

WIPO General Assembly

Forty-Eighth (26th Extraordinary) Session Geneva, October 3 to 11, 2016

REPORT

adopted by the General Assembly

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/56/1): 1, 2, 3, 4, 5, 6, 8, 9(i), 9(iii), 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 29, 30 and 31.
2. The reports on the said items, with the exception of items 8, 9(i), 9(iii), 11, 12, 13, 14, 15, 16, 17, 18, 23 and 29 are contained in the General Report (document A/56/17).
3. The reports on items 8, 9(i), 9(iii), 11, 12, 13, 14, 15, 16, 17, 18, 23, and 29 are contained in the present document.
4. Ambassador Jānis Kārklīņš (Latvia) was elected Acting Chair of the General Assembly; and Mr. Juan Raúl Heredia Acosta (Mexico) was elected Acting Vice-Chair.

ITEM 8 OF THE CONSOLIDATED AGENDA

NEW ELECTORAL CYCLE OF THE WIPO GENERAL ASSEMBLY OFFICERS

5. Discussions were based on document WO/GA/48/14 Rev.

6. The Delegation of Latvia (author of the proposal contained in the document) explained that the main underlying idea of the proposal was to enhance the intergovernmental process in WIPO and to improve preparations for the WIPO Assemblies. In essence, the Delegation explained that the proposal would imply that the most important event during the time in office of the officers would take place at the end of their tenure and not at the beginning, as was currently the case. This would allow the Chair and Vice-Chairs enough time to prepare for the General Assembly meeting and would be personally motivated to do their utmost in order to have the best possible Assembly meeting. Moreover, the discussions held during the Assemblies had technical and procedural challenges such as the questions arising from Committees, Unions, budgetary or governance questions which meant that, for the delegates following WIPO, it was one of the most challenging meetings of the year. Every Committee and every single issue in the Organization had its own history. In addition, there were specific regional group dynamics. The Delegation believed that a prepared Chair for the General Assembly could facilitate consensus building and decision making processes more effectively. While preparing for the Assemblies, the Chair could learn and better understand the complexities of the WIPO intergovernmental process. For the above mentioned reasons, the Delegation of Latvia proposed to change the officers' election cycle. It announced that it had held two rounds of informal consultations with interested delegations. Those consultations led to modification of the initial proposal that was reflected in the revised document. The Delegation stated that during those consultations it had not had any objections to the proposal in principle, as most questions were about its implementation. Therefore, it proposed to proceed in two steps, that is, to agree first on the principle and then develop the technical and procedural modalities of the implementation, allowing their adoption during the 2017 WIPO Assemblies. In conclusion, the Delegation hoped that the General Assembly would be able to support the draft decision outlined in the document.

7. The Delegation of Poland thanked the Delegation of Latvia for the proposal to modify the election cycle of the WIPO General Assembly officers, as well as for the consultative process that was just put in place to explain the rationale. The Delegation expressed its support for the proposal to improve the process in the Organization to ensure well organized preparation of the Assemblies which would considerably contribute to increase the efficiency of those Assemblies.

8. The Delegation of Latvia, speaking on behalf of the Central European and Baltic States (CEBS) Group, thanked the Delegation of Latvia for the proposal for the modification of the election cycle of officers and the consultative process that was put in place to explain the rationale of the proposal. The Group saw lots of merits in the proposal which aimed to improve the process in the Organization and ensure well organized and prepared General Assembly meetings. It observed that as every international organization, WIPO had specific dynamics, highly technical discussions and, in the Delegation's opinion, the proposal would allow the officers to steer and facilitate the preparatory process which would ensure better quality outcome of the Assemblies' meetings. Its Delegation would actively engage in the modalities of the implementation of the proposal.

9. The Delegation of Mexico also thanked the Delegation of Latvia for the presentation of the proposal and said that its Delegation believed that the initiative had its merits, it would have a positive effect on the operations of the Organization and especially of the Assemblies because it would facilitate and strengthen the work of the Chair. The practice that was proposed that the Chair of the General Assembly could only start work at the end of the ordinary session so that he or she would have the full year so as to work with the Secretariat and all other actors to

prepare the following General Assembly was already utilized in many other multilateral organizations where they had seen its advantages. With regard to the ways and means in which to implement the proposal if the Assembly adopted the proposal, it believed that the Member States would find a way to reach an agreement. Its Delegation was prepared to contribute constructively to that task.

10. Speaking in its national capacity, the Delegation of Chile thanked the Delegation of Latvia for its proposal and explanation, as well as for the informal consultations that had been held. Its Delegation valued the basis of the proposal and expressed its support for continuing the dialogue so that Member States could see the best way to organize their work and to assess the decisions that could be taken on the issue. The Delegation said that it was also prepared to listen to other delegations and Groups and to hear their opinions on this proposal.

11. The Delegation of Nigeria, speaking on behalf of the African Group, expressed its thanks to the Delegation of Latvia for the proposal that had been put forward and also for the consultations that had been held to try to explain the idea behind the proposal. The African Group had considered the proposal and there were different views within the Group: some had questions regarding any conflict the proposal may have with the rules of procedure, and others felt that perhaps the way that the system had operated could still suffice to meet the gaps in the proposal put forward. In that regard, its Group did not have a common position on the issue and requested that Member States of the African Group that had views to kindly take the floor to express them.

12. Noting no further requests for the floor, the Chair asked whether the General Assembly would be in a position to adopt the decision that was outlined in the document in order to enhance the intergovernmental process and improve preparation for the WIPO General Assembly meetings as follows:

“the General Assembly decided (i) to modify the electoral cycle of the officers, the Chair and two Vice Chairs, such that their term of office begins at the end of the WIPO Ordinary General Assembly session; (ii) to initiate informal consultations facilitated by WIPO General Assembly Chair or his designate for the above mentioned decision with the view to their adoption during the 2017 WIPO General Assembly”.

13. The Delegation of Greece, speaking on behalf of Group B, expressed its thanks to the Chair and the Delegation of Latvia for the proposal and welcomed its aim to smoothing the functioning of the WIPO General Assembly through proposing some changes to the mandate of its Chair. The Delegation believed that there was merit in the endeavor and it expressed support for the proposal generally. However, for its Group, it was important that any change in that sense be achieved without changing the rules of procedure. It requested that its concern be reflected in the decision and proposed a modification to the decision paragraph contained in document WO/GA/48/14 Rev, in order to enhance the process and improve preparation of the WIPO General Assembly meetings as follows: “the General Assembly decided (i) to examine the feasibility of modifying the election cycle of officers, that is, the Chair and two Vice Chairs, such that their term of office begins at the end of the ordinary session of the WIPO General Assembly, based on the understanding that any change to be made shall be feasible without changing the rules of procedure”. The second paragraph remained as was in the working document and its Delegation was happy to provide the proposal in writing for Regional Group Coordinators and delegations to have sufficient time to examine it.

14. The Chair observed that, in reality, the proposal Group B presented corresponded to what was written in point (ii). He recalled that the proposal was not referring to any transitional or procedural modalities or asking Member States to engage in informal consultations but it was aimed at achieving and agreeing, in principle, on modifying the electoral cycle and only then to discuss about modalities.

15. The Delegation of Nigeria, speaking on behalf of the African Group, said that in its understanding, the Delegation of Greece was speaking for Group B. The African Group wished to see the proposal in writing and it hoped the meeting was not at a point of taking a decision as the matter was still under discussion within the African Group to examine what that could mean and to consider the feasibility of changing the election cycle without any changes to the rules of procedure. It requested to have the proposal in writing and to come back to it later.

16. The Chair noted that there was no consensus, at that moment, in the room on the proposal; however, he had not heard any objections to the proposal. He therefore asked the Delegation of Latvia to continue informal consultations and to see whether any agreement could be found and maybe inform the plenary in the next two days on the outcome of those consultations. He hoped that they could then take a decision on the subject. He announced that pending the outcome of the consultations, the agenda item would remain open until further notice.

17. Reverting to the agenda item and following informal consultations, the decision below was adopted:

18. In order to enhance the intergovernmental process and improve preparation of the WIPO General Assembly meetings, the General Assembly decided:

(i) to modify the election cycle of the WIPO General Assembly officers (the Chair and two Vice-Chairs) such that their term of office begins at the end of the WIPO ordinary General Assembly session.

(ii) to adopt the following WIPO General Assembly Special Rule of Procedure:

“Rule 6: *Officers*

(1) The Chair of the General Assembly and its two Vice-Chairs will be elected at the first meeting of the Assembly considering approval of the biennium program and budget, for the period of two years, and their term of office will begin following the final meeting of the said Assembly.

(2) Incumbent General Assembly officers will remain in office through the final meeting of the subsequent General Assembly session considering approval of the biennium program and budget.

(3) The outgoing Chair and Vice-Chairs shall not be immediately eligible for re-election to the office which they have held.”

(iii) that, in order to facilitate the transition to the new electoral cycle, the current officers of the 2016 WIPO General Assembly will preside over the 2017 WIPO General Assembly meeting.

ITEM 9 OF THE CONSOLIDATED AGENDA

AUDIT AND OVERSIGHT MATTERS

(i) WIPO Independent Advisory Oversight Committee (IAOC)

19. Discussions were based on documents WO/GA/48/1, WO/GA/48/16, WO/GA/48/16 Corr. and A/56/12.

20. The Acting Chair (hereinafter referred to as Chair) opened Agenda Item 9(i) and noted that it contained two topics: the Report of the Independent Advisory Oversight Committee (IAOC); and the Proposal for Amendments to the Internal Oversight Charter made by the IAOC. Those topics would be taken up one-by-one. The Chair welcomed Mr. Gábor Ámon, Chair of the IAOC, and invited him to introduce the report contained in document WO/GA/48/1.

21. The Chair of the IAOC presented his report as follows:

“Your Excellency, let me congratulate you on your election to lead the General Assembly and wish you success in this very important role.

“Member States were provided with the annual report of the IAOC (“the Committee”), which is found in document WO/GA/48/1 and which provides a comprehensive picture and a comprehensive summary of the IAOC activities during the period of September 1, 2015, to June 30, 2016.

“There are three items from the report that I would like to cover, in particular, and the first is the activities of the Internal Oversight Division (IOD). The Committee is pleased with the high quality work the IOD delivered during the reporting period and I would like to thank the Acting Director for his efforts to lead the IOD. On this note, I am pleased to report to Member States that the IAOC endorsed a candidate proposed by the Director General. We are looking forward to the new director of the IOD, should the Coordination Committee decide to endorse the candidate.

“On the audit recommendations in general: In addition to the IOD reviewing the activities of the Organization and making useful and actionable recommendations, the Committee would like to acknowledge the Administration's efforts to implement these recommendations. Based on the lessons learned from the PBC, I would like to encourage Member States not to concentrate on the closing number the recommendations, but on the progress, the new recommendations and the recommendations implemented during the reporting period. The Committee is satisfied with the rate at which these recommendations are cleared.

“Investigations: the Committee is pleased to report that investigations are undertaken in an effective and timely manner. According to the latest figures that we were provided with by the IOD, only three out of the 14 open cases originate from 2016 and that is a number that many international organizations would be proud of.

