on broadcasting organizations and to some extent on exceptions and limitations, the Group would continue to support the Facilitator in the work program he wished to propose

43. The Delegation of Japan, speaking on behalf of Group B, was of the opinion that the Committee could continue its work without specific instructions from the General Assembly, as was the case with other committees. While Group B remained engaged in the discussions with the Facilitator in a constructive working spirit, it was important to keep in mind that the character of the SCCR issue was completely different from other issues in front of the General Assembly

44. The Facilitator stated that the regional groups had analyzed and commented in a very constructive manner on the three paragraphs that had been proposed at the end of SCCR/30. Four groups had expressed total support for the paragraphs. The three remaining groups were still trying to reconcile their positions because of differences within the groups themselves. However, Mr. Moscoso noted that the negotiations were being conducted in a positive spirit and atmosphere, and that there was the possibility of arriving at an agreement that day.

45. On a further update, the Chair stated that unfortunately no breakthrough had been possible with regard to Agenda Item 12, on the report of the SCCR. He informed the plenary that instead there was a decision paragraph that requested the continuation of the work of the SCCR. He informed the plenary that he would read the corresponding paragraph once he had received a copy.

46. The Chair returned to Agenda Item 12, on the report of the SCCR. He read the decision paragraph, which was adopted.

47. The WIPO General Assembly decided to:

- (i) take note of the information contained in document WO/GA/47/5; and
- (ii) direct the Standing Committee on Copyright and Related Rights (SCCR) to continue its work regarding the issues reported on in document WO/GA/47/5.

ITEM 13 OF THE CONSOLIDATED AGENDA

REPORT ON THE STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

48. Discussions were based on document WO/GA/47/6.

49. The Secretariat introduced document WO/GA/47/6, which contained a report on the work of the Standing Committee on the Law of Patents (SCP). The Secretariat noted that the document described the progress of discussions at the twenty-first and twenty-second sessions of the SCP held in November 2014 and July 2015, respectively. The Secretariat stated that during those two sessions, the Committee had continued to address the five topics, namely: (i) exceptions and limitations to patent rights; (ii) quality of patents, including opposition systems; (iii) patents and health; (iv) confidentiality of communications between clients and their patent advisers; and (v) transfer of technology. It further stated that the General Assembly was invited to take note of the information contained in the document.

50. The Delegation of Luxembourg, speaking on behalf of the European Union and its member states, welcomed the fact that, at its twenty-second session, the Committee could agree on its work program, which included the topics such as quality of patents including opposition systems, client patent attorney privilege, exceptions and limitations to patent rights, transfer of technology and patents and health. The Delegation noted that the topics in the work program addressed important and complex issues related to the international patent system with a hope that discussions achieve a more efficient accessible patent system as a whole. In its view, the current five agenda items reflected different priorities among the Member States, and it was of the utmost importance to maintain that balance. The Delegation stated that the European Union and its member states were particularly keen to advance on the topics of quality of patents, including opposition systems, as it believed that work on that topic would be of interest to all Member States, and also on the topic of client patent attorney privilege, as convergence of differing provisions would be of benefit to users of the patent system, irrespective of the level of development of each Member State. The Delegation, however, underscored that the European Union and its member states remained committed to all topics

on the work program of the Committee, and expressed its hope that further work would enable fruitful discussions on technical issues concerning patent law and consideration of the need for international patent law harmonization.

51. The Delegation of South Africa was pleased that the SCP was able to reach an agreement on its work program. In its view, while the work program was not ambitious enough, it was certainly a step in the right direction. The Delegation noted that the work of the SCP was particularly important, as it had been considering important issues such as transfer of technology and quality of patents including opposition systems. The Delegation therefore stated that any work undertaken by the Committee to foster the development of the patent system should be done in a balanced manner, giving due consideration to the DA recommendations. The Delegation underscored that the link between patents and health had been debated extensively and fiercely at the international level, as the recognition of health as a human right had elevated the importance of health and brought the relationship between patent protection and access to medicine into sharp focus. In its view, that perspective should guide actions at the national and international levels, since access to medicine was one of the fundamental components of human right to health. In that regard, the Delegation looked forward to the half-day seminar to be held during the twenty-third session of the SCP on the relationship between patent systems and, *inter alia*, challenges related to availability of medicines in developing countries and least developed countries (LDCs), amongst other issues.

52. The Delegation of Japan, speaking on behalf of Group B, thanked the Chairs of the twenty first and twenty-second sessions of the SCP for their organized chairing of the sessions as well as the Secretariat for their hard work over the past year including the preparation for the General Assembly. The Delegation considered that the studies on inventive step and the sufficiency of disclosure under the agenda item on quality of patents, including opposition systems, and following discussion were a good signal for the future of that important Committee. The Delegation stated that both of them were core parts of substantive patentability requirements and the heart of a patent system for which the Committee had responsibility. In its opinion, the SCP had to be a forum where all experts attending its sessions could benefit from its technical discussion. In that context, the Delegation noted that quality of patent, including work sharing, was one of the most practical, meaningful and essential subject to be dealt with in the current IP world. The Delegation however expressed its regret that voices from the real world for work at the international level on the topic of the confidentiality of communications between clients and their patent advisors had not produced fruits due to some inflexible opposition even against a soft law approach. The Delegation stated that the SCP should continue to pursue those subjects bearing in mind the importance of the Committee as the only multilateral forum dealing with a core IP issue, patents. The Delegation observed that, at its twenty-second session, the Committee could agree on its future work under the wise guidance of the Chair after the disagreement at the twenty-first session. The Delegation noted that its Group showed flexibility to help the Committee to continue its work under a defined future work program in order to play a role, even small, in the context of multilateralism. The Delegation expressed its hope that flexible approach would prevail at future sessions of the Committee, and that agreement could be reached regarding the future work program keeping its feet on the ground and from which experts could gain more benefit in a practical sense. In conclusion, the Delegation stated that the objective of the SCP was to facilitate coordination and provide guidance concerning the progressive, international development of patent law, including harmonization of all aspects of patent law. The Delegation underscored that Group B continued to commit to the activities of the Committee, and appealed to all Member States to walk together toward that objective.

53. The Delegation of Romania, speaking on behalf of the CEBS Group, stated that its Group remained committed to the balanced agenda of the SCP, and was pleased that an agreement had been reached in relation to the work program of the twenty-third session of the SCP. In the opinion of the Delegation, that demonstrated that the SCP could find compromise solutions

even on the most divisive topics. In that regard, the Delegation thanked the Chair of the SCP and the other regional groups for their specific efforts. The Delegation stressed the importance it attached to discussing the topic of “quality of patents, including opposition systems”. The Delegation expressed its belief that it was a core subject where further debates could generate responses to the challenges faced by users of the patent systems all around the world. The Delegation also expressed its hope that the SCP could make progress on several other issues. Among those, the CEBS Group attached great interest on the topic of confidentiality of communications between clients and their patent advisers. The Delegation noted that it was incumbent for the SCP to find solutions for cross border aspects of the issue for the benefit of right holders and users of IP rights. Furthermore, the Delegation stated that the topic of work sharing deserved further consideration with a view to strengthening and facilitating international cooperation.

54. The Delegation of Cuba, with regard to the future work of the SCP, underlined the importance of establishing a concrete and balanced work program in the medium term, based on consensus among Member States and in accordance with the implementation of the DA. The Delegation expressed its particular interest in achieving progress on the topics of transfer of technology and exceptions and limitations to patent rights, studies on the implementation of flexibilities, promotion of the public domain, patents and public health, among others. In addition, the Delegation expressed its support for the proposed revision of the 1979 World Intellectual Property Organization (WIPO) Model Law for Developing Countries on Inventions.

55. The Delegation of Iran (Islamic Republic of) stated that the SCP should set out a concrete balanced work program which would allow a fruitful exchange of views on a wide range of topics related to patents. The Delegation stated that the deliberations at the SCP would help the Committee to better understand challenges that developing countries were facing in their economic and social development and to explore the ways to better adapt the patent system to meet the needs of their national development. The Delegation stressed that, in that context, no Member State could benefit from international harmonization of patent law if it did not give due account to the existing differences among the States in levels of social, economic and technological development. On the topic of technology transfer, the Delegation wished to have a comprehensive work program in which the incentives and impediments of the patent system to transfer of technology would be carefully analyzed, and in which sufficient consideration to patent law flexibilities and their possible role in the promotion of transfer of technology would be given. On the topic of quality of patents, including opposition systems, the Delegation reiterated that a precise definition of the term “quality of patents” was necessary for further discussing the issue at the SCP. In the view of the Delegation, in the absence of such definition, the respective proposal could not be fully comprehended. On the issue of patents and health, the Delegation noted that having access to essential medicine with affordable price was of high importance for all developing countries. In that regard, the Delegation encouraged the SCP to critically consider the effectiveness of flexibilities accorded under the international agreements and to put forward concrete proposals to maximize their application in favor of developing countries.

56. The Delegation of Chile noted that the SCP agenda for future work represented a compromise solution between the Member States. The Delegation considered that maintaining the balance was of crucial importance in order to keep the SCP as the principal forum for multilateral discussion on patents. In the Delegation’s view, continuing the work on exceptions and limitations with an analysis of their effectiveness, deepening discussions on the issue of patents and health, as well as sharing the experiences of Member States regarding the assessment of inventive step as a way of addressing aspects related to the quality of patents, were the right steps in continuing the work of the SCP.

57. The Delegation of the United States of America stated that its country continued to support a balanced work program for the SCP. In its view, the non-exhaustive list of issues appended to the Report on the International Patent System provided a good basis for such discussions, as it contained issues of interest to Member States at all levels of development. The Delegation stated that its country supported further study of those issues in a balanced manner as a way to reach consensus on a work program that took into account the range of interests represented by Member States. The Delegation stated that the United States of America did not support the inclusion of additional topics in the SCP work program if they would cause it to be unbalanced in favor of one point of view or another. The Delegation expressed its concern regarding the attempts of some Member States to further unbalance the work program by having the Committee focus excessively on exceptions and limitations to patent rights, at the expense of other patent law topics. In the view of the Delegation, conducting significant work on topics of substantive patent law, such as quality of patents, work sharing and the confidentiality of communications between clients and patent advisors should be of interest to all Member States. The Delegation further pointed out that the SCP should be mindful of the projects being undertaken in other WIPO committees, especially the Committee on Development and Intellectual Property (CDIP), as well as in other international bodies such as the World Health Organization (WHO) and the World Trade Organization (WTO). The Delegation was of the opinion that work undertaken in the SCP should not be duplicative of work being done in those other bodies, and should not usurp the competencies of those bodies. With regard to the agenda item on quality of patents, the Delegation expressed its disappointment by the very limited progress that had taken place on that topic, in particular on work aimed at practical ways to improve the operation of patent offices. The Delegation considered that in order to determine best practices, those programs that had been shown to be effective, such as quality management systems and work sharing initiatives, should be studied by the Committee. In line with several proposals that it had tabled in previous meetings of the SCP, the Delegation reiterated its request for further study by the SCP of international work sharing programs and of quality management systems, with the aim of providing to national offices of the Member States ways for improving their operation. The Delegation expressed its belief that work sharing could be a useful tool for all offices, in particular for offices having limited capabilities, to help them carry out high quality search and examination of patent applications. On the topic of patents and health, the Delegation supported a balanced approach to studying solutions to the public health challenges in developing countries and LDCs. The Delegation noted that such approach should not be limited to flexibilities such as compulsory licensing and exhaustion of patent rights, but should also address the benefits of a strong intellectual property right (IPR) regime and the effect of non-IPR barriers to delivering health care. Noting that an extensive review of exceptions and limitations of patent rights, including compulsory licensing and exhaustion of patent rights, had been carried out in the SCP, the Delegation stated that additional work in the Committee on patent flexibilities specific to health issues would be duplicative of that work, and an inefficient use of scarce resources. In relation to the topic of exceptions and limitations to patent rights, the Delegation expressed its belief that the work undertaken to date on that topic provided useful information. However, the Delegation did not support further work on that topic, because such information was already available to interested Member States without further expending scarce WIPO resources. In particular, the Delegation noted that the SCP had completed a large amount of work on patent flexibilities, including an extensive questionnaire to the Member States on nine exceptions and limitations to patent rights, detailed studies on those flexibilities, experience sharing sessions and seminars directed to flexibilities. Consequently, in view of such extensive amount of information that was already available, the Delegation did not support additional work on that topic in the SCP. Further, with regard to revision of the WIPO Model Law for Developing Countries on Inventions (WIPO Model Law), the Delegation stated that the Model Law had been developed at a time when the international patent system had been poorly defined. In particular, the Delegation stated that it had consisted mainly of the Paris Convention and of the infant PCT System. The Delegation noted that, currently, the international patent system was much better defined, and included many multilateral, regional and bilateral agreements. The Delegation observed that WIPO had many programs designed to

assist individual Member States in applying such international framework to their domestic needs. In its view, that very flexible approach to provide legislative and/or policy technical assistance directly to requesting Member States had proven to be effective and efficient. Further, the Delegation expressed its strong opinion that the technical assistance provided by WIPO should be demand driven, country needs specific and should take into account the different levels of development of the Member States. In its opinion, model laws were a blunt, one size fits all instrument that did not recognize such differences. Accordingly, the Delegation did not believe that work at WIPO on developing new model laws or revising the existing WIPO Model Law would be an effective use of resources.

58. The Delegation of Paraguay reiterated its commitment to a balanced and effective international patent system that would promote innovation. The Delegation urged Member States to work together to strengthen the SCP along the same lines as it had done in past sessions. The Delegation expressed its hope that discussions on the issues of exceptions and limitations, patents and health and transfer of technology would move forward in the next meeting of the SCP. In addition, referring to paragraph 12 of document WO/GA/47/6, the Delegation looked forward to progressing discussions concerning the revision of the 1979 WIPO Model Law for Developing Countries on Inventions.

59. The Delegation of Indonesia restated its support to the issue of promoting public health through the utilization of technology and pharmaceutical research. The Delegation acknowledged that patents were closely resembled with innovation and transfer of technology in the pharmaceutical industry. However, it noted that in certain situations, exceptions and limitations to patents had proved to be effective when correctly undertaken, such as the use of the Bolar provision, government use or other mechanisms. On the issue of the disclosure of International Nonproprietary Names (INN), the Delegation stated that WHO as well Indonesia's national legislation required that INN or generic names of pharmaceutical substance other than trademark should be mentioned clearly on the packaging of pharmaceutical products. The Delegation welcomed further discussion by Member States on that provision in relation to the issue of secondary patents or evergreening, which, according to the Delegation, had been a concern among developing countries. The Delegation felt that in the long term, that could create a chilling effect on innovation, transfer of technology and quality of patents and thus hinder the main principle of the patent system. Therefore, the Delegation considered that the Secretariat should continue efforts to create a data compilation on the various practices with regard to exceptions and limitations among WIPO Member States, which would provide a broader view of how the patent system was implemented within each Member State.

60. The Delegation of Japan seconded the statement made by its Delegation, on behalf of Group B. It welcomed the fact that progress had been made at the twenty-first and twenty second sessions of the SCP in terms of discussions on a number of issues, and expressed its appreciation to the Secretariat's efforts and Member States' flexibility in that regard. The Delegation stated that it attached the utmost importance to the discussion on the quality of patents and confidentiality of communications between clients and their patent advisors. With regard to quality of patents, the Delegation believed that it was important to consider, from a practical perspective, various elements in the patent granting procedures, including patent examination practices and opposition procedures, which were determinant factors for the quality of patents. In the Delegation's view, the works done at the twenty-first and twenty-second sessions of the SCP, namely, a sharing session regarding Member States' experiences on international work sharing and collaboration and studies on inventive step and sufficiency of disclosure, had been beneficial for all Member States, in the sense that they had been able to consider various aspects of those issues from a practical perspective. With respect to the issue of confidentiality of communications between clients and their patent advisors, the Delegation noted that allowing patent advisors to claim confidentiality might enhance reliability and stability of the intellectual property (IP) system, whether in developed countries or in developing countries, and would contribute to protecting the interests of all the relevant parties. Therefore,

the Delegation looked forward to the sharing session among Member States concerning confidentiality protection in the adopted future work during the twenty-third session of the SCP. The Delegation strongly believed that the SCP should keep on discussing global patent issues, and it remained committed to continuing a constructive contribution to such discussions.

61. The Delegation of Brazil, speaking on behalf of GRULAC, noted that even though all the objectives of the proposal on the possible update of the 1979 WIPO Model Law on Inventions had not been achieved, the exchange of information had been positive. With regard to the future work of the SCP, the Delegation stated that GRULAC had requested new activities on exceptions and limitations to patent rights as a result of the discussions: in particular, the Delegation had requested the Secretariat to prepare an analysis of those exceptions and limitations that had proven effective to address development concerns, as well as the preparation of a non-exhaustive manual on that topic. The Delegation expressed its readiness to engage in the compilation by the Secretariat of information on Member States' experiences and case studies on the effectiveness of exceptions and limitations, in particular, in addressing development issues. Furthermore, the Delegation stated its interest in the discussions on patents and health and technology transfer. With regard to patents and health, GRULAC welcomed the proposal of a half-day seminar on the relationship between the patent system and *inter alia*, challenges related to the availability of medicines in developing countries and LDCs, including on the promotion of innovation and on fostering of the requisite technology transfer to facilitate access to patented medicines in developing countries and LDCs. The Delegation further stated that GRULAC would constructively engage in discussion on technology transfer vis-a-vis sufficiency of disclosure. In the Delegation's view, such discussion would be a step forward under the item of technology transfer. On the issue of confidentiality of communications between clients and their patent advisors, the Delegation highlighted that the countries of GRULAC, as certain other Member States, were of the view that the SCP was not the appropriate forum for discussing that issue. Finally, regarding the issue of quality of patents and opposition systems, the Delegation acknowledged the proposed half-day sharing session on experiences of experts from different regions on inventive step assessment in examination, opposition and revocation procedures. The Delegation considered that special attention should be given to opposition and revocation procedures, since that was a matter that had not been dealt with in the most recent SCP sessions.

62. The WIPO General Assembly took note of the "Report on the Standing Committee on the Law of Patents" (document WO/GA/47/6).

ITEM 14 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT)

63. Discussions were based on documents WO/GA/47/7 and WO/GA/47/10.

64. The Chair opened the floor for delegations that wished to intervene on document WO/GA/47/7 containing the report of the SCT.