“Ethics: as you know the Committee has recently been tasked with ethics related duties. The Chief Ethics Officer is a recurring guest at the meetings of the IAOC and she regularly updates us on ethics related activities. The Committee closely follows the activities and the strategy of the Ethics Office, which is currently being audited, and the Committee is looking forward to the results of this audit. Based on the findings and the recommendations of this audit, we will keep following and monitoring the activities of the function.

“Internal Oversight Charter: The PBC tasked the IAOC with proposing changes to the Charter. The primary objective of those is to provide Member States access to the reports that they had no access to before (redacted and unpublished reports) and to govern investigations of senior officials. Unfortunately, the Committee had very little time for this exercise, and therefore we decided to prepare a proposal that is technically robust and can serve as a basis for Member States’ discussions. The details of our proposals are one alternative, but not the only one, and therefore we would like to encourage Member States to actively engage in discussions to find a consensus on the Oversight Charter and the changes. We have been given to understand that the Vice Chair of the General Assembly, the Ambassador of Mexico, will facilitate the informal discussions between Member States, and both the Vice-Chair of the Committee and I are here to assist Member States through providing technical advice on this complex matter.

“Overall, the Committee is pleased to report to Member States that the oversight system in WIPO works effectively and is capable of safeguarding the Organization. On behalf of the Committee, I would like to take this opportunity to thank everyone who has helped the work of the Committee, among others the Director General, the Secretariat, the Management, and the Acting Director of the IOD.”

22. The Delegation of the United States of America expressed its sincere appreciation to the IAOC for the proposed amendments to WIPO’s Internal Oversight Charter. The Delegation recognized that the PBC decision had not left the IAOC with much time to complete that important task, and that was why the Delegation was particularly grateful to the IAOC members for the important service they had rendered to the Organization and the Member States, by putting forward those thoughtful recommendations in such short order. The amendments reflect important forward looking elements that were consistent with the PBC’s intent of moving in the direction of a stronger and more transparent Organization. The United States of America and other interested States had a few suggestions to the proposed amendments. To avoid taking up the valuable time in the plenary, the Delegation appreciated the suggestion to move to an informal setting, so that a final document could be adopted by consensus.

23. The Delegation of Switzerland welcomed the proposals for amendments of the Internal Oversight Charter contained in document WO/GA/48/16. The Delegation believed it important to strengthen the relevant provisions of the Charter, namely with regard to how to deal in the future with final investigation reports regarding high-level senior officials. The Delegation thanked the IAOC for the excellent work completed in a very short period of time and for responding to the delegations’ questions, including those of Switzerland. From the Delegation’s point of view, the advice of experts was very important because the issue was a very complex one, where expert contributions seemed fundamental to the Delegation. The report contained a number of important principles to be retained, such as those mentioned in paragraphs 5, 6, 7, and 13. The Delegation committed to working with other interested delegations, together with the IAOC and the Vice-Chair, to successfully complete the revision of the Internal Oversight Charter.

24. The Delegation of Australia stated that WIPO had been at the forefront of developing and improving internal oversight rules and procedures. This was a credit to its members and the Organization. The Delegation thanked the IAOC for its timely response to the request of the PBC to continue and deepen that good work. In line with the decision in the PBC, the Delegation was looking forward to working with other delegations and the IAOC to ensure the Oversight Charter was a model within the United Nations (UN) system for efficiency, independence and transparency of the investigatory processes.

25. The Delegation of Canada thanked the IAOC for its work on the proposals with regard to the Internal Oversight Charter and welcomed it as a positive step towards clarifying roles and responsibilities. The Delegation supported and sought good governance and transparency in

the UN system and clear, predictable, standardized processes. The Delegation wished to indicate its interest in participating in further work and conversations about the Charter.

26. The Delegation of Mexico thanked the IAOC for the efforts it had put into acting on the recommendations of the PBC to propose changes to the Internal Oversight Charter, in a very short period of time. The Delegation found the proposal a good way of improving procedures for investigating allegations against officials of the Organization, in the spirit of independence, transparency and efficiency. The Delegation believed that, for the benefit of the Organization, it was appropriate for the responsibility for the decision making process on such issues to lie with the Member States, through the governing bodies of the Organization. The Delegation added that the advice and the facilitation of the Chair of those bodies and the IAOC itself would, obviously, be very welcome. The Delegation had some suggestions and would share those in the course of the suggested informal consultations.

27. The Delegation of Brazil thanked the IAOC for the timely provision of the document on the amendments to the Internal Oversight Charter and emphasized that it was produced in a very short period of time following the Member States' request made at the last PBC, as reflected in the PBC decision. The request to correct the current rules had been made for a reason. The adoption of the new rules specifying investigation procedures, to clarify the aspects deemed necessary during the last PBC, would represent an improvement. The central aspect of rulemaking was to provide legal certainty to the parties involved and, in the Delegation's view, the document provided that legal certainty to a large extent. The Delegation expressed its interest in continuing to work with other delegations in order to advance the work on the matter.

28. The Delegation of Nigeria supported any activity by the Organization that would enhance transparency, accountability and integrity. The Delegation welcomed the informal consultations on the text.

29. The Delegation of Pakistan thanked the IAOC for its efforts to improve procedures for investigations, especially at a high level, which the Delegation believed to be an essential step towards enhanced accountability and transparency. The Delegation also welcomed the informal consultations on the text.

30. The Delegation of Turkey thanked the IAOC for its work and the reports. The Delegation recalled that it had also expressed its views during the last PBC session, supporting the work in the area of audit and oversight to make the audit and oversight procedures helpful to Member States in their oversight function. The Delegation reiterated the point it had made at the PBC, namely, its expectation to see comments on geographical distribution in the audit and oversight reports, an important matter that had been under discussion for several years.

31. The WIPO General Assembly took note of the "Report by the WIPO Independent Advisory Oversight Committee (IAOC)" (document WO/GA/48/1).

32. Referring to the proposed amendments to Internal Oversight Charter, the Chair recalled the proposal of the Delegation of the United States of America to continue working on the document in a group of all interested delegations, in other words, in open ended consultations. That proposal was supported by a number of delegations. The Chair added that he had asked Ambassador Juan Raúl Heredia Acosta (Mexico) to facilitate that intergovernmental drafting process. The Chair of the IAOC would, of course, be present as well. The Chair encouraged delegations to proceed as soon as feasible, as it would be desirable to finalize the text by Friday. The Chair concluded by inviting Ambassador Heredia Acosta to launch the informal consultation process so that delegations could come back to the plenary with the consensually agreed text.

33. The General Assembly decided to:

(i) adopt the revised Internal Oversight Charter (IOC) enclosed in the Annex;
and

(ii) request the Independent Advisory and Oversight Committee, to prepare, with technical assistance from the Secretariat and after consultation with Member States, for consideration and adoption by the Coordination Committee at its next session, appropriate modalities and procedures (including any necessary proposed amendments to the Staff regulations) pursuant to the revision of the Internal Oversight Charter, including those applicable to processes undertaken by the Coordination Committee.

(iii) Report by the Director of the Internal Oversight Division (IOD)

34. Discussions were based on documents WO/GA/48/2 and A/56/12.

35. The Acting Director of the Internal Oversight Division (IOD) thanked the Chair and delegates for the opportunity to provide, in line with paragraph 38 of the Internal Oversight Charter, a summary of oversight activities undertaken by the Internal Oversight Division (IOD), during the reporting period July 1, 2015 through June 30, 2016. The Acting Director began with IOD policies and procedures explaining that IOD continued to enhance its policies and procedures by revising them in order to align them with good practice as well as with the recommendations of the External Quality Assessments (EQA) for evaluation and investigation functions. The Acting Director specified that IOD had an updated Evaluation Policy and a new Evaluation Manual. Those documents were prepared in iterative consultation with WIPO management, the IAOC and Member States. The adoption of the new Evaluation Policy would enable IOD to provide more active systematic advice and assistance to WIPO programs willing to commission or conduct decentralized evaluations. IOD recalled that IOD's investigation function had undergone an EQA that concluded that IOD's investigation activities "generally conformed to the standards", the best rating one could receive. The assessment concluded that IOD operated on a solid and sound legal basis and discharged its function according to the standards. The Acting Director continued that for Investigation, a considerable number of the EQA recommendations would be implemented by the Revision of the Investigation Policy and Investigation Manual which was currently on hold based on the developments or the finalization of the Internal Oversight Charter. The Acting Director assured that IOD's oversight plan for 2016 had been prepared based on IOD's own risk assessment but also considering WIPO's corporate risk registers, in line with the Internal Oversight Charter paragraph 24, and based on comments/feedback received from WIPO Senior management, the IAOC and Member States. The Acting Director was pleased to report that at the reporting date, all of IOD's planned activities for 2015 had been fully implemented and that the implementation of the 2016 work plan was on track. The Acting Director specified that during the reporting period, the following key operational areas had been subject to an IOD activity: Business Continuity Management; WIPO Customer Services; Individual Contractual Services Management; Staff Performance Management; Business Solutions for IP Offices; small and medium-sized enterprises (SMEs) and Innovation; Copyright and Related Rights; and WIPO's assistance to least developed countries (LDCs). On the Investigation's front, the Acting Director stated that during the reporting period, IOD had recorded 31 new investigative cases and closed 32 cases. As of June 30, 2016, there were 17 open cases and on that day, the Acting Director reported 14 open cases. IOD issued seven investigation reports and four management implication reports. The Acting Director continued that complaints of alleged harassment, discrimination or abuse of authority as well as fraudulent, corrupt or abusive of practices constituted more than half of its investigation cases. He stated that at present, the average time to complete an investigation is around six months. The Acting Director mentioned that IOD regularly made presentations at induction trainings for new staff and that it also continued to issue newsletters twice a year to inform WIPO colleagues of IOD's news, activities and any new development. IOD recently

developed a dashboard with some information on oversight activities and those dashboards for 2015 and 2016 were available on the WIPO website. The Acting Director continued that in order to measure IOD's effectiveness and efficiency, it sent out satisfaction surveys to keep the pulse of WIPO colleagues and to know what they think of the quality and the timeliness of IOD's work. The consolidated results indicated an average satisfaction rate of 84 per cent for post assignment surveys and of 74 per cent for one year after surveys. Those surveys allowed IOD to see the impact of its recommendations, once implemented, and their impact/improvements in systems, policies, procedures or processes. The Acting Director mentioned that considering the follow up of open oversight recommendations, the activity continued to be recurrent. As of June 30, 2016, there were 161 open recommendations of which 93 were of high priority. The Acting Director noted that at that point, while it was an ongoing activity, numbers themselves did not say much. It was important to underline that in the same period, 96 new recommendations were added to the recommendations database, coming from Internal Audit and External Audit. At the same time, 119 recommendations were verified and closed as implemented. IOD specified that it used web-based software called "Team Central" to manage the follow up of the recommendations. That very interactive process and constant dialogue took place throughout the year since "Team Central" was accessible by IOD, WIPO colleagues and the External Auditor. The Acting Director stated that IOD continued its advisory role and provided management with advice on governance, risk management and compliance issues. IOD assured that it provided comments on new system implementations, new business processes, policies and procedures which were considered by management. That helped to ensure that key controls were developed to mitigate potential key risks before the final implementation of any policy or system. With regard to IOD resources, the Acting Director underlined that IOD's budget represented 0.74 per cent of WIPO's overall budget and almost 1 per cent of WIPO's staff cost. The human and financial resources had been adequate for IOD to effectively cover the high risk and high priority areas as identified in its work plans. This was achieved thanks to the exchange of oversight plans and continuous coordination of oversight activities with the External Auditor as well as effective use of information technology tools to achieve more efficiency and effective coverage of risk areas. Over the reporting period, unexpected changes in IOD staffing were effectively managed with a view to minimizing their impact on the planned oversight activities. The availability of financial resources allowed IOD to engage temporary staff to effectively implement the planned activities. The Acting Director informed the Member States with respect to the latest developments in IOD staffing. A new temporary investigator at the P3 level had been recruited and the recruitment of a temporary Senior Investigator at the P4 level was about to be finalized. That would further enhance IOD's investigative activities and allow more time for awareness raising activities such as fraud prevention and detection and other investigative awareness raising activities. IOD engaged a temporary evaluation officer at the P3 level to enhance its evaluation capacity. Finally, the Acting Director specified that the recruitment process for a Head of Evaluation Section at the P5 level had been relaunched and that the process was expected to conclude by early 2017. Furthermore, the Acting Director explained that IOD maintained excellent professional relations and cooperation with the External Auditor. IOD and the External Auditor met regularly to obtain views on oversight issues, risks facing WIPO as well as to discuss timing of audits and areas to be included in their oversight plans in order to avoid overlap and improve coverage of high risk areas in oversight activities. The Acting Director specified that IOD cooperated closely with the Ombudsperson's office and the Chief Ethics Officer to ensure good coordination and avoid duplication of efforts. IOD also continued to have a constant dialogue with the IAOC on a regular basis and benefited from the IAOC's continuous support and valuable advice which helped to improve IOD's overall functioning and the quality of its work.

36. The Delegation of Turkey officially thanked the Acting Director of the IOD, for his work. The Delegation stated that it valued the efforts of the oversight, audit and investigation bodies and saw great merit in them. The Delegation continued that it followed closely the discussions/debates on the amendments to the Internal Oversight Charter and the audit procedures, and considered that this was a chance to reach a better framework. The

Delegation mentioned that it would continue to read oversight reports and believed that oversight and audit work could shed light on the current debates in WIPO, such as geographical distribution, in the future.

37. The Delegation of the United States of America expressed appreciation for the hard work of the IOD. It was pleased to see the number of recommendations closed during the year and thanked the Secretariat for those efforts. It noted, however, the number of older recommendations that were still open from 2011, 2013 and 2014 and said that it would appreciate knowing why those recommendations, especially those identified as high priority, had not yet been implemented. The Delegation continued that it would also appreciate more information about how Program Managers and those with delegated responsibility for implementing recommendations were held accountable for the amount of time that recommendations remained open. It was the Delegation's view that high priority recommendations remaining open for five years were concerning as it posed a risk to the Organization. Hence, the Delegation would encourage the Secretariat to consider using things like work commitments and performance appraisals as tools to hold Program Managers and those with delegated responsibility for implementing recommendations accountable for the amount of time a recommendation remained open.

38. The Acting Director confirmed that it could provide more information on those recommendations and that two recommendations were prior to 2013. The Acting Director agreed that it would be positive to link the implementation of recommendations to the performance appraisal of managers.

39. The Director General commented that the internal auditor was responsible for making recommendations and management was responsible for implementing them. The Director General, adding to what the internal auditor said, noted that the oldest recommendations usually concerned ongoing matters, such as implementation of security procedures, which required a lengthy period of time for implementation. The Secretariat would be happy to engage with the Delegation of the United States of America and look at individual recommendations and what has been done or is being done in respect of each of them. The Director General noted, as suggested by the Acting Director, that linking the implementation of recommendations to performance appraisal would be a very helpful step forward.

40. The WIPO General Assembly took note of the "Annual Report by the Acting Director of the Internal Oversight Division (IOD)" (document WO/GA/48/2).

ITEM 11 OF THE CONSOLIDATED AGENDA

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

41. Discussions were based on document WO/GA/48/3. Reference was made to document A/56/INF/6.

42. The Director General introduced a video entitled Global Digital Content Market Conference 2016: A Retrospective. He explained that there had been extraordinary developments in the digital content space which affected the whole manner in which creative works are produced, curated, distributed and consumed around the world. The objective of the conference had been to take the pulse on these developments in order to obtain a better idea of what was happening in the marketplace. The Director General described some notable trends in digital content markets over the past year. Global revenues for the music, film and broadcasting sectors had risen the previous year, although the revenue trends had not been consistent in recent years. For the music sector, this was the first revenue increase in twenty

years. Global revenues for the publishing sector continued to be the same, year on year. Overall it was encouraging to see some new business models in the digital environment coming to fruition and producing revenues. At the same time there had been considerable disruption in the move from physical to digital content formats, with income and revenue shifting to digital formats. While digital revenues had been increasing overall, there was a lack of transparency in the shift of income from creators, producers and publishers to digital content distribution platforms. This trend was being discussed across all types of digital media, and one of the objectives of the conference was to obtain more information and to examine it more closely. Some one thousand delegates participated in the conference, including a number who participated online. The video contained snapshots of the discussions that demonstrated and documented some of the conference highlights.

43. The Secretariat explained that document WO/GA/48/3, the Report on the Standing Committee on Copyright and Related Rights (SCCR), provided an update on the status of discussions on the protection of broadcasting organizations, limitations and exceptions for libraries and archives, limitations and exceptions for educational and research institutions, and limitations and exceptions for persons with disabilities other than visual impairment. In relation to the protection of broadcasting organizations, the Committee had made significant progress on clarifying and narrowing some of the issues during the two meetings held this year. The Chair of the Committee had prepared a revised consolidated text on definitions, object of protection and rights to be granted and had been invited by the Committee to prepare another version for the 33rd session of the Committee. Despite the progress achieved, the 32nd session of the SCCR had been unable to reach a decision on a recommendation to the General Assembly for steps towards the convening of a diplomatic conference. With respect to limitations and exceptions for libraries and archives, Member States had received the updated version of a study prepared by Professor Kenneth Crews and had discussed library and archive topics contained in a matrix based on the Committee's document on this subject. In relation to limitations and exceptions for educational and research institutions, the Committee had welcomed a study presentation from Professor Daniel Seng. The Committee had requested that the SCCR Chair prepare a discussion document on that topic. The Committee had also requested a scoping study for persons with other disabilities. Despite significant progress in studying and discussing the issues, the 32nd session of the SCCR had been unable to reach a decision on a recommendation to the General Assembly on limitations and exceptions. At the last few meetings, two topics had been proposed for addition to the SCCR agenda and had been discussed under the topic "Other Matters", namely a proposal on copyright related to the digital environment which had been submitted by the Group of Latin American and Caribbean Countries (GRULAC) and a proposal on the resale royalty right which had been proposed by the Delegations of Senegal and Congo. No decisions had been made on whether or how to include those items on the agenda of the Committee. Document A/56/INF/6 provided a summary of the status of the Beijing Treaty from several months earlier showing 11 members of that treaty. The Secretariat was pleased to report that the Treaty had 13 members and it had been notified by Member States that by the close of the Assemblies there would be 15 members. So the process of obtaining ratifications and accessions was halfway to the point of having the 30 members needed for the entry into force of the Treaty.

44. The Delegation of Mexico stated that over the last couple of years, the SCCR had managed to adopt two major treaties, namely the Marrakesh Treaty and the Beijing Treaty. The Delegation felt that if the Committee continued to work in a spirit which was constructive, flexible, and open-minded, taking into account the interests and the real situation of all the parties involved, it could be able to make further headway on the issues which for the time being remained pending on the agenda of the Committee. It supported the issues which had been considered by the SCCR, and hoped that the renewed spirit inherited from Beijing and Marrakesh would continue to prevail in all the work to be done from that point on by the Committee. It reiterated its commitment to participating actively and in a constructive manner in the negotiations for the topics that were currently on the agenda of the SCCR.

45. The Delegation of Latvia, speaking on behalf of the CEBS Group, took note of the report on the SCCR and reiterated the utmost importance it attached to the work of that Committee, and particularly to the treaty on the protection of broadcasting organizations. The treaty had to be adapted to 21st century realities. A treaty that did not take into consideration technological developments and current needs of broadcasting organizations would not provide the expected level of protection and therefore would already be outdated at the moment of its adoption. The CEBS Group believed that a clear common vision of the aim of the treaty had to be defined in order to understand where it was heading and to enable Member States to have a realistic vision of the achievable results in the framework of the Committee. Before convening a diplomatic conference, a focused discussion had to address major unresolved issues. The Group was ready to continue the discussions on limitations and exceptions, bearing in mind that the existing international legal framework already enabled the implementation of limitations and exceptions at national level.

46. The Delegation of Greece, speaking on behalf of Group B, reiterated its support for the negotiations on a treaty for the protection of broadcasting organizations. To maintain its relevance, the Committee had to continue to listen to the voices of stakeholders and had to respond accordingly to intellectual property (IP) needs and realities. It needed to avoid pursuing outdated objectives and had to focus on present and future challenges. Group B thanked the Chair of the Committee for his proposal contained in document SCCR/32/3. It considered it as an attempt to clarify the text and the definitions and to move the work forward on the protection of broadcasting organizations. A revised version of the text had been requested by the Committee for its 33rd session. In relation to limitations and exceptions for libraries and archives, Group B expected that the topic could find a basis for further work of the Committee. Professor Kenneth Crews' study had provided a better understanding of a broad range of measures already put in place by WIPO Member States in the area and was a helpful reference for national policy making on exceptions and limitations, respecting established differences of legal systems. That work could be completed by an objectives and the principles document, such as the one proposed by the Delegation of the United States of America, which pursued areas of common ground as no consensus currently existed within the Committee on normative work. In relation to limitations and exceptions for education and research institutions and persons with other disabilities, the Committee had benefited during its 32nd session from a presentation and had participated in discussions on a draft study on copyright limitations and exceptions for educational activities prepared by Professor Daniel Seng, which would be amended to include up-to-date information and additional Member States. Group B commended the organization of the WIPO Conference on the Global Digital Content Market which had been held in April 2016 and which had provided food for thought on how copyright systems could meet the continuing and rapid evolutions of the global market and strike the right balance between the interests of consumers, content creators and distributors alike.