65. The Delegation of Romania, speaking on behalf of the CEBS Group, said that the adoption of a Design Law Treaty (DLT) remained high on the agenda, and hoped that productive discussions could take place at the current session of the General Assembly, with a view to convening a diplomatic conference for the adoption of a new treaty in the immediate future. The CEBS Group expressed its satisfaction for the interesting discussions that had taken place during the thirty-third session of the SCT in relation to the interface between country names and individually-owned trademark rights. The CEBS Group reiterated its support for the proposal that had been submitted to the SCT by the Delegations of Czech Republic, France,

Germany, Hungary, Italy, Portugal, Republic of Moldova, Spain and Switzerland in relation to geographical indications and the Domain Name System (DNS).

66. The Delegation of China, having recognized the importance of the protection of country names, said that it wished to continue discussing this matter in future sessions of the SCT and work towards the conclusion of a Joint Recommendation.

67. The WIPO General Assembly took note of the “Report on the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications” (document WO/GA/47/7).

68. The Chair opened the floor for delegations that wished to intervene on document WO/GA/47/10, and gave the floor to the Delegation of the United States of America to explain its proposal contained in that document.

69. The Delegation of the United States of America recalled that during recent sessions of the SCT, it had proposed to hold discussions on the features of various national geographical indications protection systems, with a view to exploring the feasibility of a truly inclusive system for the filling of geographical indications. The Delegation regretted that progress on this work had been blocked by the objection of some Lisbon Union members. The Delegation noted that it had heard repeatedly that work on geographical indications could not start until the Diplomatic Conference for the Adoption of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Geneva Act) was concluded. The diplomatic conference had already taken place in May 2015, albeit without equal participation of most WIPO and Paris Union members. The Delegation held the view that the resulting terms of the Geneva Act excluded some *sui generis* geographical indication registration systems, as well as most trademark systems, particularly common-law based systems, and did not represent an inclusive agreement. The Delegation was seeking a decision by the General Assembly that the SCT should review the work of the Lisbon Diplomatic Conference and consider the systems of protection for geographic source identifiers such as certification marks, collective trademarks and geographical indications, while protecting the principle of territoriality and the use of common names. Stressing the need for balance, the Delegation emphasized its expectation to work with WIPO to ensure that geographical indications and trademarks, as well as generic terms, were addressed in an even handed way, such that the work of WIPO on geographical indications did not undermine the interests of other IP owners. In addition, the Delegation requested the General Assembly to unblock work on geographical indications at the SCT, in order to allow the rest of the WIPO membership to talk about the protection of geographical indications. In the view of the Delegation, the question at issue was what features of each system were critical to maintaining balance between interests and competitors, rather than whether trademark systems or *sui generis* geographical indications systems were superior. From that standpoint, WIPO Members could pursue an inclusive international filing system that did not unfairly prejudice other IP owners or competitors. The Delegation believed that the SCT should undertake discussions on different national systems of protection of geographical indications with a view to exploring the feasibility of an international system for filing of geographical indications that was truly inclusive and respected the territoriality principle of the Paris and Berne conventions.

70. The Delegation of the European Union, speaking on behalf of the European Union and its member states, took note of the proposal by the Delegation of the United States of America suggesting that the SCT review the Geneva Act of the Lisbon Agreement. The Delegation said that while the SCT was competent for geographical indications, it had no mandate to review the result of the diplomatic conference and that, for institutional and legal reasons, it could not be given such a mandate, since it was only at a diplomatic conference of the contracting parties that such a review could take place. The European Union and its member states believed that any future revision of the Geneva Act was the prerogative of the members of the Lisbon Union, and the proposal by the United States of America should therefore be referred to them.

71. The Delegation of Romania, speaking on behalf of the CEBS Group, reiterated its support for the proposal that had been submitted to the SCT by the Delegations of Czech Republic, France, Germany, Hungary, Italy, Portugal, Republic of Moldova, Spain and Switzerland in relation to geographical indications and the DNS. Regarding the proposal made by the Delegation of the United States of America during the current session, requesting the SCT to review the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, the CEBS Group was of the view that such an action was the prerogative of the members of the Lisbon Union.

72. The Delegation of Italy recalled that in several previous sessions of the SCT it had expressed disagreement to the proposal of requesting the Secretariat to conduct a survey of existing national regimes for the protection of geographical indications. Such a survey would not increase the general awareness that geographical indications were protected in some countries through the trademark system and in other countries through *sui generis* systems and therefore, would have no impact on the different protection systems in force. Instead, the Delegation had supported the proposal on the protection of country names in the DNS, which had been submitted to the SCT by several delegations and was considered very useful.

73. The Delegation of Australia thanked the Delegation of the United States of America for outlining in the proposal several concerns that it shared. The Delegation was of the view that the SCT had both the mandate and the required expertise to develop international norms in relation to geographical indications, taking into account the diversity of approaches to protection among Member States. The Delegation further stressed that the very purpose of the SCT was to discuss and provide guidance on the progressive development of international law on those topics, which clearly included geographical indications. Furthermore, not only did the SCT have that mandate, but its members and all WIPO and Paris Union members participated equally in the discussion and decision making in that body. The Delegation therefore believed that the proposal by the Delegation of the United States of America would be useful and constructive since such a review could clarify the requirements of the Geneva Act for all WIPO Members, particularly in areas where there was no explicit reference to or guidance on aspects of concern such as renewal fees, scope of protection and protection against becoming generic. Such a discussion in the SCT could provide a consistent interpretation of the Geneva Act in those areas of concern and could mitigate the real potential for adverse effects on trade that might arise in its future implementation. The Delegation finally encouraged the General Assembly to support the proposal.

74. The Delegation of France, referring to the statement made by the Delegation of the European Union and its member states, strongly disagreed with the proposal made by the Delegation of the United States of America and indicated that it was contrary to the competence of the Lisbon Union members and the institutional structure of WIPO.

75. The Delegation of the Republic of Korea supported the proposal made by the Delegation of the United States of America regarding the review of the recent work of the Lisbon Union. The Delegation shared the view that the SCT was the most suitable forum for discussing an international filing system for geographical indications since it was the WIPO Standing Committee that covered the topic of geographical indications. The Delegation stressed the absence of a common geographical indications system agreed by all Members of WIPO with the full participation of those States. Finally, the Delegation found useful to review the difference between the current and the future Lisbon systems, and believed that those studies would add value to the work done by the SCT over the past decades.

76. The Delegation of Iran (Islamic Republic of) noted that the mandate of the SCT to discuss geographical indications should not be interpreted in a way that the Committee had ever had the authority to prevent the parties of the Lisbon Agreement to consider revising the system to include geographical indications. In fact, in the view of the Delegation, both the SCT and the Lisbon Union Assembly could discuss geographical indications within their respective mandate,

without any hierarchy between them. The Delegation believed that there was a need for legal clarity on whether the SCT should discuss work that had already been pursued under another WIPO union assembly. The Delegation therefore thanked the Delegation of the United States of America for its proposal, taking into account the work which had already been done by the SCT in the past, in the field of geographical indications, but concluded that there was no any clear value in further discussing such a proposal.

77. The Delegation of the United States of America clarified what the main point was on having the SCT work on geographical indications. The Geneva Act of the Lisbon Agreement enshrined one particular approach to the protection of geographical indications and WIPO, as the multilateral organization dedicated to IP, was the place to discuss other approaches, as well and the relationship between them and the effect of the Lisbon system on those other approaches. The Delegation further observed that it remained open to consider the particulars of a decision paragraph, but wondered where these issues could be addressed if not at the SCT.

78. The Delegation of Switzerland thanked the Delegation of the United States of America for its proposal and further clarification. The Delegation believed that it was not the role of the Standing Committee to examine the result of a diplomatic conference with regard to the revised Lisbon Agreement, and that such a task should be reserved to the Lisbon Union. The Delegation therefore rejected the proposal.

79. The Delegation of Argentina thanked the Delegation of the United States of America for the presentation of their proposal and underscored the importance of geographical indications for all Members of the Organization. Bearing in mind the Geneva Act which had been recently adopted and the existence of various national systems for the protection of geographical names, the Delegation believed that it was important to improve the understanding of these issues, particularly the notion of scope of protection mentioned in the proposal. The Delegation reiterated that the SCT was the appropriate forum to deal with geographical indications with the participation of all Members of WIPO.

80. The Delegation of Chile said that it understood the concerns raised by the proposal to request the SCT to review the work of a diplomatic conference. However, as the Delegation of the European Union and its member states and of the Delegation of Iran (Islamic Republic of) had mentioned in their statements, the SCT was indeed competent to deal with geographical indications. The Delegation believed that the recent progress made at WIPO justified a further analysis of the matter, whether in terms of a review or an exchange of views which could allow the exploration of areas of convergence. The Delegation noted that everyone had expressed flexibility on the idea of finding common language for a decision. The Delegation aligned itself with the remark made by the Delegation of Argentina that the SCT was the appropriate forum to discuss geographical indications, so as to involve all the Members of WIPO.

81. The Delegation of Portugal believed that the proposal to revise the Geneva Act of the Lisbon Agreement went beyond the mandate of the SCT. All the issues identified in the document had been discussed in the Lisbon Union and the Delegation could not see the legal justification to transfer this matter to the SCT.

82. The Chair announced that Agenda Item 14 "Matters Concerning the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)" would remain open, pending informal consultations on document WO/GA/47/10 (being undertaken together with related issues covered under other agenda items).

83. During the session, the Chair provided regular updates on the evolution of those informal consultations to the plenary. The updates are reported under Agenda Item 11 "Report of the Program and Budget Committee."

84. The WIPO General Assembly directed the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) to examine the different systems for protection of geographical indications, within its current mandate and covering all aspects.

ITEM 15 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE CONVENING OF A DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A DESIGN LAW TREATY (DLT)

85. Discussions were based on document WO/GA/47/8.

86. The Delegation of Romania, speaking on behalf of the CEBS Group, reiterated its full support for the objective of the DLT to simplify and harmonize design registration formalities and procedures. Stating that the treaty remained a matter of priority for the CEBS Group, the Delegation said that the Group was convinced that the DLT would bring concrete benefits to industrial design applicants, especially to small and medium-sized enterprises (SMEs). The Delegation also believed that the texts were sufficiently mature for the convening of a diplomatic conference for the adoption of a new treaty in the field of industrial designs. Reiterating the flexibility of the CEBS Group for the inclusion of an article on technical assistance and capacity building for the implementation of the future DLT in the text of the treaty, the Delegation expressed the view that an agreement on the outstanding elements was possible, which would allow the Assembly to adopt a decision on the convening of the conference. With regard to the proposed disclosure requirement, the Delegation said that it was not yet convinced of the relevance and compatibility of that language with the objective of the treaty. Expressing its readiness to participate in any formal or informal debates during the General Assembly, the Delegation urged all regional groups to reach an agreement on the convening of a diplomatic conference for the adoption of the DLT in 2016.

87. The Delegation of Japan, speaking on behalf of Group B, said that an agreement should be reached to convene a diplomatic conference for the adoption of a DLT. The Delegation expressed the view that the DLT was not making steps forward, but was rather moving further away from its objective of an agreement on standards, which would reduce the costs and burden of filing design applications. Pointing out that an article on technical assistance, while appealing in name, would not provide any further certainty or effectiveness, the Delegation observed that technical assistance was already successfully provided by WIPO, including for the implementation of the Patent Law Treaty (PLT) and the Singapore Treaty on the Law of Trademarks (STLT). The Delegation believed that, while there was no real concern about the appropriate provision of technical assistance for the implementation of the DLT, users of the IP system continued to suffer as a result of the delay in moving the draft DLT forward. With respect to the proposal on a disclosure requirement put forward by the African Group, the Delegation observed an inconsistency between the substance of the proposal and the explanation provided by the African Group. The Delegation believed that the proposal should be withdrawn, taking into account the DLT's objective, namely the simplification of design registration formalities. Indicating that the DLT was a benchmark for multilateral diplomacy at WIPO, the Delegation expressed its strong hope that the General Assembly would reach an agreement on the convening of a diplomatic conference.

88. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair of the SCT and his Vice-Chairs for their hard efforts towards advancing the agenda of negotiation of the DLT. The Delegation, reiterating the African Group's position on the subjects under discussion, regretted that there remained a consistent lack of will to engage on issues not considered a priority by certain members of the WIPO membership. Indicating that tolerance and inclusiveness were basic tenets that should underscore the negotiations of WIPO Member

States, the Delegation said that the proposed DLT should balance the needs of its intended beneficiaries if the goal was to provide a mechanism for ensuring a predictable, simplified and effective protection of industrial designs. The Delegation expressed the need of the African Group to have targeted, adequate and reliable technical assistance enabling the implementation of the treaty. The Delegation also reiterated its discomfort with the finite nature of the elements which sovereign nations could set as criteria of eligibility for registration of industrial designs in their own jurisdiction. Taking into account that the draft DLT did not provide for a definition of industrial design, the different national protection mechanisms for industrial designs and the broad subject matter of ornamental appearance of manufactured products, the Delegation said that the African Group abided by its principled emphasis on the need for protection of crucial knowledge and assets basis as optional components of the draft DLT. The Delegation concluded by reaffirming the African Group's readiness to engage constructively in the debates.

89. The Delegation of the European Union, speaking on behalf of the European Union and its member states, reaffirmed its strong commitment to the work of the SCT and reiterated that it attached great value to harmonizing and simplifying design registration formalities and procedures to the benefit of users and WIPO Members across the spectrum of development. Noting that the SCT had over the last several years worked assiduously to draft normative instruments, the Delegation pointed out that the draft articles and regulations aimed at approximating and simplifying industrial design formalities and procedures which were also needed to establish a dynamic and flexible framework for the subsequent development of design law, necessary to keep up with future technological changes. The Delegation recalled that, in line with the respective DA recommendations, numerous studies had been carried out in relation to the impact of the proposed treaty, which had indicated that respondents in all countries, including developing countries, believed that the proposed changes would bring about a positive impact. Noting that during the May 2014 session of the General Assembly some delegations had stated that the question relating to the form of technical assistance had to be resolved in order to reach agreement on convening a diplomatic conference, the Delegation indicated that, as technical assistance remained the only open topic under discussion, the European Union and its member states remained open to the options currently on the table. The Delegation recalled that at the time of the General Assembly in May 2014, the substantive provisions of the DLT were stabilized. The Delegation declared that, based on that text, which had reached a high level of maturity, it supported the convening of a diplomatic conference by the General Assembly, paving the way for the adoption of a DLT in 2016. The Delegation further took note of the proposal made by the African Group at SCT/32 on a disclosure requirement. However, recalling that the DLT was aimed at simplifying and harmonizing design formalities and procedures and, in so doing, would provide great advantage to all, including to SMEs and developing countries, the Delegation considered that the proposal moved the text further away from the objective of simplification and alignment of design registration formalities. In addition, the proposal contained a substantive element, not covered by the DLT, which was confined to design formalities. Therefore, the Delegation called on the African Group to withdraw its latest proposal.

90. The Delegation of Iran (Islamic Republic of) stated that the draft DLT was a norm setting endeavor which needed to strike a proper balance between costs and benefits. Considering that the study prepared by the Secretariat on the potential impact of the work of the SCT on industrial design law and practice offered a good basis to understand that balance, the Delegation said that the study had acknowledged some requirements as to administrative assistance, legal skills, training and investment in infrastructure for developing countries. The Delegation considered that technical assistance and capacity building should be part of the DLT in the form of a legally binding provision, as this would facilitate the accession of developing countries and LDCs to the new treaty and would help them to make effective use of it. Furthermore, the Delegation expressed its support for the proposal made by the African Group for the inclusion of a disclosure requirement in Article 3 of the draft DLT. Finally, the Delegation

stated that the outstanding issues needed to be solved before going to a diplomatic conference, as the prior settlement of differences would ensure the success of the conference.

91. The Delegation of the Russian Federation, underscoring the high level of preparedness of the texts of the DLT and the results achieved so far, declared that it supported the DLT and the convening of a diplomatic conference for the adoption of the treaty as quickly as possible, in a location to be determined subsequently. The Delegation also drew the attention of the Assembly to the importance of granting technical assistance to developing countries, so as to ensure the accurate application of the treaty.

92. The Delegation of Indonesia, expressing its appreciation for the work of the Facilitator, considered that a diplomatic conference for the adoption of the DLT could only be convened once the text was mature. In its view, many issues needed to be settled to reach said maturity. The Delegation therefore urged all delegations to further discuss technical assistance and capacity building, as well as the proposal from the African Group regarding a disclosure requirement. With respect to the technical assistance and capacity building clause, the Delegation considered that legal certainty and clarity in the giving of such technical assistance by the Organization was needed. With respect to the disclosure requirement, the Delegation said that it had taken note of the explanation and debate concerning the substantial or procedural nature of the issue, and expressed its willingness to further discuss it informally.

93. The Delegation of South Africa, aligning itself with the statement of the Delegation of Nigeria, on behalf of the African Group, said that the provision for technical assistance was an important issue to all Member States, although differing views on the nature of such provision had caused a substantial delay in reaching an agreement to convene a diplomatic conference. The Delegation, reiterating its position regarding the provision of technical assistance in an article in the main text of the treaty and the need to resolve the issue before convening a diplomatic conference, welcomed the expression of willingness to further explore the issue during consultations at this General Assembly. With regard to the inclusion of the disclosure provision in Article 3, the Delegation wished to assure Member States that the aim of this provision was to allow Member States that had provisions for the protection of TK in their national design laws to comply with the filing requirement in their national legislation when joining the DLT.

94. The Chair announced that Agenda Item 15 “Matters Concerning the Convening of a Diplomatic Conference for the Adoption of a Design Law Treaty (DLT)” would remain open, pending informal consultations conducted, as Facilitator, by Ambassador Luis Enrique Chávez (Peru).

95. During the session, the Chair and the Facilitator provided regular updates on the evolution of those informal consultations to the plenary.

96. The Chair asked delegations about the details of what had transpired from the informal consultations, as it seemed that different and mixed information had been received. The Chair said that, apparently, there had been a hint of a breakthrough regarding this matter and a proposal had been put forward but it was unclear whether the proponents were going to put the discussion on this to the plenary or if it was possible to just take note that no agreement had been reached. The Chair added that there was no decision on launching the diplomatic conference, and asked if any of the delegations could provide information on the status of the discussions in this respect.

97. The Delegation of Latvia said that it had explained to delegations during the informal discussions that its understanding was that the DLT was part of a package deal, and that the proposal on the DLT, if any, would therefore depend on the agreements made in other parts of the package. Underlining the frank character of the conversations during the negotiations, it

observed that delegations were willing to move forward, although not fully. The discussion had ended with a request to reflect on a compromise proposal made by the Facilitator, which contained three points: first, that the diplomatic conference for the adoption of the DLT would be convened in 2016; secondly, that the conference would base its negotiations on the text which was agreed in May 2014; thirdly, that subsequent iterations of the first document would be taken into account. Pointing out that the negotiations were not finished yet, it indicated that there had not been an explicit buy-in to that proposal.