47. The Delegation of Nigeria, speaking on behalf of the African Group, stated that the SCCR had been successful in adopting a commendable number of WIPO administered treaties for the progressive development of copyright law. This progress led to interrogations on why the SCCR was currently unable to advance its normative work in the field of the protection of broadcasting and cablecasting organizations from signal piracy, as well as meaningfully advance its work on exceptions and limitations. In a globalized world, where technology had dramatically altered the ways and the means through which knowledge was accessed, disseminated and used, it was unjustified that the SCCR was unable to progress its work geared towards facilitating access to knowledge and information to a wide and diverse range of users. The African Group requested to return to the objective of working towards an appropriate international legal instrument which would protect broadcasting and cablecasting organizations from signal piracy and to the objective of an instrument or instruments which would facilitate access to knowledge with respect to libraries and archives, educational and research institutions, and persons with other disabilities. The Group looked forward to an agreement on proposed intersessional meetings on the protection of broadcasting organizations, and on

regional meetings or workshops on exceptions and limitations. Such mechanisms would contribute to build common understanding and consensus to move forward. It looked forward to seeing the Chair's charts as a tool for focusing the work on exceptions and limitations for educational and research institutions, as well as to the presentation of the scoping study on exceptions and limitations for persons with other disabilities. It called on the General Assembly to give a clear time frame to the SCCR for advancing its current long-standing issues, which would enable the Committee to include new issues on its agenda and move the discussion on copyright forward.

48. The Delegation of Chile, speaking on behalf of GRULAC, stated that the issue of exceptions and limitations and one of the most important results of the work of the Committee, the Marrakesh Treaty, had been promoted by GRULAC and its member states since the very outset. GRULAC remained convinced that a balanced IP system would take into account all the particular features involved in the creative process and the development and furtherance of knowledge. The Delegation stated that the same vision should also be maintained in the SCCR. GRULAC supported the continuation of the work with a balanced program on exceptions and limitations for libraries and archives, educational and research institutions, broadcasting organizations, and the GRULAC proposal to analyze copyright in the digital environment to open new topics and new challenges. As for broadcasting, it felt that it was very important to work in a more flexible way to conclude the agenda item as soon as possible.

49. The Delegation of India, speaking on behalf of the Asia and Pacific Group, stressed that the SCCR was an important Committee of WIPO dealing with three issues of critical importance to Member States and to the Group: the protection of broadcasting organizations, limitations and exceptions for libraries and archives, and limitations and exceptions for educational and research institutions and for persons with other disabilities. The Delegation noted that the SCCR was facing some difficulties in finding agreement on how to proceed in its work on these agenda items. The Group believed that those issues did not receive the same level of commitment and understanding of their importance due to the differentials in the socio-economic development of Member States. Inclusiveness and mutual understanding were essential to progress. The Group reaffirmed its commitment to engage constructively in the negotiation of a mutually acceptable outcome on all the three issues. It would like to see the finalization of a balanced treaty on protection of broadcasting organizations based on the mandate of the 2007 General Assembly to provide protection using the signal-based approach in the traditional sense. Exceptions and limitations had an important role in the attainment of education and access to knowledge. In many developing countries it had been hampered due to lack of access to relevant educational and research material. Exceptions and limitations were of critical importance for individuals and for the collective development of enlightened societies. It was unfortunate that absence of adequate will to discuss and develop the two exceptions and limitations topics before the Committee had resulted in a stalemate on all three important issues.

50. The Delegation of the Russian Federation noted the very positive work done by the SCCR and supported the continuation of the work on the protection of broadcasting organizations and on the issue of limitations and exceptions to achieve an acceptable and balanced outcome. The Delegation mentioned the revised text on the protection of the rights of broadcasting organizations. The work on the draft treaty was more or less concluded although divergent positions between members of the SCCR on certain specific issues remained. The Delegation was of the view that the General Assembly should give clearer indications on deadlines and on how to speed the work to meet the deadlines. It hoped that in 2017 or 2018 a diplomatic conference would be held to adopt a very important treaty for the protection of broadcasting organizations. The Delegation indicated that it would like to suggest a mechanism for working on the draft document taking into account new trends existing in the area of broadcasting and the experience of national legislation. It underlined that exceptions and limitations were a very important element in achieving a balance between the interests of society and the interests of

rightholders. Taking into account national experiences and legislation with regard to exceptions and limitations, the Delegation indicated that the work on exceptions and limitations for libraries and archives and for research and educational institutes should be speeded up. The Russian Federation was ready to participate actively in the work to be done and to share its experiences.

51. The Delegation of the European Union had been actively involved in the discussions on the treaty for the protection of broadcasting organizations. Those discussions were of great importance to the European Union and they should ultimately respond to the current and future needs of broadcasting organizations. The Delegation thanked the Chair of the SCCR for preparing the text on definitions, object of protection and rights to be granted and indicated that complex matters requiring technical insight were discussed during the last two SCCR meetings. The Delegation hoped that a roadmap could be established to lead to the convening of a diplomatic conference as soon as practically possible and expected the decision of the General Assembly to reflect that position. The European Union was committed to discussing limitations and exceptions for libraries and archives, for educational and research institutions, and for persons with other disabilities, and stated that the current international copyright framework already empowered Member States to introduce, maintain, and update the limitations and the exceptions that could meaningfully respond to their local needs and traditions, while continuing to ensure that copyright was an incentive and a reward to creativity. 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 European Union believed that WIPO Member States should take responsibility for their own legal framework, supported by an exchange of ideas, guidelines, and best practices, and that the work in the SCCR should not be dedicated to the normative track with the aim of achieving a legally binding instrument since it would not meet with consensus in the Committee. It furthermore took note that some of the agenda items of the SCCR had been discussed for a substantial period of time without tangible outcome, whereas at the same time proposals to reflect upon the future agenda of the Committee were made. In that context, it supported including the resale right on the agenda of the Committee. Issues of common interest needed to be identified in a concrete manner. The European Union reported that it continued its work to ensure a modern and balanced set of copyright rules in the context of the digital market. The European Commission adopted on September 14, 2016, an ambitious legislative package comprising four proposals to enhance access to content in a single market, modernize exceptions in the area of research, education, heritage and disabilities, and set out rules for a more functional and transparent market for all. Two proposals aimed at ensuring the compliance of European Union legislation with the obligations under the Marrakesh Treaty and the functioning of exchanges with other countries under the Treaty.

52. The Delegation of Argentina supported the statement made by the Delegation of Chile on behalf of GRULAC and indicated that on the issue of protection for broadcasting organizations the Committee had made significant progress over the last few years. As a result of the progress, the Chair presented a text on definitions, object of protection and rights to be granted, which emphasized the different positions in the Committee concerning those topics. The most recent debates concentrated mainly on the scope of protection of the treaty with regard to Internet transmission, including the appropriateness of including technologically neutral definitions that would cover all technologies, the protection of simultaneous or near simultaneous retransmissions, delayed retransmissions, and on-demand services. The Delegation noted that a consensus existed on the need to protect the signals, or the transmissions, but not the content transmitted since that was already protected under copyright. Significant advances had taken place and the SCCR should speed up its work on the consolidated revised text on the main provisions, in order to arrive at a basic proposal for a treaty on the protection of broadcasting organizations for a diplomatic conference to be held in the second half of 2017.

53. The Delegation of Zimbabwe aligned itself with the statement made by the Delegation of Nigeria on behalf of the African Group. It hoped that the reports on the study of the provisions for educational purposes, as well as for libraries and archives, would help Member States to engage in focused discussions during meetings of the Committee. These were important areas for developing countries. It looked forward to seeing significant progress in reaching consensus towards establishing international instruments in those two areas.

54. The Delegation of Iran (Islamic Republic of) aligned itself with the statement delivered by the Delegation of India on behalf of the Asia and Pacific Group. Iran (Islamic Republic of) welcomed the entering into force of the Marrakesh Treaty and reiterated its support for the objectives of that Treaty. It noted that the SCCR was considering some other important issues. As to the protection of broadcasting organizations, Iran (Islamic Republic of) supported the continuation of the work on the subject of signal-based protection in the traditional sense, consistent with the 2007 General Assembly mandate towards developing a legal framework for protection. Protecting broadcasting organizations against signal piracy had to be confined only to broadcasting and cablecasting organizations in their traditional sense. Therefore, the definition of broadcasting should be related to the traditional definition and the type of transmissions made by traditional broadcasters should be protected and should determine the scope of the treaty. Iran (Islamic Republic of) strongly believed that the rights under the framework of the proposed treaty should protect signals that were legally originated from broadcasters including the right to prohibit unauthorized retransmission of live signals over computer networks or any other digital or online platforms. The Delegation did not support the inclusion of webcasting under the framework of the treaty, as it was not part of the General Assembly mandate of broadcasting in the traditional sense. The Committee should not establish a second layer of protection for broadcasting organizations through the proposed legal framework that might restrict society's free access to knowledge and information. The eventual treaty had to strike a balance between the benefits of rightholders, broadcasters, and society at large. The main concern was that granting stronger rights of copyright, related rights or additional rights for retransmission on computer networks might increase the costs of the related services and affect access to broadcasts in developing countries. New possible ways to deliver content *via* computer networks and mobile devices held great promise to bridge the knowledge gap and the digital divide; therefore, it was paramount to determining whether and how IP rights should apply with respect to broadcasting. In that context, there was a need to assess the impact of the various elements of the proposed treaty on the public demand for access to knowledge and freedom of expression. It was necessary to look at the impact of the proposed treaty on the rights of authors, performers and users. Finally, with regard to another important topic before the SCCR, namely exceptions and limitations, the Delegation stressed its critical importance for individuals as well as the collective development and enlightenment of societies. Exceptions and limitations were important to attain the right to education and access to knowledge.

55. The Delegation of South Africa supported the statement delivered by the Delegation of Nigeria, on behalf of the African Group. The Delegation expressed its disappointment that the Committee was not able to make more tangible progress on the agenda items. As indicated by several delegations, Member States needed to take into account the realities on the ground with regard to the broadcasting treaty and ensure that it did not continue working in an outdated manner, but worked more decisively towards the finalization of a legal instrument consistent with the 2007 mandate. The same could be said for the critical work on exceptions and limitations for libraries and archives, which was fundamental for facilitating equitable information sharing. The Committee had to empower libraries as the guardians and gatekeepers of copyright and provide the legal framework so that they could carry out their work across international borders. Merely updating national exceptions and limitations was insufficient. In order to materialize the full promise of the digital revolution, the Committee had to address those archaic barriers that hampered access to knowledge that is fundamental to the development of nations. Further to that, Member States should always remember their

commitment to education, through Sustainable Development Goal (SDG) 4, by ensuring inclusive and equitable quality education and promoting lifelong opportunities for all. The Delegation called upon Member States of the UN family to support the quest for sustainable development.

56. The Delegation of Japan expressed its appreciation for the meaningful discussion in the SCCR sessions since the last session of the General Assembly. As for the protection of broadcasting organizations, the Committee had had fruitful discussions on substantial issues based on the consolidated text prepared by the Chair and had made a certain amount of progress toward reaching a common understanding. Since the Committee was longing for the adoption of the broadcasting treaty at the earliest opportunity, Japan hoped that further progress would be made in order to convene a diplomatic conference to adopt a treaty. Japan was willing to contribute to further substantial progress in order to achieve a common goal. With regard to the issue of exceptions and limitations, it was essential to ensure an appropriate balance between the interest of rightholders and the accessibility of works. Each Member State should be given flexibility to take measures within the existing international framework in light of the domestic situation. The discussion on that issue would focus on sharing national experiences and practices.