98. The Delegation of Nigeria, on behalf of the African Group, said that, since the Delegation of Latvia, presumably on behalf of the CEBS Group or in its national capacity, had provided a context to the Assembly on the position on agreed language for the DLT decision paragraph, it wished to be able to do the same. The Delegation said that bilateral meetings with the Delegation of the European Union and its member states had been held and that it had been felt that there was some leverage to reach a consensus on how to move forward, although neither side was comfortable with the proposal in question. Subsequently, other delegations had been involved in the discussion and all delegations had agreed on a language, which had been accepted in principle, before moving on to other agenda items. The Delegation said that the intervention by the Delegation of Latvia stating that there had not been an agreement on the DLT came as a surprise to the African Group. The Delegation wished to make it known that the African Group was ready to adopt the language that had been agreed with the European Union and its member states, and the CEBS Group in the informal meeting, to conclude the technical discussions at the SCT and move to a diplomatic conference. The Delegation therefore urged the Delegations of the European Union and its member states, and the CEBS Group to reconsider their position and to adopt that language.

99. The Delegation of Latvia pointed out that its previous intervention had been made in the framework of the facilitation task that the Chair had entrusted to the Delegate of Latvia in its capacity of Vice-Chair of the General Assembly. Therefore, the report that it had provided concerned the outcome of the informal negotiations in which the Vice-Chair had acted as Facilitator. The Delegation added that the process described by the Delegation of Nigeria had taken place after those negotiations.

100. The Delegation of Nigeria, on behalf of the African Group, took note that the Delegation of Latvia had not spoken on behalf of Latvia or of the CEBS Group, but in the capacity of Facilitator of the informal negotiations.

101. The Delegation of the European Union, speaking on behalf of the European Union and its member states, stating that it believed that there was still an opportunity to reach agreement on the DLT, requested a suspension of the meeting that would allow delegations to focus on the different options before them.

102. The Chair of the General Assembly requested the Delegation of the European Union to explain its proposal on a decision for the DLT.

103. The Delegation of the European Union, speaking on behalf of the European Union and its member states, requested the Facilitator to read out the text that it had crafted as a result of the facilitation process, on the understanding that it was not an agreed text, but believing that it represented the best effort to reach a consensus. The Delegation further requested the Chair to put that text to the floor for decision.

104. The Chair invited the Delegation of Latvia to read the text.

105. The Delegation of Latvia read the following text:

106. “The WIPO General Assembly agreed:

“(i) to convene a diplomatic conference for the adoption of the Design Law Treaty in 2016;

“(ii) that the text of the basic proposal for the draft Design Law Treaty should be based on documents SCT/31/2 Rev. and 3 Rev.;

“(iii) that the diplomatic conference should consider matters discussed at the thirty third session of the SCT;

“(iv) that the date and venue of the diplomatic conference should be decided in a meeting to be held back to back with the thirty-fifth session of the SCT.”

107. The Chair asked whether all delegations agreed with this text.

108. The Delegation of Nigeria, speaking on behalf of the African Group, said that it did not understand why the Assembly was going back to the text of the Facilitator, as the African Group believed that it had moved beyond that text, after informal and bilateral consultations held with the European Union, in which another language had been presented by the Delegation of the European Union to the African Group, which had accepted it.

109. The Delegation of the European Union, speaking on behalf of the European Union and its member states, reiterated its belief that the text of the Facilitator was the best endeavor to reach consensus on that important issue for the European Union and its member states. The Delegation considered that there was a duty to the organization to try to reach an agreement on the basis of that text, and therefore requested that the text in question be put to the floor.

110. The Delegation of Egypt stated that, for the sake of integrity, good faith and transparency, the text proposed by the Delegation of the European Union to the African Group was the one that should be circulated, rather than going back to areas not agreed upon.

111. The Delegation of South Africa recalled that the African Group had agreed to the proposal made by the Delegation of the European Union as a basis for going forward, and had communicated its agreement accordingly to the European Union. Pointing out that the Delegation of the European Union had not informed the African Group that the proposal had been withdrawn, the Delegation believed that the Assembly should act on the basis of that proposal.

112. The Delegation of Congo confirmed that informal negotiations with the Delegation of the European Union had taken place and that the latter had submitted a text. He expressed the wish to pursue the discussion on the basis of that text rather than the text of the Facilitator.

113. The Chair observed that there was no consensus on the proposal.

114. The Delegation of the European Union, speaking on behalf of the European Union and its member states, stated that it regretted that no consensus could be found on the language crafted by the Facilitator. In order to move forward and to try to salvage something from the discussions, the Delegation suggested moving to the text referred to by the African Group, which had circulated earlier. At the request of the Chair, he read the text, as follows:

115. “The WIPO General Assembly agreed that the text of the basic proposal for the Design Law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

“(i) to convene a diplomatic conference for the adoption of the Design Law Treaty in* 2016 only if the discussions* on technical assistance and disclosure have been completed during the thirty-fourth and thirty-fifth sessions of the SCT;

“(ii) that the text of the basic proposal for the Design law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

“(iii) that, if a diplomatic conference is convened in 2016, the date and venue of the diplomatic conference would be decided in a preparatory committee to be held back to back with the thirty-fifth session of the SCT.”

116. The Delegation of Nigeria, speaking on behalf of the African Group, stressing the fact that the language had been agreed, stated that it did not agree to change it at that stage in the plenary. The Delegation further read the text that had been agreed between the African Group and the Delegation of the European Union in the informal discussions, as follows:

117. “The WIPO General Assembly agreed that the text of the basic proposal for the Design Law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions.

“(i) to convene a diplomatic conference for the adoption of the Design Law Treaty in 2017 only if the issues of technical assistance and disclosure have been discussed and agreed upon during the thirty-fourth and thirty-fifth sessions of the SCT;

“(ii) that the text of the basic proposal for the Design law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

“(iii) that, if a diplomatic conference is convened in 2017, the date and venue of the diplomatic conference would be decided in a preparatory committee to be held back to back with the thirty-fifth session of the SCT.”

118. The Delegation of Romania, pointing out that the informal discussions had taken place in parallel for reasons of time, said that it had not attended the negotiations relating to the DLT. The Delegation therefore confirmed that it was not part of that agreement. Considering that the text read by the Delegation of the European Union provided more comfort to the CEBS Group, the Delegation invited the other delegations to consider the latest suggestions.

119. The Delegation of the United States of America stated that it could support both versions and encouraged the delegations to show flexibility as, in its opinion, the changes were quite small and the two texts were very similar.

120. The Delegation of South Africa requested a suspension of the meeting.

121. The Chair, resuming the session, declared that the effort that all had invested was going to pay off. Thanking everybody for the incredible flexibility showed and the incredible momentum, he invited the Delegation of Nigeria to read the decision put forward for consideration on Agenda Item 15.

* On these two points (marked with an *), the Delegation of the European Union added that there were changes in relation to the text that had been circulated earlier.

122. The Delegation of Nigeria read the text of the draft decision, which was adopted.

123. The WIPO General Assembly agreed:

That the text of the basic proposal for the Design Law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

(i) to convene a diplomatic conference for the adoption of a Design Law Treaty at the end of the first half of 2017, only if the discussions on technical assistance and disclosure have been completed during the thirty-fourth and thirty-fifth sessions of the SCT;

(ii) that the text of the basic proposal for the Design Law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

(iii) that, if a diplomatic conference is convened at the end of the first half of 2017, the date and venue of the diplomatic conference would be decided in a preparatory committee, to be held back-to-back with the thirty fifth session of the SCT.

ITEM 16 OF THE CONSOLIDATED AGENDA

REPORT ON THE COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY (CDIP) AND REVIEW OF THE IMPLEMENTATION OF THE DEVELOPMENT AGENDA RECOMMENDATIONS

124. Discussions were based on documents WO/GA/47/9 and WO/GA/47/11.

125. The Secretariat noted that there were two documents for consideration under the agenda item namely, the “Report of the Committee on Development and Intellectual Property (CDIP) and the Review of the Implementation of the Development Agenda Recommendations” (document WO/GA/47/9), and a “Decision on the Committee on Development and Intellectual Property (CDIP) Related Matters” (document WO/GA/47/11). Concerning the first document, the Secretariat said that the CDIP had met twice since the 46th session of the General Assembly, held in September-October 2014, namely, at its fourteenth session held from November 18 to 21, 2014, and its fifteenth session held from April 20 to 24, 2015. The document contained the Summary by the Chair of those two sessions. It also contained the Director General’s Report on the Implementation of the Development Agenda, discussed by the Committee at its fifteenth session. The second document addressed the implementation of the CDIP mandate and the implementation of the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities. In this document, the Committee had requested the General Assembly to allow it to continue discussions on these two matters during the sixteenth and seventeenth sessions of the CDIP, and to report back on discussions and make recommendations to the General Assembly in 2016.

126. The Delegation of Japan, speaking on behalf of Group B, thanked the Chair for his organized conduct of the session and the Secretariat for its hard work. Group B felt that it was time to carefully consider what the DA had brought to the Organization. The Group pointed out that development had to be interpreted taking account of the objectives of WIPO and the expected outcomes of its work. It expressed the hope that the Independent Review of the Implementation of the Development Agenda Recommendations would provide useful elements of reflection. The Terms of Reference (ToR) was the result of long and intense negotiations and had to be read and interpreted carefully. The Group recalled that the scope of the Review covered the criteria of relevance, effectiveness, impact, sustainability and efficiency of WIPO’s work to implement the DA recommendations, and not the mainstreaming of the DA.

Additionally, it expressed the importance of listening to the voices of intended beneficiaries in order to ensure that the outcome of the Review would stand on the ground, as it was underlined during the negotiations. Concerning the issue in document WO/GA/47/11, the Delegation stated that a standing agenda item on IP and Development was not necessary, as IP and development related issues could be proposed and discussed under a specific agenda item, as it happened so far. With respect to the “relevant WIPO bodies”, it stated that the CDIP was not in a position to make a decision concerning other committees relevance; that decision should be left to each WIPO committee, as provided in the coordination mechanism. Lastly, the Delegation underlined the strong concern of the Group on the issue of the Committee on WIPO Standards (CWS); DA and coordination mechanisms, prevented WIPO's work directly relevant to its mandate rather than contributed to the objective of the Organization. It expressed that the situation was not what DA intended and it should be solved urgently.

127. The Delegation of Romania, speaking on behalf of the Group of Central European and Baltic States (CEBS) extended appreciation to the Chair and Vice-Chairs of the CDIP and also commended the Secretariat for its significant work in implementing the DA recommendations, and in monitoring, assessing, and reporting on such implementation actions. The Group was of the view that WIPO had integrated the development-related concerns expressed by Member States in its work and that this was proved by the impressive number of development oriented activities undertaken by the Secretariat. It recalled that the review process should inform Member States whether the various implemented projects were responsive to the needs identified. As for the coordination mechanisms, it stated that mainstreaming of the DA should be done in various WIPO bodies, provided that they were relevant to that objective, excluding the CWS and the Program and Budget Committee (PBC). The Group also deemed that a report on how WIPO bodies contributed to the DA was an adequate tool for the purposes of the coordination mechanisms.

128. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair of the CDIP, his Vice-Chairs and the Secretariat for their commitment to resourcing the critical work of the CDIP, and also extended appreciation to the Director General and the Committee. The Group noted that the activities and discussions elaborated in the CDIP were crucial to the African Group, not just because they were instrumental to the IP capacity and economic growth of African countries, but also as a measurable indicator of the commitment of WIPO and its Member States and the fulfillment of the underlying purpose of the DA recommendations. The Group had benefitted, and continued to benefit, from WIPO's assistance through the implementation of the DA projects. It also highlighted the mainstreaming of the recommendations in WIPO and noted that the Independent Review of the Implementation of the Development Agenda Recommendations was timely. The Group reiterated the measurability of the criteria of relevance, impact, effectiveness, and sustainability in which the Review should be focused. The Group was confident of the plan of action for a comprehensive review and expressed its expectations on the outcome of that exercise. The Group encouraged a collective agreement on the External Review of WIPO Technical Assistance in the Area of Co-operation for Development. In order to ensure that the goals of the DA recommendations were tangibly embodied in WIPO. It affirmed the urgency for WIPO to assume its responsibility as an integral component of a wider UN system to facilitate transfer of technology to developing and LDCs and it looked forward to holding constructive discussions on this subject. The Group remained confounded at the death of political will to advance WIPO's normative work, presumably due to strong resistance to engage in negotiations that allowed for the predictable expansion of the international IP architecture that would allow a wider participation and gain from all, in particular, Africa. The Group also attributed it to the lack of full implementation of the CDIP mandate and the 2010 General Assembly decision on coordination mechanisms. The Group reiterated its request for a commitment to establish a standing agenda item on IP and development related issues to promote focused discussion on IP matters, as well as fulfillment of the reporting obligations of the PBC and the CWS on their respective implementation of the DA recommendations. The Group called for an addressing of the IP gaps that abated the prevailing

asymmetrical international IP landscape, and looked forward to the planned Conference on IP and Development in 2016 as a further opportunity to engage in frank, constructive, and purposeful discussions.

129. The Delegation of India, speaking on behalf of the Asia and the Pacific Group noted the important steps initiated by WIPO Member States and the Secretariat to enhance development orientation in WIPO's work. It highlighted the CDIP's main focus on the mainstreaming of the DA in all WIPO activities, making development an integral part of the Organization's work. It noted that the CDIP had found its role as an important committee within the Organization. As a result of the rigorous dedication to the implementation of the 45 DA recommendations, the Group was of the view that all relevant bodies of WIPO should take due account of those recommendations in their activities. It contextualized intellectual property rights (IPRs) in the larger framework of development, in order to ensure that IP regimes were specifically tailored and customized to different countries so as to foster a holistic socio-economic growth and sustainable development.

130. The Delegation of China highlighted that the year marked the 70th anniversary of the UN. It highlighted the successful adoption of the Post-2015 DA. WIPO, as a UN specialized agency, had made important progress in mainstreaming development into its work since the adoption of its DA. DA recommendations had been implemented in an orderly way and had achieved results. The Delegation stated that many developing countries had truly benefited and expressed high appreciation to the Director General and his team for the important contribution in promoting and implementing the DA recommendations over the past years. The Delegation was also pleased to see many positive achievements of the CDIP in the past years. Consensus had been reached on the ToR for the Independent Review of the Implementation of Development Agenda Recommendations while some flexibility has been seen in the discussion on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The Delegation believed that WIPO was capable of moving forward with a Member States' driven process to further improve work in the development area, promoting the implementation of the DA and its mainstreaming into WIPO's work.

131. The Delegation of Brazil thanked the Secretariat for its report and the Chair of the CDIP for his hard work. The Committee had, indeed, succeeded in advancing many issues on the agenda in the last sessions. However, in its view, the Committee had not advanced in some areas of great importance, such as those related to the coordination mechanisms and the third pillar of the Committee's mandate. The Delegation said that these issues were essential for the implementation of the DA recommendations. It stressed the importance of the ongoing independent review for the future of the DA and reiterated that the implementation of the DA was a work in progress, and that the independent review would provide inputs for analyzing future steps.

132. The Delegation of South Africa aligned itself with the African Group and thanked the Secretariat for the report and the Chair of the CDIP and his deputies for the hard work. It said that, when WIPO had adopted the 45 DA recommendations in 2007, the Organization had recognized the fact that the well-being of the new global economy depended on the ability of more nations to participate and contribute fully in it. The adoption of the DA, and subsequently the decision on the coordination mechanisms in 2010, were important achievements. The Delegation stressed, however, that the last two years had not been so productive. An agreement had not yet been reached on the full implementation of the coordination mechanisms, especially with regard to the PBC and the CWS. The Delegation expressed its concern on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development, as well as on the implementation of the third pillar of the CDIP mandate. The Delegation commended the CDIP for finalizing the ToR for an Independent Review of the Implementation of the Development Agenda Recommendations and was hopeful that the review would bring out the real impact of DA projects. It further commended the Committee for finally

agreeing on the way forward with regard to the IP and Development Conference, as well as to the Project on Technology Transfer. The Delegation expected to see recommendations coming out from that project implemented as envisaged in Article 10 of the Agreement establishing WIPO.

133. The Delegation of Cuba emphasized that the DA was one of the essential pillars of the Organization. The Delegation recognized the need for Member States to hold a dialogue on IP and development and said that the DA should be seen beyond its project-based approach. It supported the recommendations on technical assistance and felt that more studies affecting industrial property, flexibilities, and public domain should be conducted. It said that the DA should guarantee a balance between the international IP system and the national public policies.

134. The Delegation of Indonesia expressed its view on the legal obligation of WIPO in implementing the DA recommendations. As stated in the UN Charter and in the Agreement between the UN and WIPO regarding the status of WIPO as specialized agency, the Delegation was of the view that mainstreaming the DA was a legal obligation of the Organization and its Member States. Furthermore, the Delegation considered that DA mainstreaming should be implemented and discussed in a concrete manner. The Delegation called, therefore, for a discussion on the establishment of the coordination mechanisms. It said that, as stated by the Delegations of Brazil and China, the discussion on the Post-2015 DA was also important. The Delegation considered that the Conference on IP and Development should also discuss all DA-related matters and, among others, issues such as transfer of technology.

135. The Delegation of Iran (Islamic Republic of) believed that the CDIP had made good progress in the recent years in implementing some parts of the DA, and in achieving some concrete results. It said that the Committee should continue its commitment and political will in consolidating and building further on what had been achieved and address existing shortcomings. In that context, the ultimate goals would be to reduce the knowledge gap between developing and developed countries, the use of flexibilities in IP treaties, the promotion of access to education, health and medicines, and the protection of natural resources, traditional cultural expressions (TCEs) and TK. The Delegation stated that the DA should not be seen as a time bound project, but as a process that must be constantly mainstreamed in all WIPO activities and committees. The Delegation added that, in the area of norm setting, the CDIP was a body that should explore ways to use IP as a means to serve development objectives.

136. The Delegation of the United States of America supported the statement made by the Delegation of Japan, on behalf of Group B. The Delegation considered that WIPO should strengthen its efforts to assist countries in developing national IP and innovation strategies to meet their national needs and to increase economic growth. Such national strategies buttressed by additional input from private sector, universities and research institutions, could help guide governments in making informed decisions as to how best to use IP to promote and strengthen scientific and technological research, development, and commerce. The Delegation recommended that WIPO should increase its efforts in promoting the positive role of IP for development by, for example, increasing access to patent information, supporting national IP academies, supporting national IP Offices, SMEs and creative industries and building capacity in the areas of IP protection, management, and commercialization. The Delegation added that WIPO's capacity building should be directed towards concrete projects with clear deliverables. It noted that when studies are warranted, good practices for procuring external papers should be observed. To that end, the Delegation recommended WIPO to establish a clear policy on conducting peer reviews and on finalizing reviewed papers.