57. The Delegation of China would continue to support the SCCR in further discussing the topics on protection of broadcasting organizations and hoped to have an agreement on a treaty as soon as possible. It also hoped to make progress on the topic of limitations and exceptions. China welcomed the entering into force of the Marrakesh Treaty on September 30, 2016. Its Government was accelerating the approval process and looked forward to joining the Treaty as soon as possible. It also noted that the number of 15 members for the Beijing Treaty would be reached soon which brought its entry into force even closer. The Delegation called on other members to accelerate the ratification process of that important Treaty.

58. The Delegation of Brazil aligned itself with the statement delivered by the Delegation of Chile on behalf of GRULAC. As to broadcasting organizations, the Delegation saw merit in the proposal at the SCCR and was ready to engage constructively in negotiations aimed at updating the broadcasters' rights. Also, it noted that exceptions and limitations for libraries were a priority and Member States had been working on a matrix proposed by the Chair. Brazil was confident that the discussions of all topics due for the next session of the SCCR would provide important input for Member States. The Delegation recalled the presentation of Professor Daniel Seng on exceptions and limitations for research and educational institutions and people with other disabilities and looked forward to continue the debate. Since the last General Assembly meeting, other issues had been presented to the Committee. Having in mind the fact that the digital environment presented a range of possibilities for new business models in a changing reality, it was more difficult for government regulators to strike the right balance in the system, in order to guarantee fair remuneration for rightholders. In that context, GRULAC had presented in the 31st session of the SCCR a proposal of an analysis of copyright in the digital environment. Brazil supported that proposal and hoped to see it incorporated as a permanent agenda item of the Committee.

59. The Delegation of Chile speaking in its national capacity recalled that WIPO's work aimed at developing a balanced IP system to compensate creativity and at the same time provide access to culture and knowledge. In that respect Chile believed that progress within the SCCR should also be balanced regarding all the issues on the agenda. The issue of exceptions and limitations had proved to be something that had generated concrete results for the Organization. One example had been the entry into force of the Marrakesh Treaty the previous week. The Delegation noted that, in 2004, it had proposed the insertion of the issue of limitations and exceptions in the agenda of the SCCR and since then it had promoted dialogue on the basis that future treaties would allow the achievement of a balanced IP system. Chile called upon Member States to continue to debate the different agenda items in an open and positive way,

including in the discussions on limitations and exceptions for libraries and archives, as well as for educational and research institutions.

60. The Delegation of the United States of America supported the intervention made by the Delegation of Greece on behalf of Group B. The Delegation supported updating protection for broadcasting organizations, under the terms of the 2007 WIPO General Assembly mandate which called for a signal-based approach to protect activities of broadcasting organizations in the traditional sense. Consistent with that mandate, the United States of America believed that such protection should be narrow in scope. The unauthorized retransmission of the broadcast signal to the public over all platforms, including over the Internet, was one of the most significant problems facing broadcasting organizations today. At the same time, the Delegation was aware that rapid technological changes taking place in the broadcasting industry, which were having a profound impact on the very concept of broadcasting, presented significant challenges to establishing international norms. Against that background, the United States of America noted the difficulty of achieving consensus on such fundamental issues as the object of protection and rights to be granted under the treaty. Nonetheless, the Delegation remained committed to working with other WIPO Member States to deepen the understanding of the issues and further narrow the treaty text in a manner consistent with the terms of the General Assembly mandate. The United States of America played a leadership role at the diplomatic conference that resulted in the adoption of the Marrakesh Treaty in 2013 and it joined all others in welcoming its entry into force. The Delegation, however, did not support further norm-setting work that would require countries to adopt copyright exceptions and limitations. In its view, the current international framework for copyright exceptions and limitations provided the appropriate flexibility for countries to enact exceptions and limitations to advance their own national, social, cultural and economic policies, consistent with well-established international standards. The Delegation supported further work in the SCCR to develop high-level principles for exceptions and limitations for libraries and archives and for educational activities. Once those principles were developed, WIPO members could work together to improve and update their national laws. The Delegation also supported work aimed at deepening the understanding of the Committee about national copyright limitations and exceptions for persons with disabilities other than visual impairments such as the proposal for a WIPO-commissioned study on the topic. The United States of America was opposed to any linkage between the proposed draft broadcasters treaty and copyright limitations and exceptions. It noted that the work on the broadcasters' treaty was considerably more advanced and should be considered in its own right.

61. The Delegation of India considered that all the three issues under discussion were of high importance. It looked forward to sufficient time allocation and constructive discussion on the two issues about exceptions and limitations along with the protection of the broadcasting organizations, with the view to submit recommendations to the General Assembly for an appropriate international instrument on each topic. The Delegation had carefully followed the discussions on the treaty for protection of broadcasting organizations and it was committed to complying with the signal-based approach towards developing an international treaty to update the protection of broadcasting and cablecasting organizations in the traditional sense, which was consistent with the General Assembly mandate. The Delegation was flexible in supporting the issue of covering unauthorized live transmission of signals over computer networks, provided that the broadcasting organizations had a right over the broadcast contained on the signal.

62. The Delegation of Nigeria welcomed the report on the work of the SCCR. Nigeria aligned itself with the statement of the African Group. It fully favored the normative work of the SCCR, including the reevaluation of the framework for the protection of rights of creators in the context of the digital environment. Indeed it looked forward to the convening of a diplomatic conference to adopt a treaty for the protection of broadcasting organizations from signal piracy, as soon as possible. It also looked to speedily advance the Committee's work on exceptions and limitations for libraries and archives and for educational institutions and persons with other disabilities in a

practical time frame. It was important that Member States engaged constructively allowing the SCCR to undertake activities geared towards progress such as the proposed regional meetings on exception and limitations as such engagements would facilitate greater convergence of views in future SCCR sessions. The creative sector was recognized as an exponentially green global economic frontier, especially in developing countries, including Nigeria. The Delegation was confident that WIPO would continue to achieve positive results in the sector and strengthen the work on access to knowledge and information for stakeholders in Africa, and elaborate activities for proposed technical assistance and capacity building initiatives in the creative sectors of African countries.

63. The Delegation of Egypt aligned itself with the statement made by the Delegation of Nigeria on behalf of the African Group in relation to the work undertaken by the SCCR, mainly on the issue of broadcasting organizations. The Delegation was committed to the mandate of the General Assembly of 2007 on continuing discussions constructively and achieving progress on the text for protection with a signal-based approach. In relation to the agenda item on exceptions and limitations, the Committee was to be congratulated for the success achieved with the adoption of the Marrakesh Treaty and its entry into force. It was a demonstration of political will and commitment to the process. Egypt had already taken the political decision to accede to that treaty and was undergoing the legislative process towards that end. The country was committed to cooperating with WIPO to transform Arabic texts into accessible formats for the blind, the visually impaired and persons with other print disabilities. However, it considered that as only one part of the bigger picture of the agenda of exceptions and limitations. The Delegation was championing a holistic approach. It wished to see the Committee achieve further progress on discussions towards a legally binding instrument or instruments on exceptions and limitations for libraries, archives, research institutions and persons with other disabilities to complete or finalize that agenda item in its entirety. It took note and welcomed the willingness of other Member States to engage in discussions in that domain and adopt national laws that were in line with their aspirations in that regard. However the national context could not suffice to provide the minimum standards that were required to have access and to provide access at the international level and hence the push for international legally binding standards in that domain.

64. The Representative of the World Blind Union (WBU) stated that there was a very strong reason to celebrate that millions of blind and visually impaired persons would have much greater access to reading materials of all kinds thanks to the entry into force of the Marrakesh Treaty. It was a hard-fought, historic victory for the human rights of persons with disabilities all over the world and proof that a well-organized civil society campaign could forge a transnational movement that sealed a strong alliance of common purpose between the countries of the global south against an initial opposition of a few members of the global north. The Representative recalled the paradoxical situation that on that day the Treaty was where the books were not and the books were where the Treaty was not. If the Treaty was going to fulfill its objectives, the ratification and the full participation of the United States of America and the European Union, where a large part of works in accessible formats for the visually impaired were located, was of the utmost importance. WBU encouraged the joining of the Treaty by the United States of America and the European Union so the celebration could be complete.

65. The Representative of the North American Broadcast Association (NABA) aligned itself with the statements delivered by the delegations speaking on behalf of the African Group, GRULAC and CEBS and even more with the statements from Nigeria and the Russian Federation. It was desirable to obtain an update of the 2007 General Assembly mandate to finalize the discussions of the revised consolidated text on the basis of a forward looking approach with a view to convening a diplomatic conference in the second half of 2017, and also to authorize the SCCR to convene one or more special intersessional meetings to resolve any potential final outstanding issue, if necessary.

66. The Representative of the Third World Network (TWN) congratulated the Member States that had ratified the Marrakesh Treaty. Member States should take concrete action for the achievement of the SDGs, particularly regarding the quality of education. Facilitating access to knowledge was an important step to achieve such goals. It was important for Member States to design copyright laws that created an environment conducive to access to knowledge and to move forward on exceptions and limitations for educational and research institutions and for persons with other disabilities, as well as exceptions and limitations for libraries and archives. There was a recent ruling from the high court of Delhi, India, regarding whether small scale photocopying by the University of Delhi fell within the exceptions and limitations provided under the Copyright Act. The courts held that it was not an offense and that copyright was intended to increase and not to impede the harvest of knowledge, to facilitate access to knowledge and to expand the public domain. WIPO technical assistance should promote the use of flexibilities to expand the scope of exceptions and limitations in domestic copyright laws.

67. The Representative of Knowledge Ecology International (KEI) welcomed the entry into force of the Marrakesh Treaty. The Representative stated that there was no consensus for a broadcasting treaty and that it should be removed from the SCCR's agenda so as to avoid discussing a project that was not ripe for norm setting or harmonization. Such a treaty could be supported if it only addressed piracy, limited retransmission rights and perhaps the protection of sporting events, but KEI opposed a layer of rights for broadcasters for works other than sports. The Representative agreed with some parts of the statements delivered by the Delegation of the European Union, that the work on norm setting for the artist resale right could be useful and productive, and the Delegations of South Africa, Brazil, Iran, Egypt, Chile and India that work on balance and access to culture and knowledge were important. The area of minimum standards for exceptions relating to orphan works, archiving and preservation would be feasible for norm setting. In other areas of exceptions, the SCCR would find it useful to update the Tunis Model Copyright Law for developing countries, whether the whole model law or only those sections dealing with exceptions.

68. The Representative of Electronic Information for Libraries (eIFL.net) stated that libraries were expected to support the information needs of researchers working across disciplines but evidence showed that inadequate and incompatible national exceptions remained in the way. The Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised (document SCCR/30/3) indicated that 17 per cent of Member States had no provision for libraries in the national copyright law while nearly half did not explicitly have exceptions for research and study purposes. In countries that had amended their copyright laws in the previous five years, digital copying was expressly barred in over one third of them, even for preservation purposes. As mentioned by the Delegation of Egypt, the national context did not suffice. During the 32nd session of the SCCR, extensive evidence and information was presented by librarians and archivists from 14 organizations, representing thousands of institutions across the globe, of exceptions that stopped at the border or when licensing failed. The Representative noticed that the European Union had recognized the cross-border problem. While there were flaws in the copyright reform package launched by the European Commission in September, the Representative was pleased that it included mandatory cross border exceptions in three key areas: Preservation by cultural heritage institutions, text and data mining, and online education. The objective was "to guarantee legality of certain types of uses in these fields, including across borders" because "the current lack of copyright law consistency across the European Union affects scientific progress and the European Union invests a lot of money in scientific progress." The global budget for 2020 in the European Union framework is 88 million euros. As global competitiveness was secured the Representative believed that the multilateral system must also address the issues so as not to further widen the digital divide. Only an international normative solution could set a basic standard for exceptions across all jurisdictions; only international action could properly enable cross-border exchange. Member States were called to support the holding of regional meetings, to review the findings of the

updated Study to identify regional priorities, and to work towards consensus on text-based solutions.

69. The Representative from the European Broadcasting Union (EBU) stated that after 20 years on the normative agenda all possible statements on the broadcasting treaty had already been made, and all the possible studies had been produced and analyzed. During the plenary sessions and side events of the SCCR the broadcasters had demonstrated which technologies and signals were used to reach the audience. It was only necessary to finalize the text in the future to move to a meaningful treaty and go to a diplomatic conference. After 20 years, nobody could deny that that was the most urgent normative issue.

70. The Representative of the Motion Picture Association (MPA) stated that the production and distribution of films, home entertainment, and television programs took place throughout the world. The companies represented by MPA devoted substantial efforts and resources to developing a wide range of entertainment content and services in a variety of formats and on a variety of media including the Internet. A balanced and workable system of copyright, including not only strong exclusive rights, but also exceptions and limitations, was supported. Indeed, producers were often the beneficiaries of limitations and exceptions. The Representative regretted that the SCCR agenda was stopped at that point. The WIPO Copyright Treaty (WCT) and the WIPO Performers and Phonograms Treaty (WPPT) and more recently the Beijing and Marrakesh Treaties were a legacy that all could be proud of; however, some 15 years on, they saw that the Committee was no closer to a broadcasters treaty now than they were in the past. The situation was worsened by the fact that what was on the table at the moment looked rooted in the past and less and less relevant to the realities of the real world. A good, up-to-date signal-based treaty had been sought by broadcasters in industrialized and developing countries. The present stalemate was very regrettable and a disservice to WIPO's reputation. MPA supported the work on principles that could be a building block for future results on exceptions and limitations. At that moment, a treaty was neither needed nor the right approach. There was sufficient flexibility built into current WIPO instruments to permit reasonable approaches to exceptions at a national level. Considering the situation, it was not desirable to burden the SCCR agenda with new projects.

71. The Representative of the International Federation of Library Associations (IFLA) stated that libraries, archives and museums played a vital balancing role in the copyright system. They payed tens of billions of dollars each year to rightholders while ensuring that reading and research was not the preserve of the rich. IFLA had engaged in discussions in the SCCR for many years. During that time, and in particular over the past few years, it had offered inspiring examples of the role that its institutions played in achieving educational, economic, and broader development goals. It in turn had provided dozens of examples of the obstacles that libraries and their users face due to inadequate copyright rules, preventing them from realizing their potential. It had seen how libraries in too many countries lacked the most basic laws necessary to serve their communities. It had noted the increasing gap between the expectations of digital-savvy readers, researchers and innovators, and what libraries could legally provide. In parallel, the Representative observed that IFLA had seen the rise of sites with infringing content which met a demand for knowledge that libraries were often unable to satisfy. IFLA underlined that licensing alone was a non-solution. The Representative stated that the SCCR could act. The African Group and GRULAC had already laid the foundations of an international legal instrument. It emphasized that, for libraries to continue to play their balancing role in the copyright system, such an instrument was necessary. There could be no more effective driver of national reforms where these were needed. And by agreeing on limitations and exceptions with cross-border effect, WIPO would come into its own, offering an antidote to the complexity highlighted by the Director General in his opening remarks. The Representative further stated that, for inspiration, the Committee could look to the European Union, which had recently proposed mandatory, cross-border exceptions. To realize that objective, the SCCR had to structure its agenda fairly. Work on broadcasting had to neither take up a disproportionate

share of time, nor introduce new complexities that harmed welfare. Finally, IFLA welcomed work on education, persons with other disabilities, and copyright in a digital environment, with topics dealt with in order of maturity. Meanwhile, IFLA also welcomed proposals by countries to learn more about the challenges that libraries and archives faced at a regional level. To be sustainable, effective and legitimate, copyright had to work in a way that maximized social and economic welfare, today and tomorrow. Neither the privatization of knowledge nor widespread infringement would achieve that. But if the SCCR provided the right tools, libraries and archives could do so.

72. The Representative of the International Federation of Reproduction Rights Organizations (IFRRO) welcomed, as an organization of authors and publishers in the text and image sector, the entering into force of the Marrakesh Treaty. IFRRO trusted that the Treaty would contribute to enhanced accessibility to published works, for the benefit of people who are blind, visually impaired, or otherwise print disabled. IFRRO also highlighted the importance of the Accessible Books Consortium, the (ABC), in improving and expanding the availability of accessible format copies of works. IFRRO expressed its will to continue to cooperate with other stakeholders in the context of the ABC. In respect of the topic of exceptions and limitations, IFRRO observed that, as it had stated at several SCCR meetings, it favored an outcome of the SCCR discussions based on three key elements. First, the exchange of information and practices. Second, the offer of a demand-driven WIPO led technical assistance program which could be coordinated at the regional and sub-regional level by intergovernmental organizations such as the African Regional Intellectual Property Organization (ARIPO), the League of Arab States, etc., to which IFRRO would offer to contribute as appropriate and required. Third, the use of the WIPO services such as cooperation with governments on legislative development. IFRRO stated that the last element had to focus on implementation of all the existing exceptions and limitations because, as studies presented at the SCCR indicated, Member States basically had appropriate exceptions and limitations in their national laws.

73. The Chair invited the new Deputy Director General of the Copyright and Creative Industries Sector, Ms. Sylvie Forbin, to take the floor for brief remarks.

74. Ms. Forbin thanked the Director General, Mr. Francis Gurry, for his kind words and the confidence he had shown in her. She wished also to thank Member States for the trust they put in her in approving her nomination. She thanked them all for the encouraging words they had given her, including the non-governmental organizations (NGOs). She committed to mobilize her experience in both diplomacy and industry for the promotion and implementation of WIPO development and cooperation objectives in the interests of all stakeholders in the cultural sector throughout the world. Copyright has an essential role in bringing a tremendous value to the creation and promotion of culture in the digital environment. She agreed with the Member States who had stated that the Committee had a lot of work to do. She concluded that she would devote a great deal of energy, to the shared objectives and that she has tremendous hope that the Committee would be able to achieve the objectives that Member States had set out.

75. The Chair stated at this point to make a decision that was outlined in document WO/GA/48/3. Despite the fact that there were a number of proposals expressed during the debate, which the Secretariat took careful note of, no specific formulations had been proposed for the decision and therefore, he proposed taking the decision as follows. The WIPO General Assembly, first, took note on the report of the Standing Committee on Copyright and Related Rights, and second, directed the SCCR to continue its work regarding the issues reported on in document WO/GA/48/3. He asked the plenary if they could adopt that decision.

76. The Delegation of Argentina thought that several delegations had expressed the wish to accelerate the work of the Committee in order to very speedily bring a conclusion to the work on

the protection of broadcasters, and although there had not been a concrete draft decision proposal, the Delegation wished to take a little bit more time to look into that matter.

77. The Chair stated that, as there were many issues going on in parallel, he needed a facilitator to do so. He asked the Delegation of Argentina to seek opinions of the different interested delegations and formulate potential additional elements to the draft decision, and to come back on Friday afternoon for a possible decision.

78. The Chair stated that he had asked the Delegation of Argentina to conduct informal consultations on Agenda Item 11 on the Report on the SCCR, and he asked the Delegation to brief the meeting on the results.

79. The Delegation of Argentina reported that one of its Delegates had sent regional coordinators a draft decision text which was based on what the Secretariat had prepared, with the addition of point (iii), which was added in order to make headway with the work of the Committee. The Delegation wanted a very clear roadmap with very clear timelines, and bilateral consultations were carried out with coordinators of regional groups as well as some interested delegations. Some groups gave some positive feedback, while others expressed concerns. In view of that situation, the Delegation was prepared to come back to the decision that the Chair had suggested to them the previous week.

80. The Chair took note of the wish of the Delegation of Argentina to withdraw the proposal to work further. He stated that it meant that they had a draft decision which was contained in document WO/GA/48/3 and could be adopted at the appropriate time. The Chair thanked the Delegate from Argentina who had undertaken the consultations.

81. The Chair stated that the meeting could move to decision making for Agenda Item 11, the Report on the Standing Committee on Copyright and Related Rights. The decision in front of them was contained in document WO/GA/48/3. He explained that, after consultations, the Delegation of Argentina withdrew its initial proposed amendment. He thanked delegations for the effort they deployed in search of an improved decision. The Chair asked the General Assembly whether they could adopt the decision as contained in document WO/GA/48/3. He saw no opposition, and declared that it was so decided and that Agenda Item 11 was closed.

82. The WIPO General Assembly:

(i) took note of the "Report on the Standing Committee on Copyright and Related Rights" (document WO/GA/48/3); and

(ii) directed the SCCR to continue its work regarding the issues reported on in document WO/GA/48/3.

ITEM 12 OF THE CONSOLIDATED AGENDA

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

83. Discussions were based on document WO/GA/48/4.

84. The Secretariat introduced document WO/GA/48/4, 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-third and the twenty-fourth sessions held from November 30 to December 4, 2015, and from June 27 to 30, 2016, respectively. The Secretariat stated that during those two sessions, the Committee had continued to address the following five topics: (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 advisors; and (v) transfer of technology. It further stated that the General Assembly was invited to take note of the information contained in the document.

85. The Delegation of Greece, speaking on behalf of Group B, thanked the Chair of the SCP for her organized chairing of those two sessions as well as the Secretariat for its hard work over the past year including the preparation for the General Assembly. The Delegation listed the five topics on the agenda of the SCP and stated that its Group was interested in making progress on the topics of quality of patents, including opposition systems as well as the confidentiality of communications between clients and their patent advisors. Noting that the SCP had to be a forum where all experts attending its sessions could benefit from its technical discussion, the Delegation expressed its regret that the Committee could not reach an agreement on future work during its twenty-third session. Nevertheless, for the Delegation, the agreement on the future work reached at the twenty-fourth session had been a signal of what could be achieved when delegations engage in discussions constructively. The Delegation stated that the SCP should continue to pursue its subjects, bearing in mind the importance of the Committee as the only multilateral forum dealing with a core IP issue, patents. 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 work together toward that objective.