137. The Delegation of Luxembourg, speaking on behalf the European Union and its member states, stated that a robust and balanced IP infrastructure, underpinned by capacity building measures and coupled with development oriented IP culture, could contribute significantly to the

attainment of the development goals. The European Union and its member states shared the conclusion of the Director General's Report in the sense that the work undertaken by WIPO in implementing the DA had become an integral part of its activities. It welcomed the efforts made by the Director General and his staff in achieving the goals established by Member States. The Group thanked the Secretariat for its valuable contribution to the work of the Committee. The Group also noted that an evaluation was a requirement to ensure effectiveness, efficiency, transparency and sustainability of projects, as well as to identify lessons learned and to scale up programs as appropriate. It hoped that the collective efforts of WIPO's membership would ensure that WIPO's development activities were conducted in terms of sustainability, good governance, and best practices, creating the conditions for effective and consensual implementation of the CDIP mandate and the DA recommendations. The Delegation stated that, as in previous years, the European Union and its member states had been very active in promoting IP as an effective tool for development. WIPO programs could cooperate in synergy with very significant resources that the European Union and its member states dedicated to technical assistance programs in the field of IP, which benefitted a broad range of developing countries. In this regard, the European Union and its member states had provided considerable assistance through technical cooperation activities in the field of IP and in favor of developing LDCs, notably in the context of Article 67 of the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement. The European Union and its member states continued to be committed to further progress in that field in order to implement the DA recommendations in an appropriate and consensus-driven manner.

138. The Delegation of Japan appreciated that WIPO had been steadily working to implement the DA recommendations. The Delegation attached importance to technical assistance and capacity building. It said various types of assistance had been provided through WIPO Japan Funds-in-Trust for Member States in Africa, LDCs and other Member States in the Asia Pacific region. It said that regional, sub regional and national seminars, workshops, training courses, expert advisory missions, and long term fellowship programs, as well as translation of selected WIPO materials. Through these channels, the Delegation said that Japan had supported a number of WIPO administered projects and activities. Japan had also shared its experience in the use of IP to create wealth, enhance competitiveness, and develop the economy. The Delegation was of the view that improving the IP system would drive self-sustained economic development for developing countries, as well as contribute to developing the global economy.

139. The Delegation of the Russian Federation appreciated the results of the work of the CDIP, and the work of the WIPO Secretariat in implementing the DA. The Delegation believed that, in the course of that work, a number of successful projects had been conducted. It highlighted the creation and development of the Technology and Innovation Support Center (TISC) Program. The Delegation, therefore, supported the efforts to continue implementing projects under the DA.

140. The Delegation of Cameroon supported the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation welcomed the positive progress that had been achieved in the work of the CDIP. It said that many countries, including Cameroon, had benefited from projects that had been implemented under the auspices of the Committee. The Delegation congratulated the Director General and his team on the success of their work and the implementation of those projects. However, to ensure that those results were long lasting, the Delegation requested that the nature of technical assistance for development be reexamined. It also requested a successful solution for transfer of technology.

141. The Delegation of Greece aligned itself with the statements made by Group B and by the European Union and its member states. It said that the CDIP had been established in order to discuss IP and development. Within the past six years, CDIP had made great progress. In this respect, the Delegation welcomed the Director General's Report as well as all the efforts that had been made by the Secretariat. The Delegation attributed great importance to technical

assistance and capacity building programs undertaken by WIPO and believed that those programs could contribute to its scope only if evaluated in a transparent, efficient and evidence based manner. Taking into account the problem arisen in that respect, the Delegation welcomed the implementation of the DA recommendations in an appropriate and consensus-driven manner.

142. The Delegation of Côte d'Ivoire supported the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation noted that DA projects had positive results for developing countries. In particular, it highlighted the pilot project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries. The Delegation expressed its hope to benefit from that project.

143. The Delegation of Ghana supported the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation appreciated the contribution of WIPO towards the use of IP as a tool for social and economic development in the developing world.

144. The Delegation of Chile welcomed the work carried out within the CDIP and stated that the implementation of the 45 DA recommendations should orient all the work of the Organization. It remarked on its support for the ongoing independent review process undertaken according to the ToR approved by the CDIP. The Delegation referred to a series of projects carried out under the CDIP from which its country had benefited. In its view, the projects had been useful in creating capacity building and overcoming challenges. In view of the CDIP mandate, the Delegation believed that executing these activities did not completely implement the 45 DA recommendations. The Delegation said that this should be done on a crosscutting and permanent basis and should cover all WIPO activities.

145. The Delegation of Zimbabwe aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation acknowledged the comprehensive work done by the CDIP in mainstreaming the DA recommendations. It believed that WIPO had an important role to play in assisting developing, and LDCs, particularly taking into account the recently adopted UN post 2015 DA. The Delegation considered technology transfer as an important area on which WIPO should focus seriously.

146. The Delegation of the Republic of Korea stated that concrete collaboration among WIPO related organizations was essential for capacity building within IP fields of developing countries. The Delegation highlighted its contribution over the past 12 years of around 7.8 million Swiss francs for the continued operation of the Korean Funds-in-Trust.

147. The Representative of the Third World Network (TWN) pointed out that mainstreaming of the DA in WIPO's activities represented a challenge. The Representative said that the DA was still being implemented in a project mode and that many projects had failed to be translated into WIPO's activities. The Representative stated that the DA was not in line with the needs of developing countries and also raised concern on the WIPO Academy review, which was unavailable.

148. The Representative of Innovation Insight stressed that the CDIP was an important forum for considering the dynamic process of technological advancement, and that the Committee was a key contributor to economic and social development. The Representative said that, within the CDIP, WIPO Members were called upon to analyze how IPRs were used as critical tools to translate ideas and research into concrete solutions, to secure financial resources for Research and Development (R&D), to collaborate and share knowledge, to adapt technology solutions for different needs, and ultimately to get solutions deployed where they were most needed.

149. The Chair of the General Assembly said that, in document WO/GA/47/9, the Chair of the CDIP was requested to undertake, if feasible, informal consultations on the margins of the 2015 General Assembly meeting. The Chair noted that the Chair of the CDIP was conducting those meetings without interfering with other issues before the Assembly.

150. The Chair read out the decision paragraphs in respect of the documents concerned, which were adopted.

151. The WIPO General Assembly:

(a) took note of the “Report on the Committee on Development and Intellectual Property (CDIP) and Review of the Implementation of the Development Agenda Recommendations” (document WO/GA/47/9);

(b) with respect to document WO/GA/47/11 entitled “Decision on the Committee on Development and Intellectual Property (CDIP) Related Matters”, allowed the CDIP to continue, during its sixteenth and seventeenth sessions, the discussion on the decision on CDIP related matters adopted at the Forty-Third Session of the WIPO General Assembly (document CDIP/12/5) and to report back and make recommendations on the two matters to the WIPO General Assembly in 2016.

ITEM 17 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC)

152. Discussions were based on documents WO/GA/47/12, WO/GA/47/16, WO/GA/47/17 and WO/GA/47/18.

153. The Chair of the General Assembly opened Agenda Item 17 “Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)” and referred to informal consultations that were taking place on this item. At his request, those consultations were being facilitated by Mr. Ian Goss from Australia. The Chair invited the Facilitator to update the plenary in respect of those consultations.

154. The Facilitator introduced three proposals on the IGC which had been presented to the General Assembly. Document WO/GA/47/16 was a proposal from the African Group, entitled “Conversion of the World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) into a standing committee: Proposal by the African Group to the 2015 General Assembly”. As the title stated, the proposal recommended the conversion of the IGC into a standing committee with a mandate similar to the current mandate and with some changes to accommodate its conversion into a standing committee. Document WO/GA/47/17 was a proposal from the Delegation of the United States of America, entitled “Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC): Proposal of the United States of America to the WIPO General Assembly”. The proposal recommended that the mandate of the IGC should not be renewed and that Program 4 should continue to organize seminars and conduct studies. An *ad hoc*, cross regional group of experts should be established to determine what, if any problems, existed and what, if anything, could be done at the international level to address any such problems. Document WO/GA/47/18 was a proposal from Switzerland, Norway, Mozambique, Kenya, the Holy See and New Zealand, entitled “Proposal for a renewed mandate of the IGC for

the biennium 2016-2017 submitted to the Fifty-Fifth Series of Meetings of the WIPO Assemblies by the Holy See, Kenya, Mozambique, New Zealand, Norway and Switzerland". The proposal recommended the renewal of the IGC's mandate for a further two years along similar lines as the previous mandate with some proposed changes to improve working methods. In addition to those proposals to the General Assembly, the Facilitator had received a large number of comments and proposals as part of his facilitation process. Those included a substantive proposal by GRULAC, a copy of which had been provided to all Member States. That proposal recommended the renewal of the mandate along similar lines as the current mandate. There had also been other proposals along similar lines as the one proposed by the Delegation of the United States of America. Those substantive positions had been reflected in Member States' opening statements. In order for Member States to achieve a consensus decision on the IGC, informal consultations had been under way since July 2015. All Member States had engaged positively in the process. As part of the process, the Facilitator had issued a first draft of a Facilitator's text which he had been consulting on. As an outcome of those consultations, he expected to issue a second draft for consideration by Member States.

155. The Chair acknowledged the remarkable work of the Facilitator, and thanked him for his patience and dedication. As delegations required more time, the Chair proposed that the Facilitator continued to hold informal consultations with all interested delegations and that the plenary return to this item later. The Chair encouraged delegations to work constructively with the Facilitator. He then suspended Agenda Item 17.

156. Upon the request of Member States, the Chair reopened Agenda Item 17 to listen to the initial statements that delegations might have.

157. The Delegation of the European Union, speaking on behalf of the European Union and its Member States, recognized the importance of the work carried out by the IGC. The IGC had started its work since 2000. It noted that the purpose of the IGC had been defined as follows: "The Intergovernmental Committee would constitute a forum in which discussions could proceed among Member States on the three primary themes which they identified during the consultations: intellectual property issues that arise in the context of (i) access to genetic resources and benefit sharing; (ii) protection of traditional knowledge, whether or not associated with those resources; and (iii) the protection of expressions of folklore". Over the last 15 years, the European Union had been actively involved in the IGC's deliberations and negotiations. Despite many years of discussion running up to the text-based negotiations which had been held during the last five years, the Delegation took note that no agreement had been found on objectives and principles, the goal to be reached, beneficiaries, scope, definitions of key elements and many other elements in the texts under discussion. In addition, debates on the recognition of the public domain concept, which was a core element of IP law, had demonstrated the difficulty of reaching a consensus in those fields. It had, therefore, become clear that the IGC would not succeed on the basis of text-based negotiations. It drew the appropriate conclusions on the inability of the IGC to reach an agreement within the current framework and parameters. Member States should consider alternatives for the work. The Delegation was unable to envisage consensus on the basis of current proposals. Consequently, it believed that a continuation of the discussions as within the parameters of the working methods of the previous years would not necessarily contribute to the efficient use of WIPO's time and resources, nor those of the delegations to the IGC. Therefore, it believed that the mandate of the IGC should not be renewed in its current form. The Delegation was willing to discuss alternative proposals which could yield a more realistic outcome. In order to take the substantive discussions forward, it would be open to the idea of holding a round of seminars and studies aimed at gathering and exchanging evidence-based information on various regional or national experiences, as well as broadening the common understanding on the nature and scope of public domain and its relationship with GRs, TK and TCEs.

158. The Delegation of Romania, speaking on behalf of the CEBS Group, supported the continuation of discussions on IP and GRs, TK and TCEs. The seminars held in March and June had been extremely valuable, as they had addressed various challenges that national policy makers faced in relation to those topics. The Group congratulated the Secretariat on the professional manner in which it had organized those seminars, which had attracted a large number of participants from Member States, including from the Group. Member States needed to decide what the best format was to move the process forward. It thanked all those who had made concrete proposals and extended its special appreciation to the Facilitator for his dedication to achieving a successful outcome. Though the IGC had invested a lot of efforts in achieving the effective protection of GRs, TK and TCEs, the Group was not convinced that the progress made matched the amount of resources allocated to the process. The reality was that fundamental substantive questions had not yet enjoyed a shared understanding, so Member States needed to carefully think about the working methods. The Group fully supported a result-oriented efficient and effective work program. With that in mind, the Group was in favor of having a new round of seminars and studies, as a way to ensure that Member States further enhance the awareness of the challenges that related to the three topics. The Group would engage constructively in discussions and hope to achieve a positive outcome.

159. The Delegation of Nigeria, speaking on behalf of the African Group, understood the complexity and dynamic nature of the discourse on GRs, TK and TCEs. It was regrettable that Member States had been unable to agree on a common objective and outcome in this field. Notwithstanding the Group prioritized fulfillment of negotiations on the protection of GRs, TK and TCEs through an international legally binding instrument(s) that would ensure the effective protection of GRs, TK and TCEs from misappropriation and commercialization of the primordial and natural resources of indigenous peoples and local communities. In light of those considerations, the Group had given careful thought to the IGC's situation. In the interest of providing actionable steps to progress negotiations, it had made a proposal to the General Assembly for the conversion of the IGC into a standing committee. That proposal was contained in document WO/GA/47/16. The transition would not only institutionalize such an important field of discussion, but also permit Member States' focus to remain firmly geared towards finding solutions and forging new means of advancing negotiations. If Member States had had a chance to look at the proposal, there was a list of terms that would provide a soft landing and level of comfort for all Member States to find a place to discuss and move the process forward under a standing committee format. Nevertheless, the Group was committed to continuing negotiations. There were a lot of similarities from the initial text provided by the Facilitator whom the Group thanked for his time and the text he had provided. As discussed with the Facilitator, there were other elements which the Group would like to see in the revised text.

160. The Delegation of Japan, speaking on behalf of Group B, expressed sincere appreciation to the Facilitator for his tireless efforts. It was regrettable that a reasonable and feasible future work program for the IGC could not be agreed upon at the 2014 General Assembly, but such disagreement might give Member States time to understand the fundamental issues, to further reflect the current situation which Member States faced, and to think what had brought Member States there. The Group felt that the seminars held in March and June had been extremely useful to describe and to further reflect concrete experiences. Lack of shared understanding on key issues had been repeatedly pointed out in the negotiations of the IGC. Such concrete and actual experiences could form an essential basis upon which the direction to shared understanding could be sought. The Group appreciated the Facilitator's effort to try to reconcile those various proposals, but the way forward on IP and GRs, TK and TCEs was a serious challenge. In a sense, such situation reflected a complex nature of those subject matters. In order to find a common ground on the way forward, the complex nature of the subject matter had to be taken into account. The Group was committed to being engaged in the negotiation on this item with a constructive spirit.

161. The Delegation of Brazil, speaking on behalf of GRULAC, thanked the Facilitator for his valuable work related to the renewal of the mandate of the IGC. It believed that the IGC played a central role in normative agenda. The Group was committed to text based negotiations with a view to reaching an agreement on a text or texts of an international legal instrument or instruments which would ensure the effective protection of GRs, TK and TCEs. Having in mind the strong interest it had in this subject, which had been discussed for 15 years at WIPO, the Group had made a proposal for the renewal of the mandate of the IGC, and been ready to continue to participate constructively in the informal consultations. Seminars should not replace text-based negotiations.

162. The Delegation of China believed that the IGC had played an important role in achieving the objective of the international protection of GRs, TK and TCEs. It hoped that the deliberations in the IGC would focus more on the solutions of issues. The extension of the mandate of the IGC every two years was time consuming and impeded the efficiency of the IGC discussions. The proposal by the African Group to convert the IGC into a standing committee could be a substantial solution allowing the IGC deliberations to be more focused and effective. The Delegation supported that proposal and hoped that all Member States would consider it carefully with a view to achieving substantial progress in the IGC.

163. The Delegation of India stated that India was one of the cradles of human civilization with deep rooted traditions, rich ancient culture and prodigious biodiversity. Protection of GRs, TK and TCEs against misappropriation was an issue of priority for India and that it attached great importance to the work of the IGC, which unfortunately had hit a roadblock, having lost one precious year without further progress. As one of the countries that continued to be most affected by misappropriation and biopiracy, the Delegation supported the renewal of the mandate of the IGC, a mandate which would lead to an early finalization of international legal instruments on all three issues and the convening of a diplomatic conference. The Delegation believed that the new mandate should be conducive to build upon the hard work put in during the previous three sessions of the IGC held in 2014. The Delegation appealed to all Member States to show greater political commitment to bring the IGC process back on track. The Delegation was willing to work with all Member States so as to reach a constructive outcome on this important issue.

164. The Delegation of South Africa aligned itself with the statement presented by the Delegation of Nigeria, on behalf of the African Group. The Delegation acknowledged the efforts of the Facilitator and welcomed the draft text on the renewal of the mandate that he had presented, as it provided a basis for further negotiations. The Delegation further applauded the commitment exhibited by the countries that had positively engaged with the draft text on the renewal of the mandate so far. The draft text on the renewal of the mandate was a recycling of the 2013 mandate with two additional paragraphs that accommodated requests from some Member States for seminars to create consensus on some concepts and for a sharing of national experiences. The Delegation expressed concern that, after 15 years of deliberations within the context of WIPO, there was no finality with regard to GRs, TK and TCEs, and pointed out that it was not due to a lack of substantive technical progress but more to a lack of political will to acknowledge the legitimate economic interests of Africa and other *demandeurs* for the effective protection of GRs, TK and TCEs through legal remedies against misuse and misappropriation. The Delegation had been persistently enthusiastic about achieving the mandate of the IGC, similarly as when the IGC was born in 2001. Having been part of the negotiation process in the IGC for over 15 years, the Delegation wished to reiterate its position that the texts on GRs, TK and TCEs were mature and, with a consented and purposeful engagement of the Member States over the biennium, should lead to a decision by the WIPO General Assembly in 2017 to convene a diplomatic conference. The Delegation committed to engaging in fruitful, vigorous, reflective, constructive and conclusive negotiations. Consistent with the DA of WIPO and the just concluded UN's Sustainable Development Goals, the Delegation reiterated the call for a balanced and equitable global IP system that accommodated

all the legitimate interests of the WIPO Member States. Progress on finalizing the GRs, TK and TCEs legal instruments would strengthen the Member States' faith and trust in WIPO as a truly transparent and equitable forum for the attainment of all legitimate aspirations of both developed and the developing countries for a better world.