86. The Delegation of Chile, speaking on behalf of GRULAC, expressed its particular interests in the topic of exceptions and limitations to patent rights as well as in the topic of patents and health, among other topics on the agenda of the SCP. Regarding the topic of exceptions and limitations to patent rights, the Delegation was looking forward to the document to be prepared by the Secretariat containing information to be submitted by members and observers of the SCP, regarding their practical experiences on the effectiveness of, and challenges associated to, exceptions and limitations, in particular in addressing development issues. As regards patents and health, the Delegation expressed its hope to participate in sharing session among Member States on national experiences relating to use of health-related patent flexibilities for promoting public health objectives or the challenges thereof with a view to explore the issues to be examined in a study to be submitted to the twenty-sixth session of the SCP. Noting the importance of those items for developing countries, the Delegation stated that they should be maintained on the agenda of the SCP.

87. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair and the Secretariat for their dedication and commitment to the results and the activities of the SCP in the past. The Delegation welcomed the activities that had been undertaken by the Committee since the 2015 General Assembly, including the adoption of the work program on five topics. The Delegation stated that the African Group was particularly keen on more ambitious future work program on the topics of exceptions and limitations to patent rights, transfer of technology, and in particular, on patents and health. The Delegation expressed its hope that the updated African Group proposal on patents and health, submitted to the twenty-fourth session of the SCP, would provide a good basis for further discussions on that topic, particularly, in view of the recently adopted SDGs. Further, the Delegation expressed its support for the GRULAC proposal on the revision of 1979 WIPO Model Law for Developing Countries on Inventions. Finally, the Delegation reiterated its commitment to working toward an international patent system that was progressive, more accessible and offered human and societal development.

88. The Delegation of Latvia, speaking on behalf of the CEBS Group, welcomed the work of the SCP. The Delegation highlighted the importance of the SCP as a forum where the Member

States could exchange the experiences and share the best practices in the area of patent law. The Delegation noted that its Group was pleased that an agreement was achieved on the work program at the previous session of the Committee. Noting that a delicate balance had been reached, the Delegation thanked the Chair of the Committee and all the regional groups. Further, the Delegation stated that the areas of interest of the CEBS Group were on quality of patents and confidentiality of communications between clients and their patent advisors. The Delegation expressed its belief that it was crucial to continue the work on improving the quality of patents, as the whole patent system would gain from it. The Delegation also stated that the work of the Committee enhanced the international cooperation and facilitated the solution on cross-border challenges.

89. The Delegation of Slovakia, speaking on behalf of the European Union and its member states, welcomed the agreement that had been reached on future work at the previous session of the SCP which enabled the Committee to continue its exchange of views in relation to the five topics. The Delegation expressed its belief that the overall package represented a reflection of both regional interest and global priorities, and that it was of the utmost importance to maintain that delicate balance. The Delegation stated that, although the European Union and its member states regarded all topics on the agenda as equally important, it reiterated its interest in enhancing international cooperation and improving the technical knowledge on patentability requirements, thus ensuring a more efficient, effective and higher quality patent system, as well as consideration of international patent harmonization.

90. The Delegation of the Russian Federation supported the initiatives as reflected in the Summary by the Chair. Attaching a great importance to the work of the Committee, the Delegation emphasized the importance of discussion of the topic of quality of patents. The Delegation stated that, in that regard, it would be useful to find speedy ways to solve the problem of so-called “evergreening” of patents, hindering the development of medicine and public health worldwide. The Delegation concluded that the Russian Federation highly appreciated the efforts of the Committee aimed at studying the issues of patents and health, transfer of technology, confidentiality of communications between clients and their patent advisors, as well as the exchange of experiences on the use of exceptions and limitations to the patent rights. The Delegation also expressed its support for the conceptual consideration of a balanced regulation of the relationship between society and patent holders.

91. The Delegation of Senegal attached particular importance to the SCP, which, in its view, should enable WIPO Member States to have the tools for the application of flexibilities that would strengthen the global system of patents. The Delegation expressed its support for the GRULAC proposal on the revision of the 1979 WIPO Model Law for Developing Countries on Inventions. The Delegation further congratulated the Secretariat and the Chair of the SCP on their work, and expressed its hope that the useful work of the Committee would continue and speed up.

92. The Delegation of India, speaking on behalf of the Asia and Pacific Group, stated that the work of the SCP was critical in creating a balance between the rights of patent owners and the larger public interest, particularly in the area of public health, technology transfer, and patent-related flexibilities. The Delegation stressed that such flexibilities were crucial for policymakers to craft and amend domestic patent laws in accordance with national development priorities and socio-economic realities. The Delegation further pointed to the fact that the TRIPS flexibilities took into account differences and played an important role in achieving the requisite balance. The Delegation believed that allowed governments, especially in countries with limited resources, the necessary policy space to meet their health needs and at the same time foster innovation. The Delegation observed that the exchange of experiences and case studies on the effectiveness of limitations and exceptions between Member States in the SCP provided guidance to improve and further enhance the efficiency of the patent system in a manner sensitive to the diverse needs. The Delegation requested the Secretariat to continue updating

the study in the future sessions. It also suggested inviting submissions from research institutions, civil society organizations and domestic industries in developing countries to enable them to share their practical experiences on the effective use of exceptions and limitations to patent rights under their relevant national legislation. The Delegation further asked the Secretariat to revise the feasibility study and address the question about the feasibility of disclosure of the International Nonproprietary Names (INN) in patent applications, specifically where the INN was known to the applicant. The Delegation supported the idea that the SCP should have discussions on the opposition systems and stressed that it was an important agenda item. The Delegation reiterated its view that the SCP should arrive at a common understanding on what was meant by “quality of patents”: whether it meant efficiency of patent offices in disposing patent applications or whether it meant the quality of patents that the patent offices granted, meaning that to ensure that patent offices did not grant patents of questionable validity. The Delegation expressed its desire that the Secretariat provide regular information to the Member States about the outcomes of patent applications and opposition procedures in different jurisdictions. It supported the GRULAC proposal on the revision of the 1979 WIPO Model Law for Developing Countries on Inventions (document SCP/22/5), which had to emphasize legislative and policy options for Member States.

93. The Delegation of Egypt aligned itself with the intervention made by the Delegation of Nigeria on behalf of the African Group. It admitted that it had been heartened by the ability of the SCP to reach a work program after a deadlock. The Delegation, nonetheless, stated that the ambitions had been higher than having a discussion forum within the SCP. It explained that WIPO Committees in general had a broader mandate of norm setting activities and were not only a forum for discussion and exchange of views. The Delegation believed that that was a way to proceed and achieve progress, however was not the limit of the mandate. With regard to the work program and issues that had been put on the agenda of the SCP, the Delegation reiterated its commitment to discussions on flexibilities and exceptions and limitations related to patents, as well as technology transfer and patents and health. With regard to the topic of patents and health, the Delegation underlined that it would constitute part of the assessment of the impact of the patent system on public health considerations and needs, which went in line with the Development Agenda (DA) recommendations. The Delegation indicated that a balanced IP system, which had been the aim of the SCP discussions, would not lead to harmonization of IP laws and systems. It explained that such kind of harmonization would automatically deny or set aside the differentials that existed between the levels of development among countries and would deny the considerations for development needs and public interest. The Delegation emphasized that, if it was possible to look beyond the limited scope of the SCP, it would allow to go to the adoption of the SDGs and the interlinkages with various areas of WIPO’s work in that domain. It further stressed that it was incumbent upon Member States to live up to their international commitments, as they were the same States that adopted the SDGs. The Delegation believed that there should be a consistency when relevant issues within WIPO Committees, including the SCP, were discussed. The Delegation concluded that the SCP had to target the adaptation of the IP system as a contribution to the achievement of the SDGs.

94. The Delegation of South Africa expressed its support for the statement made by the Delegation of Nigeria on behalf of the African Group. It stressed the importance of the work of the SCP due to its relation to the critical aspects of the patent system and the effectiveness in addressing public policy issues. The Delegation was pleased to note that the SCP had adopted a concrete work plan to provide structure and guidance which would make a meaningful contribution to the broader work undertaken by WIPO. The Delegation affirmed its commitment to the long standing issues in the SCP. It placed great importance on the patents and health proposal of the African Group and expressed its desire to see the work operationalized within the SCP to facilitate a better understanding of the challenges and constraints faced by developing countries in making full use of the public health-related patent flexibilities. The Delegation emphasized that the right to health was a fundamental part of human rights and was

relevant to all Member States, both developed and developing. It further noted that the global community had reaffirmed the importance of health when it recognized access to public health as Goal 3 of Agenda 2030. The Delegation believed that Goal 3 was particularly important, because it recognized that there were large unmet health needs present in both developed and developing countries, as well as significant inequalities within countries themselves. The Delegation further stated that all the UN organizations had the responsibility of working together to help achieve Goal 3. The Delegation believed that WIPO had a critical role to play by identifying and firmly addressing IP barriers to access medicine and a better quality of life for all. The Delegation was also looking forward to future work on other items, such as exceptions and limitations, quality of patents, technology transfer and addressing the capacity constraints in developing countries. The Delegation was committed to assisting in achieving the developmental aspirations and ensuring that no one was left behind.

95. The Delegation of Brazil aligned itself with the statement made by the Delegation of Chile on behalf of GRULAC. The Delegation observed that the SCP was a forum that attracted substantial interest from Member States due to its far reaching subjects. It noted that the decisions at the SCP had provided positive results regarding the goals of the patent system. The Delegation noted that, thanks to the able guidance of the Chair, the Committee had been able to reach an agreement on its future work at its previous session. The Delegation affirmed that Brazil would bring its positive contributions to discussions on many interesting items included in the future work. The Delegation looked forward to discussions to be held under the topic of patents and health to which its Group had made a proposal. In its opinion, the relationship between the patent system and health brought a clear picture of the inherent trade-off of IP, in which governments offered incentives for innovation, while controlling negative effects on competition and assuring an adequate balance between rights granted and access to the products. The Delegation therefore considered that it was a central issue to be discussed by Member States, considering the wide and complex governmental actions required to guarantee its effectiveness. The Delegation was of the view that the document to be submitted to the next session would provide a good basis for continued discussions. The Delegation further stated that another subject that Brazil would follow with close interest was that of limitations and exceptions. Recalling that its proposal had been discussed for many years, it was of the view that the inputs provided by members, observers and the Secretariat during the past SCP sessions should be used by the Committee to advance the deliberation of a document compiling those practices. According to the proposal of Brazil, that document should take the form of a non-exhaustive manual that would serve as a reference to Member States of WIPO. Recognizing the different views on the subject of patents, the Delegation expressed its belief that such differences were positive for the patent system, since they gathered contributions from many members and helped address the matter in its due complexity. The Delegation noted that some areas, such as positive effects brought by a balanced patent system in which patent offices provided high quality service regarding the examination of patent applications, could be further explored by the Committee. The Delegation further observed that another area of agreement among Member States was the need for a balance between the interests of right holders and those of society regarding socio-economic development. The Delegation expressed its hope that future discussions in the SCP would take into account the SDGs, which contained many Goals that had a direct relationship with the work of the Committee.