165. The Delegation of Iran (Islamic Republic of) said that WIPO had reached a crucial time in its life, as the credibility of the norm setting side of its activities was at stake. It recalled that almost 15 years ago, Member States took up a task on three important issues, namely, GRs, TK and TCEs. The Delegation observed that this work had not yet produced a desirable outcome, an outcome to be in balance with other norm-setting activities. The time had come to make a careful decision on how to deal with the issue of GRs, TK and TCEs and how to accomplish this task. The Delegation joined many other developing countries in considering that the subject matter under discussion was the most important issue in the agenda of WIPO. The way that the developing countries would interact with WIPO depended, to a large extent, on how WIPO would respond to their needs and concerns on this issue. Developing countries perceived indeed a close link between the issue of GRs, TK and TCEs on the one hand and the overall DA of WIPO on the other hand, as well as the role the issue might play in filling the existing considerable gaps in the existing legal framework of the international IP regime. The international IP legal system should develop and evolve in a balanced manner in order to ensure its sustainability. Considering the current situation of the international IP legal system and the ongoing normative activities of WIPO, no balance would be struck unless a legally binding instrument or instruments on important issues regarding GRs, TK and TCEs were put in place. The conclusion of such a binding treaty or treaties would efficiently protect GRs, TK, TCEs against misappropriation, as they needed it, and ensure their sustainable and legitimate use in the future. A great number of beneficiaries of the treaty would expectedly be from developing countries. The Delegation was convinced that the international IP system should not only impose obligations on developing countries, but should also be beneficial to them and reward their contribution to human creativity and existing civilization. Undoubtedly, the interest of developing countries in the international IP system would increase, should the IP international system be more balanced. The Delegation recalled that the WIPO General Assembly in 2012 and 2013 mandated the IGC "to continue intensive negotiations and engagement in good faith, with appropriate representation, towards concluding the text(s) of an international legal instrument(s) which will ensure effective protection of GRs, TK and TCEs". It was deeply concerned about the slow pace of the negotiations in the recent years. This situation jeopardized the objective to be achieved in finalizing those important instrument or instruments. The Delegation was of the view that sound political will on the side of all Member States would allow bridging the divergences of views. It was essential that all Member States showed flexibility and engaged constructively in order to ensure that the mandate that the IGC received from the General Assembly be fulfilled without any undue delay. The Delegation was convinced that by accelerating the process, Member States would be able to fulfill the IGC mandate and hold a diplomatic conference in 2017 or in the first half of 2018. In this regard, it supported the scheduling of three formal thematic sessions of the IGC and two inter-sessional meetings in 2016, with the view to further developing the instruments. The Delegation found it unfortunate that the procedural challenge of renewing the IGC mandate every biennium had diverted much focus and energy from substantive discussions. Despite of that, the General Assembly failed in 2014 to make a decision on the work program of the IGC in 2015. The Delegation recalled that in the past 15 years, Member States had invested time and resources on this subject. Such a hiccup might severely compromise the consistency required for sound norm setting within WIPO. The Delegation supported therefore the proposal put forward by the African Group to convert the IGC into a standing committee. Such conversion would constitute an important step forward and prevent this failure from occurring again in the future. The Delegation wholeheartedly supported the current method in taking decisions in the General Assembly, and shared the preference of all Member States for reaching agreements by consensus. However, it reminded, that an approach based on consensus should not be used as a tool to bring the whole process at a standstill, as it had been the case in 2015. The

Delegation was ready to consider ways to take decision in accordance with the WIPO General Rules of Procedure.

166. The Delegation of Niger highlighted that the protection of GRs, TK and TCEs was extremely important. The Delegation congratulated the Facilitator for the efforts he had made, encouraged him to continue coming up with a text that would be acceptable to all parties. It believed that reducing the agenda of the IGC and making simple seminars after years of negotiations would constitute a substantial step backwards, which was why the Delegation supported the proposal of the African Group.

167. The Delegation of Côte d'Ivoire attached a great deal of priority to the IGC and supported the statement made by the Delegation of Nigeria, on behalf of the African Group.

168. The Delegation of Peru supported the statement made by the Delegation of Brazil, on behalf of GRULAC. It stressed that, as many developing countries had done, Peru had made great efforts to fight biopiracy and misappropriation. The Delegation recalled that a substantive proposal had been made, namely that, at the end of each committee session, the members should draw up a list of items that were pending, so that the process could continue. It was very important for the Delegation that the IGC was going in some direction towards a conclusion. There were some proposals that were similar, others that were not, and as other members and groups had stated, it would like to continue working on texts, since that was the way to achieve some outcomes. The Delegation was not closed to the idea of seminars and to continue to discuss certain issues, but considered that those could be complementary proposals. Progress had been made by confronting the different groups' ideas. It was prepared to listen to the other side, but needed to get written proposals and not just ideas. The Delegation stressed that a result at the Assembly was needed on this important issue.

169. The Delegation of Chile supported the statement made by the Delegation of Brazil, on behalf of GRULAC as well as the statement made by the Delegation of Peru. The Delegation had very closely, and with great interest, followed the debates in the IGC since its establishment. The reasons why WIPO had created the IGC as a specialized forum were still valid. The lack of a response was not a reason for no longer asking the same questions, quite the contrary. It meant that a lot more work needed to be put into finding a path to consensus. The lack of a specialized forum would not help in achieving a result. The Delegation called upon the Member States to renew the mandate and use the work that had already been done as a basis, but also take into account the need for efficiency.

170. The Delegation of Nigeria allied itself with the statement delivered on behalf of the African Group. The Delegation recognized the lacuna which existed in the demand for an effective international protection of the knowledge and cultural aspects of indigenous and local communities. It expressed its strong support to the African Group proposal to convert the IGC into a standing committee and resume text based negotiations on the crucial subjects of GRs, TK and TCEs.

171. The Delegation of the Russian Federation pointed out that progress had been made in the negotiations that had taken place in 2014, but, in 2015, the work of the Committee had come to a standstill. It was grateful to the Facilitator for his attempts to seek a solution. The work of the Committee should continue, trying to find mutually acceptable solutions to protecting GRs, TK and TCEs. The Delegation stated that it was necessary to bring the positions closer on a number of points, such as scope of protection, and to find well balanced solutions. It preferred to have separate texts. In any case, any text adopted should be flexible, clear, non-binding and include definitions and limits. The Delegation thanked the Secretariat for a seminar held on the subject.

172. The Delegation of Morocco supported the statement made by the African Group suggesting that the IGC should become a standing committee in order to create a more favorable atmosphere for making progress.

173. The Delegation of Namibia associated itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation supported the renewal of the mandate of the IGC and the conversion of the IGC into a standing committee. It was a matter of economic interest. It appealed to Member States to show flexibility and negotiate in good faith. As stated by the Delegation of South Africa, it was a matter of political will and not a technical issue.

174. The Delegation of Switzerland supported the IGC process and the work that had been undertaken within this Committee. It did so although it was not a *demandeur* on these issues, but because of the systemic importance of the three IGC issues for the IP system as a whole. The Delegation welcomed the developments which had been achieved during the last few years. However, the work of the IGC was not finished yet. Important issues still needed to be resolved. First and foremost, in order to be able to continue work in the coming years, a clear cut mandate for the IGC was needed. This would also be helpful in order to overcome the current impasse. The Delegation was committed to continue to work hard in order to find solutions to these pressing issues for the IGC to resume its work in 2016. The Delegation of Switzerland, together with the Delegations of the Holy See, Kenya, Mozambique, New Zealand and Norway, had tabled a proposal on a way forward. This proposal was contained in document WO/GA/47/18. The Delegation believed that this joint proposal represented a balanced approach and a solid basis for the relaunch of the IGC process in the next biennium. In closing, it reiterated its continued interest in the workings of the IGC and confirmed its support and commitment for the process at hand. The Delegation strongly believed that the successful completion of the negotiation was within reach and that the adoption of an international instrument or instruments on IP which would ensure the effective and balanced protection of GR, TK and TCEs could be achieved.

175. The Delegation of Mexico expressed its appreciation for all the efforts made by the Facilitator. As had been stated by the Delegation of Brazil, on behalf of GRULAC and by the Delegation of Peru, GRULAC had provided the Facilitator with a proposal, the main objective of which was to ensure the renewal of the mandate of the IGC. The Delegation believed that the Assembly needed to concentrate its efforts so as to allow the IGC to continue its work. If the negotiations remained stagnant, there would be no more normative discussions on TK, TCEs and GRs. It hoped that a decision could be reached which could enable the continuation of the negotiations.

176. The Delegation of Botswana aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. It supported the proposal that the IGC should be converted into a standing committee. The Delegation joined other delegations in emphasizing the fact that the need for a legal instrument could not be replaced by seminars.

177. The Delegation of Egypt highlighted the importance of balance and political will. If there was political will, there would be a balanced program of work in the Organization, and this would lead to the continuation of discussions on the IGC issues which were and should continue to be a principle part of the Organization's work. The Delegation reiterated its support for the statement of the Delegation of Nigeria, on behalf of the African Group, of having a standing committee. This would remove the pressure on delegations by eliminating discussions on the renewal of the IGC's mandate. Delegations would then be able to focus on substantive discussions and carry on with text-based negotiations, taking into account the progress that had been made in the previous years on the current text so as to lead to a legally binding instruments for the protection of TK, TCEs and GRs.

178. The Delegation of the Dominican Republic supported the statement of the Delegation of Brazil, on behalf of GRULAC, as well as the statements of the Delegations of Peru and Mexico. It believed that by renewing the mandate of the IGC, the General Assembly would send an excellent message to indigenous peoples and local communities that their knowledge could be protected in the same way as industrial products.

179. The Delegation of Algeria believed that the issues that were covered by the IGC were very closely related to development which was one of the main objectives of WIPO. For this reason, it regretted that countries had not been able to agree on these issues after many years of negotiations. The Delegation aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group.

180. The Delegation of Tunisia supported the statement made by the Delegation of Nigeria, on behalf of the African Group. It asked that the mandate of the IGC be renewed and that the Committee be converted into a standing committee in order to find a way out of the current stalemate and be able to progress in the future.

181. The Delegation of Zimbabwe supported the position of the African Group. It believed that many years of negotiation could not just be abandoned with no good reason and that it was possible to negotiate in good faith and achieve positive results. The IGC process was not inferior to any other process in the Organization and required due regard by Member States.

182. The Delegation of Sudan aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group, with regard to the work of the IGC and supported its conversion into a standing committee.

183. The Delegation of Cameroon reiterated the importance of the work of the IGC for the economies of Africa and, in particular, for Cameroon. For this reason, it strongly supported the statement made by the Delegation of Nigeria, on behalf of the African Group, with regard to establishing a standing committee. That Committee should use the texts that were already available and bring delegations closer in order to obtain a legal instrument that would be able to protect TK, TCEs and GRs.

184. The Delegation of Uganda aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. It was important to find an appropriate mechanism through which discussions could now be meaningfully pushed forward. The appropriate mechanism for enabling it was the establishment of a standing committee as suggested by the African Group.

185. The Delegation of Trinidad and Tobago aligned itself with the statement delivered by the Delegation of Brazil, on behalf of GRULAC, and supported the draft proposal for a mandate on this subject. The Delegation expressed its gratitude to Ambassador McCook and to the Facilitator for the role he played in harmonizing the mandate. The IGC and the protection of GRs, TK and TCEs were of critical importance in Trinidad and Tobago and the Delegation was ready to resume the stalled negotiations. The current state of play was unsatisfactory. A balanced work program was required for the IGC which provided for text-based negotiations that would ensure the effective protection of GRs, TK and TCEs. The Delegation supported in principle all the proposals on the table that tried to achieve that objective. The future of the protection of global GRs, TK and TCEs rested in the hands of the Member States. It, therefore, encouraged all Member States to work together to renew the mandate of the IGC.

186. The Delegation of Colombia supported the statement delivered by the Delegation of Brazil, on behalf of GRULAC. It was essential to keep a negotiating space for the IGC and to be able to continue discussions while recognizing a diversity of views and approaches. It called upon all Member States to continue to negotiate on the basis of texts.

187. The Delegation of Ukraine supported the work done by the IGC. It said that TK was absolutely vital for the economic development of many regions. It found it of utmost importance to continue working on international legal instruments that would ensure protection of TK, TCEs and GRs and ensure they become proper elements of economic relations. It supported, therefore, the renewal of the mandate of the IGC as well as its eventual conversion into a standing committee.

188. The Delegation of Nepal reiterated what it had said under Agenda Item 5, namely that it supported the renewal of IGC mandate with the view to finalizing the texts on GRs, TK and TCEs that had been developed so far. Such texts would help preventing any potential misappropriation of TK, TCEs and GRs for narrow commercial goals, which constituted a critical issue for LDCs like Nepal. It supported the proposal made by the African Group to convert the IGC into a standing committee. Such change would spare Member States the need to seek the renewal of its mandate every two years and allow for enough time to work on the finalization of the texts.

189. The Delegation of New Zealand expressed support for the proposal submitted by Delegations of the Holy See, Kenya, Mozambique, New Zealand, Norway and Switzerland, and introduced by the Delegation of Switzerland. It considered that the elements of the proposal would best enable the IGC to expedite its work and fulfil its mandate. It supported and thanked the Facilitator of the consultations on the matter for his continued efforts.

190. The Delegation of Honduras supported the statement made by the Delegation of Brazil, on behalf of GRULAC. As the Delegations of Peru and Colombia had stated before, it believed that the position therein expressed was the best way forward.

191. The Delegation of Jamaica thanked the Facilitator for his continued efforts, and supported the statement made by the Delegation of Brazil, on behalf of GRULAC. The Delegation encouraged the Member States to support the renewal of the mandate of the IGC and the continuation of its text-based negotiations. As articulated by other delegations, the issues addressed by the IGC were critical as they related to development and were essential to the mandate of WIPO.

192. The Delegation of Canada supported the resumption of the IGC's work on the basis of shared understanding of the principles and objectives, with a focus on a sharing of concrete examples drawn from national experiences and domestic legislation, all in a way that would not prejudice the outcome, but would inform and guide any further discussion on the work of the draft texts. The Delegation was not convinced that the proposal of converting the IGC into a standing committee submitted by the African Group would help addressing major disagreements and divergent approaches, especially on fundamental issues, such as the objectives of the instruments.

193. The Delegation of Indonesia extended its appreciation to the Facilitator of the consultations and also for his first draft decision of the General Assembly that he had circulated the day before. The Delegation welcomed many elements in this draft, like the possibility to hold seminars, collect examples and conduct studies. As already stated under Agenda Item 5, the Delegation supported a renewal of the mandate of the IGC. It was important to guarantee legal certainty and clarity with regard to the protection of GRs, TK and TCEs. It urged, therefore, that the text based negotiations on texts regarding the protection of GRs, TK and TCEs be continued. The Delegation took note of the proposal made by the African Group regarding the conversion of the IGC into a standing committee and looked forward to discussing it further with delegations. It noted the discrepancy of positions among the Member States, but asked for a compromise to be found, in good spirit. On its part, the Delegation expressed its readiness to engage constructively in solving the issues at hand.

194. The Delegation of the Republic of Korea stated that Member States should concentrate on substantive issues regarding the proper protection of GRs, TK and TCEs. Regarding the proposal made by the African Group to convert the IGC into a standing committee, it was worried about the lack of practical benefits that could be drawn from it. The Delegation believed that Member States should try to find a solution for the efficient protection of GRs, TK and TCEs.

195. The Representative of the Andean Community recalled that the Andean Community was made up of Bolivia, Colombia, Ecuador and Peru. He was concerned that the IGC had not been able to meet in 2015 and hoped that the General Assembly would put an end to this situation. Should it not happen, WIPO, as the most important international organization dealing with IP, would no longer be the main forum in building a truly multilateral framework ensuring the protection of GRs, TK and TCEs, which was one of the key IP areas for today and tomorrow. The Representative urged delegations to redouble their efforts in order to ensure that an agreement be reached at the General Assembly on the renewal of the IGC, so that its substantive work could continue.

196. The Representative of the Third World Network (TWN) stated that it was very important to put an end to the misappropriation of GRs, TK and TCEs through IP protection. Regarding GRs and associated TK, there was an urgent need to address the conflict between the biodiversity regime and the IP regime. The biodiversity regime under the Convention on Biological Diversity (CBD) and its Nagoya Protocol clearly set norms for sharing benefits in a fair and equitable manner. However, the current IP regime was silent on such mandatory benefit-sharing. The IP regime needed to have effective checks against the misappropriation of GRs, TK and TCEs. While some national patent laws already required the mandatory disclosure of country of origin, that was not adequate, given the transboundary activities of research on and commercialization of GRs, TK and TCEs. Therefore, it was of utmost importance to ensure the effective protection of GRs, TK and TCEs. For that reason, the representative called on Member States to strengthen the normative work by renewing the current mandate of the IGC and to ensure that the work of the IGC was consistent with the CBD and its Nagoya Protocol.

197. The Chair observed that the views that had been expressed confirmed previous positions on the subject. Those views also illustrated great importance of this agenda item for Member States. The Chair encouraged Member States to further engage in the facilitation process that was being conducted by the Facilitator in a pro-active, pragmatic and constructive way, and consider the draft decision that the Facilitator had circulated the day before. He then suspended Agenda Item 17.

198. The Chair of the General Assembly and the Facilitator provided regular updates to the plenary, over the different days of the Assemblies, on the status of such informal consultations. The updates includes as follows.

199. The Facilitator informed that he had issued a second draft text which had been discussed at an informal meeting. The meeting was useful in enabling Member States to share views, and there was, importantly, consensus that discussions on IGC-related subject matter should continue. However, unfortunately, there was still a deadlock on the central issues of the objectives of those discussions and the form they should take. The majority of Member States supported the renewal of the mandate of the IGC on similar terms as the current mandate. Positions were reflected in three substantive proposals. One of those included the proposal to convert the IGC into a standing committee. However, there remained a group of Member States which believed that the current mandate of the IGC should not be renewed and that another approach should be considered, including *ad hoc* experts groups, seminars and studies, aimed at resolving the significant number of outstanding issues that were on the table in relation to the current negotiations. The Facilitator explained that, as a next step, he had asked Member States who had indicated that they did not support the renewal of the mandate in its

current form to clarify their positions on the objective of future discussions on IGC-related matters and what governance arrangements would be established to support this work, so that they could be included in the deliberations. He pointed out that he would allow until Monday morning for those Member States to deliberate on those issues. Over the weekend, he might attempt to draft a third facilitator's text based on the discussions on Friday that focused solely on the minimum substantive issues that needed to be agreed to achieve consensus. The Facilitator indicated that he would advise Member States on the next steps in the facilitation process in due course, though he anticipated that he would hold meetings on Monday with groups and key Member States individually to take additional feedback on the second draft and to discuss positions and opportunities for compromise.

200. The Chair stressed that there would be bilaterals and small group discussions on Monday, and that a new text would be distributed.

201. The Delegation of Brazil, speaking on behalf of GRULAC, the African Group, the Like Minded Countries (LMCs) and the majority of the Asia Pacific Group, thanked the Facilitator for having prepared a second version of the draft text of the mandate. The Delegation pointed out that, in their view, the protection of GRs, TK and TCEs played a central role in the normative agenda of the Organization and the mandate to continue text-based negotiations had to be approved. The Delegation reaffirmed that their priority was the continuation of text-based negotiations. It stressed that the voice of more than two thirds of the membership of WIPO should not be ignored.

202. The Delegation of Nigeria, speaking on behalf of the African Group, fully endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries. The Delegation believed that the Member States of WIPO should take the necessary steps and exert the political will needed to protect the economic and socio-cultural assets of indigenous and local communities through the effective protection of GRs, TK and TCEs. It endorsed the renewal of a mandate for text-based negotiations and encouraged Member States to agree on that proposal.

203. The Delegation of Malawi endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries.

204. The Delegation of India confirmed that the majority of the countries in the Asia Pacific Group aligned themselves with the statement that had been made by the Delegation of Brazil. The Delegation pointed out that individual countries in the Asia Pacific Group who were at variance with that could make individual statements. The Delegation, in its national capacity, fully endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries.

205. The Delegation of South Africa aligned itself with the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries. The Delegation noted that the principles for which the groups represented by the Delegation of Brazil were standing for had been mainstreamed since 2009 for text-based negotiations. To that extent, explanations why that should be abandoned had to be clear, as that would require new traditions.

206. The Delegation of Indonesia appreciated the work done by the Facilitator. It supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It emphasized the need for text-based negotiations. There had been a progress since 2009 when the IGC had started text-based negotiations, as stated by the Delegation of South Africa. The Delegation emphasized that the negotiations in the IGC could not and should not move backward. The failure of the renewal of the mandate and the negotiations in the IGC would undervalue the reputation of WIPO.

207. The Delegation of Uganda aligned itself with the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It supported the renewal of the mandate of the IGC.
208. The Delegation of Cameroon supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group, and the statement made by the Delegation of Nigeria, on behalf of the African Group. It reiterated its wish that Member States work on the texts that had already been elaborated, in order to become a legal framework which would enable GRs, TK and TCEs to be protected.
209. The Delegation of Paraguay supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group, with regard to the renewal of the mandate of the IGC.
210. The Delegation of China thanked the Facilitator for his efforts. It supported the position of the African Group, and hoped that the mandate of the IGC would be renewed.
211. The Delegation of Pakistan aligned itself with the statement made by the Delegation of India.
212. The Delegation of Namibia supported the statement made by the Delegation of Nigeria, on behalf of the African Group, and the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.
213. The Delegation of Peru supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. Many countries supported the renewal of the mandate. Member States needed to concentrate not on the differences, but on what brought them together, so that Member States could arrive at coherent results.
214. The Delegation of El Salvador fully supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.
215. The Delegation of Guatemala fully supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.
216. The Delegation of Trinidad and Tobago fully aligned itself with the joint declaration made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It supported the continuation of the mandate and continuation of the text-based negotiations.
217. The Delegation of Cuba supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.
218. The Delegation of Nigeria supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.
219. The Delegation of Chile supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It wished to work constructively to ensure consensus and to renew the mandate of the IGC.

220. The Delegation of Panama fully supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group.

221. The Delegation of Colombia strongly supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group.

222. The Delegation of Algeria expressed its support for the work done by the Facilitator. It supported the statements made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group and the statement made by the Delegation of Nigeria, on behalf of the African Group. This was a vital matter in order to take into account the concerns of over two thirds of the Members States of the Organization.

223. The Delegation of the United States of America wished to make two brief points. Firstly, in response to the question raised by the Delegation of Paraguay, it wished to clarify that the ongoing consultations that the Chair had organized seemed to be bringing forward flexibility on all sides. The Delegation was hopeful that consensus could be reached. Secondly, it wished to thank the Chair for organizing these consultations and the Facilitator for his strenuous efforts in this area. It also thanked the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries for their statement and all those who had spoken in support of it. It assured delegations that it did support ongoing work on the issues that were of importance to so many WIPO Member States.

224. The Delegation of Brazil supported the statement that had been delivered on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group, as well as the statements delivered by the Delegations of Nigeria, India, Malawi, South Africa and many others. The Delegation referred to the Chair's comment that having these statements in the plenary was perhaps not efficient. It recalled that discussions that were a priority to a small part of the membership of the Organization had been prioritized in the plenary. However, the majority of the membership of the Organization saw the IGC as one of their priorities. Even though discussions on the IGC had not been taking place in the plenary, the IGC was a priority and should be taken into account by the smaller part of the membership. The Delegation supported the process undertaken by the Facilitator.

225. The Chair reminded all delegations that a discussion on the IGC had taken place in the plenary. The item had been opened and the plenary had listened to the positions of Member States. It had been made clear that this was a very important issue for two thirds of WIPO Member States. The Chair had allowed for all the interventions, but had asked Member States to reflect on the use and productivity of having these statements apart from restating what everybody knew at that stage. There were some signs of flexibility and that flexibility had to be reflected in the discussion and facilitation process. Statements regarding dissatisfaction or lack of satisfaction regarding the progress made had to be constructive and productive. It was important to be mindful of time. There were other issues pending in addition to the IGC, such as the SCCR, the SCT, and WIPO External Offices. The WIPO External Offices, in particular, had been highlighted by some delegations as being the most important issue. Sufficient time had to be allocated for all of them and the plenary had to be used wisely.

226. The Delegation of Indonesia supported flexibility of negotiations regarding the PBC, the DLT and, of course, the IGC. It requested clarification with respect to the statement made by the Delegation of the United States of America, in which it had expressed its support for these issues. As informal meetings were not recorded formally, clarification on that would be helpful.

227. The Delegation of the United States of America responded to the question asked by the Delegation of Indonesia that the position of the United States of America was reflected in its proposal to the General Assembly. The current working method had not been successful. During the informal consultations, the Delegation had signaled its flexibility as to the format of the IGC, and had also indicated its willingness to continue the work of the IGC with a new working method that was better than what had been in existence, because the current texts were unworkable.

228. The Delegation of Luxembourg supported the statement made by the Delegation of the United States of America.

229. The Delegation of South Africa stated that the mandate would be a clear demonstration of political will on where the IGC was going. The focus on methodologies, such as expert meetings and the number of meetings, was not the centerpiece. The willingness to proceed should be focused on what constituted the mandate. So far what was being placed on the table was expert meetings. The IGC was a normative body and it had to contribute towards norm setting and not be an academic institution where seminars were continuing. The Delegation would like to know why those texts were unworkable.

230. The Delegation of Switzerland appreciated the work of the Facilitator and his efforts during the IGC informal consultations. As it had already mentioned, the Delegations of Switzerland, the Holy See, Norway, New Zealand, Kenya and Mozambique had proposed a draft renewed mandate for the biennium 2016-2017. They had tried to put something on the table that was well balanced and could obtain consensus among the various parties. The Delegation would continue to work constructively with all interested parties in order to come up with a solution that could be acceptable for all Member States.

231. The Delegation of Brazil stated that, since the Delegations of the United States of America and the European Union, on behalf of the European Union and its member states, had found a common ground, there might be a promising way through the negotiations in the General Assembly. The Delegation requested that the IGC be decided in the General Assembly before the other items that were still open, as this was a priority for the majority of Member States. It reiterated that the decision on the renewal of the mandate of the IGC be taken before decisions on other agenda items.

232. The Delegation of the United States of America supported the intervention made by the Delegation of Switzerland. However, it was not willing to give any specific language at this point.

233. The Delegation of Egypt appreciated efforts of the Facilitator. However, the atmosphere did not appear to be conducive to results. The majority of Member States had indicated their willingness to renew the mandate of the IGC. Regardless of the format, the mandate should focus on text-based negotiations, so that the work of the last 10 to 15 years would not be thrown away.

234. The Delegation of South Africa supported the proposal made by the Delegation of Brazil that the decision on the IGC would be made ahead of decisions on other agenda items.

235. The Delegation of Nigeria, speaking in its national capacity, highlighted that the problem was that delegations did not have time to discuss the decision on the IGC in plenary, as an equally important issue for a large number of Member States. It wished to have this issue discussed in plenary, especially to hear the views of Member States who did not want the renewal of the mandate for text-based negotiations on GRs, TK and TCEs. It called upon them to provide their ideas on how to move forward concretely. The Delegation emphasized that the proposal from the African Group and other groups provided clear direction on how the

discussions on GRs, TK and TCEs should progress. It wished to see the same kind of document from the groups who did not want to continue discussions and to have a discussion in plenary for the record.

236. The Delegation of Indonesia aligned itself with the statement made by the Delegation of Nigeria. It stressed that it was time for Member States to discuss this issue in plenary.

237. The Delegation of Australia emphasized that all the above issues were very important to Australia. It noted that the informal consultations were ongoing and that it would not be very useful or helpful to try and sequence any decision-making around these issues. The Delegation expressed its preference for continuing the informal consultations with the view to developing compromise solutions on each of these issues, on their own merits, while avoiding to formally sequence the decisions on these issues.

238. The Delegation of Romania, speaking on behalf of the CEBS Group, supported the position expressed by the Delegation of Australia. It added that all matters discussed in WIPO were of equal importance and affirmed its commitment to be constructive on all items, including on the IGC. It also expected the same commitment on all issues.

239. The Delegation of Jamaica thanked the Facilitator for his work and expressed its concern that, in 2014, discussions had stalled or had been delayed because Member States could not arrive at an agreement on the way forward and in terms of whether or not a diplomatic conference should be convened. The Delegation asked for a clear articulation of what the problem was with text-based negotiations. If Member States could have that clearly articulated, they might be able to move forward and reach a conclusion on how to renew the mandate.

240. The Delegation of Japan, speaking on behalf of Group B, underlined that WIPO was a consensus based Organization. The Group attached equal importance to all items and was making efforts to find a solution to all issues. Taking account of the character of the Organization and the efforts conducted by Member States, it stressed that delegates should focus on the respective facilitation processes to find a concrete solution. The Group also strongly believed that artificial linkages between the different issues should not be undertaken and all issues had to be considered on their merits. The Group believed that any kind of artificial linkage or artificial sequencing should not be undertaken, since this would have an adverse effect on all discussions. It also recalled that there was not a Lisbon issue as such, but the issue was the Program and Budget which was important for all Member States. Since nothing could be done without the budget, it emphasized that there was a clear justification that Member States had to give importance to the discussion on the Program and Budget.

241. The Delegation of Namibia recognized that all the issues were of equal importance and should receive equal attention. However, it felt that Member States needed to conclude on certain issues that had been on the agenda for too long. It wished, therefore, to support the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group, and endorsed *inter alia* by the Delegations of Nigeria, on behalf of the African Group.

242. The Delegation of Montenegro associated itself with the statement made by the Delegation of Romania, on behalf of the CEBS Group.

243. The Delegation of the European Union, speaking on behalf of the European Union and its member states, expressed its support for the statement made by the Delegation of Japan, on behalf of Group B. Indeed all issues at hand deserved equal treatment at this stage. It added, though, that if any issue stood out particularly, it was undoubtedly the question of the Program and Budget and resolving outstanding issues that related to it. The Delegation supported the idea of all the issues that were undergoing informal consultation processes moving forward

simultaneously. It believed that this would be the best approach. The Delegation was not sure to what extent the time of the General Assembly was best served by a succession of statements reiterating positions that were already well known and well entrenched. The Delegation said that the European Union and its member states were engaged in a dialogue with all Member States. It hoped that the facilitation process conducted by the Facilitator would make progress and that Member States would be able to report on progress in due course. Unless Member States had new elements to put forward at this juncture, the focus should shift to the facilitation process.

244. The Chair observed that the statements made emphasized again that the protection of GRs, TK and TCEs constituted a long-standing, relevant and important issue. He recalled that a text-based facilitation process regarding the way forward on this issue had been started before the beginning of the General Assembly and was still going on. He referred to the second draft that had been circulated by the Facilitator and to the report he had just made in plenary. He reminded delegations of the need to be efficient in organizing the work of the General Assembly and to allow sufficient time for informal consultations with a view to crafting solutions based on the information, policy background and sense of priorities that had been put forward by delegations in plenary. He therefore suggested that the discussion in plenary on Agenda Item 17 be suspended for the continuation of the informal consultations, and invited the Facilitator to report back to the plenary whenever convenient. The Chair then suspended Agenda Item 17.

245. On a further update, the Chair referred to informal consultations undertaken by the Facilitator before the General Assembly, and on Monday afternoon, Wednesday afternoon and Friday afternoon. He also referred to the opening statements relating to this agenda item, and the statements made specifically on this agenda item on Thursday afternoon and Saturday morning. He invited the Facilitator to update the plenary in respect of the informal consultations on the IGC.

246. The Facilitator stated that he had asked Member States which did not wish to renew the mandate of the IGC in its current format to provide him with their proposals on the purpose of the future work on the IGC related matters, noting that all Member States had indicated their support for continuation of the IGC-related discussions. He stated that he had also met with those groups and Member States who had a substantive proposal for the renewal of the mandate on similar terms as the current mandate to discuss their positions. The essential difference of those proposals was how the work would be governed, i.e. the IGC or a standing committee. It was clear that, as he had indicated on Saturday, Member States still remained far from a consensus position. There was very limited time to achieve an outcome. The Facilitator would be focusing on the minimum requirements which needed to be agreed. They were: (i) the purpose of the future work, which was addressed in sub-paragraph (a) of the current mandate; (ii) the focus of the work, which was addressed in sub-paragraph (c) of the current mandate, including what materials constituted the basis of that work; (iii) the basic work program in terms of sessions and subject matter to be addressed in those sessions, which was dealt within sub-paragraph (b) of the current mandate; (iv) the goal of the work for the biennium, which was reflected in sub-paragraph (d) of the current mandate; and (v) how the work would be governed. The Facilitator stated that, once he had received the inputs from those groups that did not propose the renewal of the current mandate, he would produce a third text which would focus on those issues. He would then advise the time and location of the next informal consultations. As the first step, he would speak to Regional Coordinators to discuss his approach to conducting future informal consultations.

247. On a further update, the Facilitator recognized the strong interest which Member States had in the IGC issue and the challenge faced in developing a consensus decision. He reminded all Member States that there was a need for their support to achieve an outcome. A third draft text had been issued the night before and it took into account inputs received from the

Delegation of the European Union, on behalf of the European Union and its member states, the Delegation of Romania, on behalf of the CEBS Group, and the Delegation of the United States of America. The text included alternative proposals in key areas: the purpose of the work of the IGC, i.e. normative or non-normative; the focus of the work; and the goal of the work over the next biennium. There were some positives. Consensus had been reached that the Committee should progress its work, noting that there were two proposals in this area, an intergovernmental committee or a standing committee. There had been broad support on the work program for between four and six sessions over the biennium, which included thematic, cross-cutting and stocktaking sessions. As for the next steps, the Facilitator indicated that he would hold an informal consultation in the afternoon which would focus on those three core areas of disagreement: the purpose of the work; the focus of the work; and the goal of the work over the next biennium. After those discussions, he intended to produce a new text which would have no alternatives. The Facilitator believed that there was a middle ground which required some compromise on both sides.

248. The Delegation of Nigeria, speaking on behalf of the African Group, stated that the third draft of the decision was completely incompatible, and there were two distinct positions in that text. There was one position for normative work which was shared by more than two thirds of the WIPO membership. Only the minority wanted non-normative work and they were the Delegation of the United States of America, the Delegation of the European Union, on behalf of the European Union and its member states, and the Delegation of Romania, on behalf of the CEBS Group. The African Group could not see how a middle ground could be reached with these very distinctive positions. It raised concerns as to how the facilitation that had been planned in the afternoon would proceed, and wondered how the text would be developed if there was a willingness not to take into account the resources and intellectual activities invested during the last 15 years and the text-based work in the last seven years. The Group would like the opponents of the normative work to continue to respond. It was glad to hear that the Facilitator was going to issue another text which would be based on the request of more than two thirds of the WIPO membership. It believed that Facilitator's role was to provide a text to advance negotiations and cause progress. The text should reflect the view of the majority and not that of the minority.

249. The Delegation of India, speaking on behalf of the Asia Pacific Group, stated that the majority of the Group was in favor of renewing the mandate of the IGC. The majority of the Group wanted text-based negotiations to be continued with a very clearly defined work program. It was unfortunate that some delegations were not in favor of renewing the mandate of the IGC. It was even worse that seminars, panel discussions and workshops were being proposed as an alternative, which were non-normative mechanisms. Lots of money and time had been invested in the IGC process. All Member States had to undertake serious introspection. The Group fully supported the Facilitator to find solutions, but not to create problems or roadblocks for the process.

250. The Delegation of Japan, speaking on behalf of Group B, thanked all the facilitators for their tireless efforts to find a solution to the various difficult issues. All Member States of Group B had been actively engaged in the IGC consultations, with a constructive and forward looking spirit and taking into account the objectives to be achieved. There was still divergence on the core issues, but that was not an issue of being negative or positive, of willingness or no willingness, or of majority or minority. It underlined that Group B was seriously considering what the best approach to this subject matter would be for the coming biennium. It strongly hoped that it would be possible to find common ground through the small group process that had been established by the Facilitator.

251. The Delegation of Brazil, speaking on behalf of GRULAC, thanked the Facilitator for his tireless efforts to find a solution for the renewal of the IGC mandate. The Facilitator had been involved in this process since July 2015 at least, and had always been available for delegations

to exchange ideas and to have a fruitful dialogue. The Group had just received the third draft prepared by the Facilitator and was still analyzing the new elements that had been introduced. GRULAC was a *demandeur* of the renewal of the IGC mandate. It understood that the objective of the facilitation was the renewal of the current mandate. It had presented a proposal more than one month before to the Facilitator that went in that direction and it believed that the path of the facilitation process should not be changed. The Group, along with other delegations, wished to see the renewal of text-based negotiations in the IGC. The Facilitator could count on GRULAC's support in the facilitation process.

252. The Delegation of Romania, speaking on behalf of the CEBS Group, warmly thanked all the facilitators for taking up the facilitation task and for their hard work on their respective agenda items. At the current stage, it recognized that there were divergent views on various topics. That meant that delegations needed to continue looking for compromise solutions. A compromise could only be found somewhere in between the positions which had been expressed. It was hopeful that such solutions could be envisaged by all. The Group regretted that the number of supporters of a certain position had become a negotiating argument. That was equivalent to giving up diplomacy. It deplored such a stand and sincerely hoped that it would be possible to work on a consensual basis. The Group was keen to see a successful outcome on all agenda items.

253. The Delegation of China thanked the facilitators for their efforts in trying to solve all the pending issues. On the previous day, there had been a consultation at Ambassadorial level in which all parties had indicated that they wished to push the IGC forward and had demonstrated their political willingness. The Delegation believed that sufficient time had to be set aside for the IGC-related discussion in the plenary. This would be helpful in order to advance the substantive issues related to the IGC.

254. The Chair noted that there might be other delegations that wished to take the floor. However, for the efficiency and continuation of the envisaged work program, he decided to break the plenary at that stage to allow for a continuation of the informal facilitation process. He then suspended Agenda Item 17.

255. On a further update, the Chair reported on the informal consultations that had taken place since the last plenary discussion of this item. He believed that the informal consultations had been constructive. The Facilitator had issued a new text. The Chair hoped that there would be a breakthrough. The Chair asked the Facilitator to explain the text.

256. The Facilitator stated that the night before he had issued a new draft text without alternatives. It was his text. The informal discussions indicated that there was a potential for a breakthrough, particularly around "text-based negotiations". However, it was too early to confirm. It was a delicate moment and he asked Member States to show some flexibility to conclude the work.

257. The Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group, thanked the Facilitator for having prepared a new text. It believed that the protection of GRs, TK and TCEs played a central part in the agenda of WIPO and a mandate to continue text-based negotiations had to be approved. It reaffirmed that the priority was a continuation of text-based negotiations. The Groups understood that multilateralism was anchored by inclusiveness and an appreciation of diversity. The IGC process represented a clear manifestation of both principles. IGC negotiations were about recognizing the moral and economic value and contribution of GRs, TK and TCEs to global development. In order for the international community to maximize the value of these resources and utilize them to their full potential, it was incumbent to create the appropriate protection systems against misappropriation. The WIPO Member States had agreed 15 years ago to initiate discussions towards this goal, culminating in a collective decision in 2009 to mandate the

IGC to engage in text-based negotiations to lead up to international legal instrument(s) for the protection of GRs, TK and TCEs. That mandate had been renewed every two years until 2013. The IGC was at a critical juncture requiring Member States to live up to their commitment to the continuation of negotiations based on the previously agreed mandate, as opposed to throwing away the value and amount of work invested into the process. Failing that, Member States would be casting in a deep shadow of doubt over the credibility of the Organization, which would negatively impact the international IP system as a whole. It was self-evident that the voice of more than two thirds of the membership should not be ignored.

258. The Delegation of Brazil, speaking on behalf of GRULAC, supported the declaration made by the Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group.

259. The Delegation of India supported the declaration made by the Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group.

260. The Delegation of Japan, speaking on behalf of Group B, underlined that the Group had been engaged in the discussions seriously. It was ready to engage in the following consultations with a constructive spirit.

261. The Delegation of China supported the declaration made by the Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group.

262. The Delegation of Romania, speaking on behalf of the CEBS Group, thanked all the facilitators for their important work. Member States had made great progress in understanding each other's concerns, and needed to collaborate so as to move to compromise solutions. It hoped that Member States would be able to have consensual solutions on all agenda items.

263. The Delegation of Oman, speaking on behalf of the Arab Group, thanked the Chair for his effective leadership and the Secretariat for the efforts undertaken in preparing the meeting documents. The General Assembly had adopted a number of decisions with regard to future work. While the Group affirmed the importance of the proposed program and budget for the 2016/2017 biennium with increasing of allocations for development activities, it also affirmed the importance of renewing the mandate of the IGC for another two years on text-based negotiations with the objective of reaching an agreement on an international instrument which would ensure the effective protection of GRs, TK and TCEs. The Group wished to endorse the proposal of the African Group with regard to transforming the IGC into a standing committee, and supported the statement that had been made by the Delegation of Brazil on Saturday, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

264. The Chair reopened Agenda Item 17 and gave the floor to the Facilitator.

265. The Facilitator reported that there was consensus on the text of a draft decision on the mandate of the IGC as a result of positive and flexible contributions by all Member States, which had demonstrated a significant willingness to compromise. However, there was no consensus on a subordinate element which was the number of days allocated to the work program, even though those were budgeted for. The Facilitator believed that Member States needed to carefully consider the consequences of the issue, their credibility as Member States, and how that would be viewed outside the Organization, particularly among the key stakeholders, including indigenous peoples. He pointed out that, after a considerably intensive facilitation process, agreement had been reached on the substance of the mandate, paragraphs (a) to (h), but not on the number of days. Unfortunately, because of that, over 15 years of work were potentially being thrown away. If the General Assembly was not to agree on the mandate, the consequences of the 12 months during which the IGC had been suspended, plus a further two years of non-renewal, were serious. The likelihood of reopening those issues after three years

would be at serious risk. The Facilitator stressed that all Member States had agreed on the substance of the mandate. There was only no agreement on a few days in a biennium. Member States needed to seriously consider if that was the message that they wanted to give to the outside world. He recognized that all sides had been flexible throughout the process and had shown significant willingness to reach a compromise. He wished to present the text to the plenary to be considered and requested that all Member States seriously reconsider the issue to see if a compromise could be reached. Some of the negotiations on the DLT might assist. He pleaded with Member States and highlighted that it was a serious issue in relation to the credibility of WIPO.

266. The Chair stated that the idea was to put forward for consideration the decision proposed by the Facilitator, copies of which had been distributed. He asked whether Member States were ready to adopt it or not.

267. The Delegation of the United Kingdom requested some time to allow the European Union and its member states to gather and look at the new proposal.

268. The Chair clarified that the proposal was not new.

269. The Delegation of the United Kingdom pointed out that it had just received the copy. It asked whether it was the same proposal that had been on the table before all the consultations had taken place.

270. The Chair asked the Facilitator to confirm whether it was the last version.

271. The Facilitator confirmed that it was the same draft (the fourth draft) as had been discussed in informal consultations. He highlighted that the text had been agreed by Member States. The only outstanding issue was essentially around the work program in relation to how many days would be allocated during the biennium. He noted that, in comparison with 2014, the number of days had been reduced by four.

272. The Chair put that draft forward for agreement.

273. The Delegation of Romania, speaking on behalf of the CEBS Group, pointed out that many issues had been discussed during the last days of negotiation on the renewal of the mandate of the IGC. The Group had progressively shown flexibility and accepted the renewal of the mandate of the IGC. It had accepted text-based negotiations, though that had not been its preliminary position. It had accepted to work based on previous documents, so that the work which had been done so far would not be discarded. It had also accepted to consider the proposal that had been put forward by one of the groups to convert the IGC into a standing committee, though that had not been its preliminary position. The Group believed that it had made a considerable number of concessions. Regarding the number of days, the text proposed six sessions. It had been, for a while, a practice in WIPO to have two sessions per year to discuss different topics that were of great importance. The Group wondered why the IGC should depart from that practice. That had been done in the past, because the Group had shown flexibility, though it was not its request. However, so far it had not seen effective discussions in the IGC, even with a greater number of days. The Group could accept the renewal of the IGC mandate, but it could not agree with the number of days allocated in the work program, because it believed that having equal treatment to all committees was a reasonable position.

274. The Delegation of Brazil, speaking on behalf of GRULAC, stated that the ideas for the work program had been taken mainly from the proposal of GRULAC. Its proposal organized the work in a more effective way, requiring fewer days when compared to the practice of the IGC meetings. It also noted that, in a biennium, the IGC would usually have 36 days of meetings,

but with the current proposal the IGC would meet for 32 days. By explaining the reasoning behind the proposal, the Group made a call on the CEBS Group to show flexibility. GRULAC had exercised flexibility on many issues, and it noted that a decision regarding external offices had just been gavelled, which had required extreme flexibility from the Group. It requested the same kind of flexibility of other groups in order to have a good outcome on the IGC.

275. The Delegation of Nigeria, on behalf of the African Group, thanked the Facilitator for his excellent facilitation. For the African Group, the Facilitator's draft was not the best text, but it believed that it had provided a level of comfort for all delegations. It was a consensus text and the Group hoped that the text could be adopted. It would be difficult to understand that a question of five days was restricting Member States from taking an important step in an area that was critical for the moral, sociocultural and economic rights of indigenous peoples and local communities. It endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, and asked the CEBS Group to reconsider its position.

276. The Delegation of Romania, speaking on behalf of the CEBS Group, explained that its proposal was to have two sessions per year, accompanied by up to four days for seminars. It noted that, in its initial proposal, the seminars could be included within the sessions, so the Group had showed flexibility. If those days were to be counted, this would amount to 28 days. It also wondered what the difference was between 28 days and 32 days.

277. The Delegation of India wished to place on record its sincere appreciation to the Facilitator for his hard work and the amount of faith he had reposed in all delegations making compromises. It explained that each of the three subject matters would be discussed in two IGC sessions, which would be totally 10 days per subject matter in a biennium. That was how the program had been structured. Seminars would be under Program 4 for which budgets had already been allocated. It was important that Member States moved forward on a very important decision which a large number of Member States were really looking forward to. It hoped that four days should not be the problem.

278. The Delegation of Indonesia, speaking on behalf of the LMCs, expressed its appreciation for the work of Mr. Goss and aligned itself fully with the positions expressed by the Delegation of Brazil, on behalf of GRULAC, the Delegation of Nigeria, on behalf of the African Group, and the Delegation of India.

279. The Delegation of Côte d'Ivoire expressed its support for the statement by the Delegation of Nigeria, on behalf of the African Group.

280. The Delegation of Greece stated that, given the starting point that it had had at the beginning of the negotiations and where Member States had reached, it found the request for 28 days for the IGC sessions totally justifiable. It reversed an argument made previously by asking whether it would make any difference to have four days less.

281. The Delegation of Spain thanked the Facilitator for all his efforts in facilitating a draft decision. The Delegation was aware that negotiations had not been easy. It appreciated the Facilitator's perseverance and patience. Bearing in mind all what it had heard, as well the agreements that had been reached regarding the external offices and the proposed Program and Budget for 2016/2017 biennium, the Delegation could support what was proposed. It was pointless to continue the discussions over and over, and hoped that the same spirit would prevail regarding the discussions that were taking place regarding the DLT.

282. The Delegation of Nigeria, on behalf of the African Group, wished to contextualize the work that was done in WIPO Standing Committees as compared with the IGC. The number of days for the IGC should be considered differently. The Delegation recalled that the IGC had worked 36 days during the most recent biennium and wondered why some delegations needed

to reduce the number of days. The Group thought it was unfair to compare the IGC with standing committees from such perspective. Four more days would make a difference, since it would give the IGC time to reach a common understanding, as it was proposed by the CEBS Group among others. It urged, therefore, the CEBS Group to reconsider its position in order to allow a decision to be taken on such an important subject.

283. The Delegation of Romania, speaking on behalf of the CEBS Group, said that it was able to agree on the renewal of the mandate of the IGC. However, it believed that since there was clearly no agreement on the number of days, the mandate should keep silent on that particular aspect.

284. The Chair observed that there was still no agreement on the proposal made by the Facilitator. He said that, since time was running out, the General Assembly needed to conclude on this agenda item and take note of the disagreement. He acknowledged though that delegations were still asking for the floor. He would allow those delegations to do so, but urged them to keep their statements short.

285. The Delegation of China reminded that it had taken an active part in the negotiations and had demonstrated a great deal of flexibility. It noted that the present proposal was the result of many consultations and much effort. The gap to be filled in was very small. The Delegation believed that six IGC sessions would help Member States discuss the three very important topics. It would be really regrettable to give up at this juncture. The Delegation urged all parties to make a last effort, so that the General Assembly could take a decision that would be satisfactory to all.

286. The Delegation of India requested that the plenary be briefly suspended in order to facilitate through informal discussions among delegations.

287. The Chair allowed for a short suspension of the plenary.

288. The Chair reopened Agenda Item 17. He referred to the most recent draft decision proposed by the Facilitator, of which written copies had been distributed among all delegations. He reported that following informal discussions, it was proposed, within the proposed work program for the IGC for 2016/2017, to reduce the number of days of the IGC sessions that would take place in June/July 2017, to five days, compared to seven days in the original proposal made by the Facilitator. The Chair submitted the proposed draft decision, with that adjustment, for the Member States' agreement, and it was approved. The Chair thanked delegations for their constructiveness and flexibility in achieving such a result, and welcomed the impetus that such a decision would give to the normative work of WIPO. He then closed Agenda Item 17.

289. Bearing in mind the Development Agenda recommendations and acknowledging the progress made, the WIPO General Assembly agrees that the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Committee) be renewed, without prejudice to the work pursued in other fora, as follows:

- (a) The Committee will, during the next budgetary biennium 2016/2017, continue to expedite its work, with a focus on narrowing existing gaps, with open and full engagement, including text-based negotiations, with the objective of reaching an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).

- (b) The Committee's work in the 2016/2017 biennium will build on the existing work carried out by the Committee with a primary focus on reaching a common understanding on core issues, including definition of misappropriation, beneficiaries, subject matter, objectives, and what TK/TCEs subject matter is entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.
- (c) The Committee will follow, as set out in the table below, a clearly defined work program, based on sound working methods, for the 2016/2017 biennium. This work program will make provision for 6 sessions of the Committee in 2016/2017, including thematic, cross-cutting and stocktaking sessions. The Committee may decide to establish an expert panel(s) and hold further Ambassadorial/Senior Capital-Based Officials meetings during future Committee sessions.
- (d) The Committee will use all WIPO working documents, including WIPO/GRTKF/IC/28/4, WIPO/GRTKF/IC/28/5 and WIPO/GRTKF/IC/28/6, as well as any other contributions of member states, using an evidence-based approach, including studies and examples of national experiences, including domestic legislation and examples of protectable subject matter and subject matter that is not intended to be protected; and outputs of any expert panel(s) established by the Committee and IGC-related seminars and workshops conducted under Program 4. However, examples, studies, seminars or workshops are not to delay progress or establish any preconditions for the negotiations.
- (e) Taking note of the utility served by the 2015 WIPO seminars on IGC-related subjects, provision shall be made for the Secretariat, under Program 4, to organize inter-sessional seminars and workshops to build regional and cross-regional knowledge and consensus on issues related to IP and GRs, TK and TCEs with a focus on unresolved issues.
- (f) In 2016, the Committee is requested to provide, for information only, a factual report to the General Assembly on its work up to that time, and in 2017, submit to the General Assembly the results of its work on an international legal instrument(s) relating to intellectual property which will ensure the balanced and effective protection of GRs, TK and TCEs. The General Assembly in 2017 will take stock of progress made, and decide on whether to convene a diplomatic conference or continue negotiations. It will also consider the need for additional meetings, taking account of the budgetary process.
- (g) The Committee may also consider the conversion of the Committee into a Standing Committee and, if so agreed, make a recommendation in this regard to the General Assembly in 2016 or 2017.
- (h) The General Assembly requests the International Bureau to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula for the IGC.

Work Program – 6 Sessions

Indicative Dates	Activity
February/March 2016	(IGC 29) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Elaborate an indicative list of outstanding/pending issues to be tackled/solved at the next session on GRs Duration 5 days.
May/June 2016	(IGC 30) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
September 2016	(IGC 31) Undertake negotiations on TK with a focus on addressing unresolved issues and considering options for a draft legal instrument Elaborate an indicative list of outstanding/pending issues to be tackled/solved at the next session on TK Duration 5 days.
September 2016	WIPO General Assembly Factual report
November/December 2016	(IGC 32) Undertake negotiations on TK with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
March/April 2017	(IGC 33) Undertake negotiations on TCEs with a focus on addressing unresolved issues and considering options for a draft legal instrument Elaborate an indicative list of outstanding/pending issues to be tackled/solved at the next session on TCEs Duration 5 days.

June/July 2017	(IGC 34) Undertake negotiations on TCEs with a focus on addressing unresolved issues and considering options for a draft legal instrument Stocktaking session and making a recommendation Duration 5 days.
September 2017	WIPO General Assembly will take stock of and consider the text(s), progress made, and decide on whether to convene a diplomatic conference or continue negotiations. It will also consider the need for additional meetings, taking account of the budgetary process.

ITEM 18 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE COMMITTEE ON WIPO STANDARDS (CWS)

290. Discussions were based on document WO/GA/47/13.

291. The Secretariat recalled that the WIPO General Assembly meeting of last year discussed pending issues of the Committee on WIPO Standards (CWS). All delegations that took the floor agreed to make additional efforts to overcome the difficulties facing the CWS, because the fourth session of the CWS, held in May last year, was adjourned without formalizing the result of discussions. This was due to the lack of consensus on one agenda item. Since the last General Assembly meeting, regional group coordinators and other interested delegations held informal consultations, which were facilitated by the Vice Chair of the CWS, Ambassador Suescum of Panama. Despite all efforts, there was no consensus on the agenda and it was not possible to convene a meeting of the CWS this year. The Secretariat indicated that, as instructed by the decision made at the General Assembly in 2011, the document included a written report prepared by the Secretariat on the details of activities undertaken by the Secretariat for technical assistance and capacity-building in the area of WIPO Standards. This report should have been sent to a meeting of the CWS but, since there was no CWS meeting this year, the report was included in this document. The Secretariat indicated its belief that the prolonged interruption of the meetings of the CWS jeopardized the accomplishment of the expected results of Program 12. Paragraphs 15 and 16 of the document explained the negative impact on the delivery of WIPO's services in the area of technical standards and other related areas. In order to resolve the issue and to resume the CWS meeting, the Secretariat urged Member States to reach consensus on the pending matters. The Secretariat stated that it would be pleased to assist the Facilitator, to organize consultations before the end of this year to reach an agreement which would allow the Secretariat to convene the adjourned fourth session as early as in the first quarter of 2016. The Secretariat further stated that it would proceed to an alternative formalization process by correspondence or electronic means should there be no consensus on the pending matters.

292. The Delegation of Japan, speaking on behalf of Group B, thanked the Facilitator for his efforts to seek a solution, as well as the Secretariat for its hard work, despite this uncertain and regrettable situation over the past year, including the preparations for this General Assembly. Group B expressed its serious concerns about the situation where the interruption of the CWS meetings jeopardized the accomplishment of the expected outcomes of Program 12. Substantive progress to achieve the expected results should not be held hostage to other

purposes not linked to the mandate of the Committee. The Delegation noted that the Secretariat had underlined that WIPO standards were used by IP offices and by the Secretariat in its essential role in global protection systems and that a delay in approval and implementation of WIPO standards would create problems in the exchange of IP data and documentation among IP offices and the Secretariat. The Delegation stated that this was a fundamental issue for both developing and developed countries because it would also cause problems for IPAS, used in an increasing number of offices in developing countries, and for the provision of advice on modernization to offices in developing countries. The Delegation affirmed its support of any measures and any attempts by the Secretariat to save this critical situation and expressed its difficulty in understanding why this Committee had to suffer from this kind of situation even when no similar agenda requests had been observed at any other committees all through the years. The Delegation concluded by expressing its willingness to be open for discussion on issues that the other groups wanted to discuss in a manner which should not give prejudice to the outcome of the discussion. The Delegation finally stated that Group B would strongly appeal to all Member States to fulfill their responsibilities by letting the CWS work in a normal manner in line with its mandate.

293. The Delegation of Nigeria, speaking on behalf of the African Group, recognized the stalemate that existed in the CWS and thanked the Facilitator for his efforts in trying to reach agreement between Member States so that the CWS could commence its work. The Delegation reiterated the view of the African Group that they witnessed a norm setting effect in the work of the CWS and, for that reason, the African Group believed that the CWS should be able to report on the DA recommendations. The Delegation further stated that it was for this core reason that it had not been possible to reach an agreement on progressing the CWS. The Delegation asked for clarification from the Secretariat on the meetings held by expert committees, the task forces of the CWS and on the status of the discussions held and recommendations made, and whether those recommendations had been adopted or if they were pending resumption of CWS negotiations.

294. The Delegation of the Republic of Korea wished to extend its thanks to the Secretariat and the Facilitator of the informal consultations for their sincere efforts to make progress on this agenda. The Delegation recalled that a technical standard was the guidance for any organization to follow in establishing or implementing its systems. The standards were also inevitable factors in attaining efficiency and convenience for the system users. Without technical standards, there could be no proper progress for any organization. The Delegation wished to remind the General Assembly that the CWS was the only body to discuss establishment of technical standards within WIPO and, as such, it was not desirable that this important and cutting edge Committee could not work properly due to arguments on other issues. The Delegation believed that all committees had their own purpose or mission and their function should be protected and respected as much as possible. From this perspective, the Delegation urged all Member States to be positive and supportive on resuming this Committee with its own agenda as soon as possible.

295. The Delegation of Iran (Islamic Republic of) expressed the opinion that, since the establishment of the CWS, its meetings had turned into controversial meetings. It was unfortunate that after so many efforts and endeavors of Member States and the Secretariat to mainstream development in all WIPO works and activities, some countries were in denial of the nature of the CWS's work. The CWS's mandate required the Committee to take into account development concerns in its work, in particular, in the area of technical assistance and standards setting. The Delegation declared that the fact that the main task of the CWS was standard setting and developing new standards for the benefit of IP offices, which was an important norm setting activity, it was, therefore, the case that this process should be bound by Cluster B of the DA recommendations, mainly taking into account the needs and priorities of developing countries and the differing levels of development. The Delegation reiterated that, in other words, the issue of developing standards for the benefit of IP offices should not be

development neutral; by contrast, they should be development sensitive ones. The Delegation further stated that it had always been of the view that the CWS was among the most relevant committees in this regard, and should report on its contribution to the effective implementation of the DA to the General Assembly, particularly with regard to the DA recommendations on technical assistance and capacity building and the recommendations concerning norm setting. The Delegation wished to encourage all Member States to try to accept the DA as a fact and a necessity, and to engage constructively and with flexibility in the process in order to agree on an effective and simple mechanism that would allow the CWS to develop its work in full compliance with the DA recommendations.

296. The Delegation of Romania, speaking on behalf of the CEBS Group, thanked the Facilitator for his facilitation efforts on this item and acknowledged its regret that the Committee had suspended its work because of lack of agreement on the agenda. The Delegation stated that, in its view, agreeing on technical standards was not a DA issue, and that work of this Committee was of benefit to all countries, irrespective of their level of development. The Delegation declared that all would lose if a way to move forward could not be found. In order to create a more favorable framework for the next discussions, the Delegation supported the presentation by the Secretariat on the role and contribution of the Committee to the work of national offices all around the world. The Delegation expressed the hope that a way out of the current stalemate could be found.

297. The Delegation of Brazil, speaking in its national capacity, thanked the Secretariat for its report, and expressed its gratitude to the Facilitator. The Delegation wished to highlight the importance of this issue for implementation of the DA activities carried out by that Committee. Among those activities were those related to technical assistance, which was dealt with in a specific cluster of the DA recommendations which made evident the relevance for DA implementation. The Delegation, in conclusion, supported the efforts to find a solution for this issue and expressed its hope that the work of the Committee could restart soon in a way that did not prevent the full implementation of the coordination mechanism.

298. The Delegation of the United States of America thanked the Secretariat for the report, expressed gratitude to the Facilitator for trying to find a way forward on the issue, and aligned itself with the statement of Group B. The Delegation noted that the lack of resolution of the issues from the fourth session seriously hindered progress on the work and goals of the CWS. For example, it prevented the formal adoption of ST. 26, a key standard for genetic sequence listings codification in patent documents. The Delegation believed that the work of the CWS was essential to the planning and development of IT systems at IP offices, and noted the International Bureau's efforts to improve, develop and implement WIPO standards that enabled IP institutions to work more efficiently, collaborate more effectively and provide better services to all stakeholders. The Delegation sincerely hoped the issue could be resolved so that the progress of the work of the CWS would no longer be hindered.

299. The Delegation of South Africa aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation expressed its regret, like many other countries, that the consultations failed to yield a desirable outcome and its failure was indicative of the diverse views expressed by Member States, such as Brazil and Iran (Islamic Republic of). The Delegation was concerned with the fact that the CWS undertook norm setting work, which set the standards for IP offices in both developed and developing countries, and the Delegation believed this work should be in line with Cluster B of the DA. The Delegation wished, however, to reiterate its efforts to be constructive and find a solution to the problem.

300. The Delegation of Japan, speaking in its national capacity, associated itself with the statement made on behalf of Group B. The Delegation reiterated that the CWS played an important role in developing WIPO Standards that enabled information to be effectively passed on all over the world. The Delegation stated that, at the same time, WIPO Standards were very

technical, so it was very important to establish a place for experts to discuss them. The Delegation further stated that, in this regard, it was very regrettable that no formal session of the CWS had been held since the formal session of May last year, and that the necessary adoption of WIPO Standards had not been made. The Delegation supported any meeting by the Secretariat to resolve this situation and hoped that all Member States and the Secretariat would cooperate with each other since WIPO Standards were essential elements of the global IP infrastructure, which was critical not only for developed countries, but also for developing countries, in terms of facilitating the utilization of IP information.

301. The Delegation of Cuba noted the importance of a session with regard to the inclusion of the DA in the context of this Committee, bearing in mind that some of the recommendations in the DA corresponded to the capacities of national offices, including access to information based on development standards.

302. The Delegation of India expressed the belief that the process of standard setting was of immense importance from the point of view of WIPO global protection systems. Therefore, in cooperation with the committees, the contribution in mainstreaming of the DA was also considered extremely important from the point of view of the developing countries. In this context, the Delegation wished to emphasize the importance of the technical assistance and capacity building for developing countries and LDCs in order to effectively participate in the Committee's work as well as the implementation of its outcome.

303. The Delegation of Mexico took note of the work done by the different task forces and welcomed the adoption of Standard ST 3, two letter codes for country names. The Delegation also welcomed the activities under Program 12 according to which the Secretariat continued to provide assistance to the Facilitator and members of the CWS to organize informal consultations between regional coordinators and other interested delegations. The Delegation pointed out that it was both a provider and receiver and provided all possible support to technical innovation and support centres making it possible to use seminars and Internet sessions to provide users in developing countries and LDCs with basic information on WIPO technical standards and use of IP. In conclusion, the Delegation looked forward to progress being made in negotiations on outstanding issues.

304. The Delegation of Nigeria, speaking in its national capacity, endorsed the position of the African Group. The Delegation commended the work done by the Committee and recognized its benefits to all member countries. All WIPO Member States effectively benefited from the advance work undertaken by the CWS. The Delegation remained ready to engage in constructive discussions to resolve all the outstanding statements.

305. The Delegation of the Ukraine expressed its concern at the long suspension of the work of CWS which threatened the achievement of possible results. The Delegation aligned itself with the concerns expressed by other delegations. The lack of adoption and implementation of standards meant problems with documentation being exchanged between the Secretariat and national offices would occur. If the technical standards did not appear on time, then this complicated the provision of services to IP offices in developing countries and their modernization projects. The Delegation hoped that there would be a prompt solution of the problem and supported all the work of the Secretariat aimed at reaching a consensus.

306. The Delegation of Indonesia aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group, and wished to associate itself with the statements made by the Delegations of Nigeria, South Africa, as well as of Brazil and Iran (Islamic Republic of). The Delegation supported the proposal made by the Delegation of Mexico to hold informal meetings to be attended by regional coordinators and all interested countries.

307. The Secretariat thanked all the delegations which spoke in support of the work of the CWS and appreciated their firm engagement to have continued consultations to resume the work of the CWS. In response to a question raised by the Delegation of Nigeria, on behalf of the African Group, concerning the status of the work undertaken by task forces, the Secretariat clarified that all works undertaken by task forces were for improvement of drafts of standards and in order to finalize their work, as mentioned in paragraphs 12 and 13 of the document on pending works of task forces. Task force work needed to be formally adopted by the CWS.

308. The WIPO General Assembly took note of the “Matters Concerning the Committee on WIPO Standards” (document WO/GA/47/13).

ITEM 24 OF THE CONSOLIDATED AGENDA

WIPO ARBITRATION AND MEDIATION CENTER, INCLUDING DOMAIN NAMES

309. Discussions were based on document WO/GA/47/14.

310. The Chair raised Agenda Item 24 on the WIPO Arbitration and Mediation Center (Center), including Domain Names. The Secretariat noted that the document for the General Assembly provided an update on the Center’s activities as an international resource for time- and cost-efficient alternatives to court litigation of IP disputes. The Center administered cases and provided legal and organizational expertise in alternative dispute resolution (ADR). The Secretariat further noted that the document also provided an update on the domain name related activities of WIPO, covering the Center’s administration of domain name disputes especially under the Uniform Domain Name Dispute Resolution Policy (UDRP). The Secretariat noted that the document furthermore covered policy developments, including rights protection mechanisms for new domains, the planned review by the Internet Corporation for Assigned Names and Numbers (ICANN) of the UDRP, and the status of the recommendations made by the Member States in the context of the Second WIPO Internet Domain Name Process.

311. The WIPO General Assembly took note of the document “WIPO Arbitration and Mediation Center, including Domain Names” (document WO/GA/47/14).

ITEM 25 OF THE CONSOLIDATED AGENDA

PATENT LAW TREATY (PLT)

312. Discussions were based on document WO/GA/47/15.

313. The Chair welcomed Spain and the United States of America, which were the two new Contracting Parties to the Patent Law Treaty (PLT) since the previous ordinary session of the General Assembly in 2013.

314. The Secretariat introduced document WO/GA/47/15. It stated that the document contained the activities of WIPO which facilitated filing of communications in electronic form in developing countries, LDCs and countries in transition, reflecting item 4 of the Agreed Statements by the Diplomatic Conference for the Adoption of the PLT.

315. The WIPO General Assembly took note of the “Cooperation under the Agreed Statements by the Diplomatic Conference Regarding the Patent Law Treaty” (document WO/GA/47/15).

ITEM 27 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE ADMINISTRATION OF THE GENEVA ACT OF THE LISBON AGREEMENT

316. Discussions were based on document WO/GA/47/3.

317. The Delegation of the United States of America introduced its proposal, as contained in the document. The Delegation believed that the WIPO Convention required the broader WIPO membership to consider measures to implement the Geneva Act. The purpose of the proposal was the strengthening of WIPO and especially the cooperation among its unions. WIPO was established as an umbrella Organization to administer the Berne Convention and the Paris Convention and the special unions established in relation to the Paris Convention and other IP agreements. The Delegation said that WIPO administered 25 treaties and 20 unions. The WIPO structure had ensured flexibility and coherence by maintaining the autonomy of the unions while guaranteeing overall coherence. WIPO and the various unions and agreements were closely connected through a number of legal and procedural mechanisms ensuring stability of the whole structure. The WIPO Convention required the Coordination Committee to approve cooperation agreements with non-WIPO Members, as stipulated in Article 13(1). The Coordination Committee included the members of the Paris and Berne Union Executive Committees. Therefore, the Delegation considered logical that allowing a non-WIPO Member to join a WIPO-administered treaty required consideration of WIPO organs that went beyond the assembly of one small union. The Delegation clarified that the proposal requested that the Director General propose measures for the implementation of the Geneva Act, so that these measures could be fully considered by the WIPO General Assembly, the Paris Union Assembly and the Berne Union Assembly and these bodies could decide whether to approve them. The Delegation believed that even special agreements under the Paris and Berne Unions that had been adopted after the WIPO Convention was established in 1967 required the approval of the broader WIPO membership. The Delegation said that this was certainly the case for special unions expanding their membership to include non-WIPO Members, non-Paris and non-Berne members. Most, if not all, the previous agreements were negotiated amongst the broad WIPO membership, or with a purpose of admitting the broader membership, and no WIPO Member State had objected to WIPO assuming the administrative tasks or the administration of these agreements. By way of example, the Madrid Protocol had been specifically negotiated with a purpose of admitting several non-Madrid members and a non-WIPO Member. The situation of the Geneva Act was quite different. This agreement was adopted without the full participation of over 85 per cent of WIPO membership, over the objection of numerous Member States. The Delegation said that there was ample precedent for obtaining explicit approval. The General Assembly had approved the administration of numerous IP agreements since its first meeting in 1970, including the Rome and the International Union for the Protection of New Varieties of Plants (UPOV) Conventions and the Strasbourg Agreement Concerning the International Patent Classification among others. The Delegation believed that the question of the administration of the Geneva Act of the Lisbon Agreement must therefore be placed before the appropriate decision-making bodies of WIPO in accordance with the WIPO Convention. From an institutional perspective, it was troubling to consider that a small subset of WIPO Members could be given the power to obligate the Organization's resources without review by the Organization as a whole. The Delegation believed that the Geneva Act was a new international agreement whose administrative tasks could be assumed by the Organization if so decided. For allowing WIPO to take on that role, however, the Director General must propose measures to implement the agreement for consideration by the WIPO Assemblies and the Assemblies of Paris and Berne Unions. Therefore, the Delegation requested that process to take place before the implementation of the provisions of the Geneva Act by the Organization. The Delegation said that, even assuming that a special union was automatically administered by the Organization under the WIPO Convention, it could not agree that the new Lisbon Union, as established by the Geneva Act, was a special union established in relation to the Paris Union.

Merely because it had the same name as the original Lisbon Union, it did not render it the same legal entity. The new Lisbon Union had different members, or would have different members, and was established by a different agreement. The budgets of the Lisbon Union had different potential funding sources and different entities entitled to make decisions as to the use of those sources. The Delegation said that, even on a more practical level, it should not be assumed that all self-declared special unions were automatically administered by WIPO without any analysis of whether such an outcome was acceptable to the Organization as a whole. The Delegation considered it a dangerous precedent to read the WIPO Convention as requiring the Organization to perform all administrative tasks determined solely by a special union, especially one composed of a small set of WIPO Members.

318. The Delegation of Uruguay said that the issue under discussion was of great importance and concern for its country. The Delegation supported the proposal put forward by the Delegation of the United States of America in document WO/GA/47/3.

319. The Delegation of Israel said that the Geneva Act was a new union established under another international agreement, as defined in Article 4(3) of the WIPO Convention. As such, WIPO's administration of the new Act required consideration and approval by the appropriate WIPO bodies. Therefore, the Delegation supported the proposal put forward by the Delegation of the United States of America in document WO/GA/47/3. The Delegation considered that a small subset of WIPO Members could not obligate WIPO resources to perform such functions without review and approval of the Organization as a whole.

320. The Delegation of France noted that the Delegation of the United States of America was asking that the Lisbon Union not be considered a special union to be administered by WIPO. The Delegation could not support that request. The Delegation recalled that Article 2 of the WIPO Convention covered the administrative measures of those unions associated to the Paris Union. Also Article 1 of the Lisbon Agreement specified that the Lisbon Union was a special union within the framework of the Paris Union and Article 21 of the Geneva Act specified that its Contracting Parties would belong to the same Special Union as the States party to the Lisbon Agreement. Therefore, it was clear that there was no change in the status of the Lisbon Union as a special union administered by WIPO.

321. The Delegation of the Republic of Korea believed that the proposal from the Delegation of the United States of America was worth consideration for the future of the Organization. The Delegation also asked the opinion of WIPO Secretariat on the proposal.

322. The Delegations of Bulgaria, the Czech Republic, the Democratic People's Republic of Korea, Georgia, Hungary, Iran (Islamic Republic of), Italy, Montenegro, Portugal, Slovakia, Switzerland and Togo supported the statement made by the Delegation of France.

323. Upon pointing out that the positions expressed so far had largely emanated from the Lisbon membership, the Delegation of the United States of America noted with satisfaction that the Delegations of Uruguay and Israel had supported the proposal contained in document WO/GA/47/3. The Delegation further reiterated that the Director General would not be required to have the recommendation of the General Assembly to take the action that was required by the WIPO Convention and that he could be doing so "sua sponte". As it had already indicated in previous interventions, the Delegation also noted that the Lisbon membership had given the union created by the Geneva Act the same name as the name of the union created by the Lisbon Agreement, namely the Lisbon Union, even if the two unions could have an entirely different membership. In that connection, the Delegation pointed out that, if things had been different, the United States of America could have been part of that new Geneva Act membership. The Delegation went on to say that having the same name for two different legal entities, with two different budgets and voting rights with respect to those budgets, also supported the conclusion that the new union established by the Geneva Act was not a Special

Union. In addition to the response to the question previously raised by the Delegation of the Republic of Korea, the Delegation also sought confirmation from the Secretariat of its understanding that the membership of the Special Union established by the Geneva Act could have an entirely different membership than the Lisbon Union itself.

324. The Director General said that the Secretariat had no competence to interpret international treaties. Hence, the Secretariat would listen to Member States and would be guided by their views about the matter under consideration.

325. The Chair announced that Agenda Item 27 "Matters Concerning the Administration of the Geneva Act of the Lisbon Agreement" would remain open pending informal consultations (being undertaken together with related issues covered under other agenda items).

326. During the session, the Chair provided regular updates on the evolution of those informal consultations to the plenary of the Assemblies, including the Assembly of the Lisbon Union. The updates are reported under Agenda Item 11 "Report of the Program and Budget Committee".

327. The WIPO General Assembly considered document WO/GA/47/3 and did not reach consensus.

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