96. The Delegation of Japan expressed its support for the statement made by the Delegation of Greece on behalf of Group B. The Delegation welcomed the fact that the Committee had shared a lot of information on the various issues during its twenty-third and twenty-fourth sessions, and appreciated the Member States' flexibility in that regard. The Delegation noted that it attached high importance to discussions on quality of patents and the confidentiality of communications between clients and their patent advisors. Regarding the topic of quality of patents, the Delegation stressed the importance of considering the various elements in the patent granting procedures from practical perspective, including the patent examination practices and determinant factors for the quality of patents. Accordingly, the Delegation looked

forward to the sharing session on examples and cases related to assessments of inventive steps including, but not limited to, the topics suggested in document SCP/24/8, paragraph 8, to be held in the next SCP session. Concerning the confidentiality of communications between clients and their patent advisors, the Delegation was of the view that the ability of claiming confidentiality of advice made by patent advisors would enhance the stability of the IP system, whether in developed countries or in developing countries. In its opinion, that would contribute to protecting the interests of all relevant parties. The Delegation expressed its hope that the issue be continued to be discussed at the SCP so that the importance of protecting confidentiality of communications between clients and their patent advisors would be shared among Member States. In that context, the Delegation considered that the approach in the adopted future work, i.e., the Secretariat would collect court cases on that issue and prepare a document, was preferable. The Delegation expressed its strong belief that the SCP should continue discussing global patent issues. In addition, the Delegation expressed its commitment to contribute constructively to discussions on important patent issues.

97. The Delegation of Iran (Islamic Republic of) aligned itself with the statement made by the Delegation of India on behalf of the Asia and Pacific Group. The Delegation expressed its belief that the deliberations at the SCP would help the Committee better understand the challenges that developing countries faced in social development and explore the ways to better adapt the patent system to meet the needs of the national development. In its opinion, no Member State could benefit from international harmonization of patent law if it did not give due account to the existing differences among States in their levels of social, economic, and technological development. Regarding the topic of quality of patents, the Delegation reiterated that a precise definition of the term “quality of patents” was necessary for further discussing that issue at the SCP. The Delegation considered that in the absence of such definition, the respective proposals could not be fully comprehended. Concerning patents and health, the Delegation was convinced that having access to essential medicine with affordable price was of high importance for all developing countries. The Delegation noted that its expectation from inclusion of that agenda item in the work of the Committee was to recognize the practical ways to respond to all challenges that had been caused as a result of the patent system in the field of health. In its opinion, it is critical to consider the effectiveness of flexibilities accorded under international agreements and to put forward concrete proposals to maximize their application in favor of developing countries.

98. The Delegation of the United States of America aligned itself with the statement made by the Delegation of Greece on behalf of Group B and supported the statement made by the Delegation of Japan. The Delegation noted that it supported the SCP and looked forward to the next meeting in December 2016. As to the proposal by the Delegation of Brazil on the revision of the Model Law, the Delegation stated that it could not support the proposal. In its view, while the Model Law had been established at the time when the international patent system had been poorly defined, at the present time, WIPO had many programs designed to assist individual Member States in applying the international framework to their domestic needs. The Delegation therefore stated that, in its view, model laws were not an effective tool for developing countries. Instead, the Delegation believed that technical assistance provided by WIPO should be demand-driven, country needs specific and should take into account the different levels of development of Member States, and noted that the current WIPO technical assistance programs to Member States followed that format. With respect to the proposal by the Delegation of India to request the WIPO Secretariat to collect court decisions regarding patent obligations in different jurisdictions, while noting that each Member State could submit its own information, the Delegation considered it burdensome. The Delegation requested that if there was any proposal made by a Member State for a decision in the General Assembly, such a proposal be made in writing.

99. The Delegation of Cuba stated that, with regard to the future work of the SCP, the Committee should establish a concrete and balanced work plan in the medium-term based on

the consensus in the Committee and in line with the DA. The Delegation believed that the Committee needed to continue to look at the studies on transfer of technology, limitations and exceptions and patents and health. Furthermore, the Delegation expressed its support for the statement made by the Delegation of Chile on behalf of GRULAC, and for the revision of the 1979 WIPO Model Law for Developing Countries on Inventions.

100. The Delegation of Cameroon expressed its support for the statement made by the Delegation of Nigeria on behalf of the African Group. The Delegation also congratulated the Chair of the SCP for her constructive guidelines provided on the issues on which the SCP would work during its next session. As regards the strategic direction of the Committee, the Delegation expressed its belief that the law of patents should be discussed in depth and the concrete proposals be made so that developing countries and LDCs would have an easier access to patented and generic medicines. Noting that that would save lives of many people, the Delegation stated that that was the responsibility of all Member States. As to the question of the transfer of technology, the Delegation stated that it was the right time that efforts were undertaken and that that process should contribute to development.

101. The Delegation of Sudan expressed its support to the statement made by the Delegation of Nigeria on behalf of the African Group. The Delegation stated that it paid great attention to the work of the SCP due to its importance with regard to public health and the transfer of technology. The Delegation also noted the importance of maintaining a balance between the interests of the right holders and the public.

102. The Delegation of Romania aligned itself with the statement made by the Delegation of Slovakia, speaking on behalf of the European Union and its member states, as well as the statement made by the Delegation of Latvia on behalf of the CEBS Group. Further, the Delegation expressed its gratitude for the warm words expressed by several delegations in relation to the work of the Chair of the SCP. The Delegation also thanked all delegations for the support and cooperation provided throughout the SCP sessions, which had been instrumental for reaching an agreement on the work program for the following session of the SCP. Further, the Delegation stressed the unique role of WIPO in promoting innovation and creativity and stated that the development of a sound international patent system was the most important achievement of WIPO. Noting that in order for the patent system to keep pace with the fast progress in the technological field and to maintain a forum where patent related concerns of all Member States would be addressed, the Delegation noted the importance of being committed to working constructively and efficiently. Therefore, the Delegation stated, it fully supported the advancement of the SCP work with a view to deepening the understanding of the topics on its agenda, including through the exchange of best practices.

103. The Representative of TWN observed that patent monopoly had often been justified as a tool for promoting innovation; however, more and more evidence suggested that patents could have negative effects on innovation. He stated that according to the Report of the United Nations Secretary-General's High-Level Panel on Access to Medicines, public health sensitive, IP rules and mechanisms could help address this misalignment between pro-driven innovation models and public health priorities. The Representative noted that the Nobel Laureate Professor Joseph Stiglitz had said that the patent system and the Trade-Related Aspects of Intellectual Property (TRIPS) Agreement were not about innovation, but about monopoly profit. In this connection the Representative called upon the Secretariat and Member States to approach patents in a balanced and calibrated manner and to be more concerned about the quality of granted patents rather than about the increase in the quantity of patents. He explained that the lack in application of patentability criteria had led to the lowering of patent quality and had resulted in patent thickets, market entry barriers, royalty stacking and increased litigation, all of which had ultimately generated impediments to research and commercial application. The Representative further expressed another important concern, which was the political pressure that developing countries received against the use of flexibilities. Specifically,

he stressed that undue political and economic pressure from States and corporations had been used to prevent governments from using flexibilities which could protect public health and noted that that fact had also been captured by the UN High-Level Panel. The Representative stressed that the Report had recommended governments and the private sector to refrain from explicit or implicit threats, tactics or strategies that undermined the right of countries to use TRIPS flexibilities. He added that the Report had specifically recommended that WIPO in collaboration with stakeholders developed an international easily searchable database, which would include: (1) standard international common names of biological products; (2) INN of products either at the stage of application or after the grant of patent; (3) dates of grant and the expiry dates. The Representative called upon the Secretariat to implement such recommendations at the earliest. He finally noted that the SCP discussions should be conducted in line with the DA Recommendations and should recognize development concerns with regard to the impact of the patent system. The Representative also stressed that the SCP should promote the use of flexibilities within the patent system to address such concerns. He was looking forward to the work program on important issues, such as public health, technology transfer and the SDGs at the following SCP meeting.

104. The Representative of KEI supported the revised African Group proposal on patents and health, which was, in its opinion, excellent, and was supported by many groups concerned about innovation, access and fairness as it related to medical inventions. The Representative stressed that that was a very important issue – a life and death issue for many – and brought together the issues of innovation, access, fairness and equity. The Representative stated that it would be useful to consider the relationship between the World Health Organization (WHO)'s essential medicines list and patents, because that was an area that often came up when people defended high drug prices and legal monopolies on drugs as it related to medicine, which, in his view, was misleading. The Representative observed that historically, the WHO's mentioned list had been a list of drugs that had been cheap and had been put on the list for treating poor people. Noting its study on the relationship between cancer drugs and the essential medicines list in 2011, the Representative noted that for several and many decades, the essential drugs list had been populated by cancer drugs that had been very old and off patent. According to the Representative, the only reason why historically there had been no patented cancer drugs on the essential drugs list was because patented cancer drugs had been too expensive to be afforded by the health systems in the countries using the essential drugs list. The Representative considered it important to discuss that background and also to understand some of the other dynamics of whether or not the WHO list was going to be revised to include more patented drugs and what the consequences were for people trying to issue compulsory licenses and produce those drugs. The Representative noted that the UN High Level Panel on Access to Medicines wanted to explore what was referred to as delinkage, which was about funding research and development without the grant of monopolies and high prices. The Representative observed that in some proposals to implement delinkage, patents played a role, but in a different way than they did currently. The Representative explained that, under the delinkage scenarios, the patents were a mechanism not to get a monopoly but to make claims on large financial rewards that were made available to drug developers. In his opinion, at some point, it might be useful for the SCP to get a deeper understanding of what type of enabling legal environment at the national level countries had in order to implement delinkage scenarios. The Representative referred to a web page called delinkage.org, on which a list of the organizations, academics and other people who had endorsed the delinkage approach was found, and encouraged people to review that web page.

105. The Representative of Innovation Insights drew attention to the role of patents not just in helping inventors to capture the value of their ideas but underpinning the foundation of technology transfer. The Representative observed that SMEs and research institutes were particularly driven to collaborate, since they might develop promising research or niche solution but then lacked the resources and expertise to scale. She noted that hand off of research among partners in order to refine and get it to users was facilitated by patents. The

Representative stated that collaboration was increasingly central to the development of technology solutions as well as to their delivery and improvement. She explained that often a solution required adaptation to ensure it effectively addressed needs in a specific place. In its opinion, those best positioned to improve a solution were those most embedded in that local context. The Representative added that collaboration over time resulted in the sharing of critical know how among partners building absorptive capacity, which was addressed in the G20 Blueprint for Growth. The Representative affirmed that that was not theoretical, as she attended a conference where 10 entrepreneurs from emerging countries had come to pitch their solutions to the realization of the SDGs. According to the Representative, the applications had been narrowed down to 40, and 10 were invited to come to Geneva. The Representative noted that they had been seeking funding to scale, and to do that, IP tools were used. The Representative emphasized that patents had been enabling several of the startups to collaborate with manufacturing and other partners without losing control over their ideas. Recalling that some work on technology transfer had been undertaken already in the SCP, the Representative was of the view that identifying how patent tools could be leveraged for development by different types and sizes of innovators would require a deeper analysis of how that could happen in the economy across sectors and around the world.

106. The WIPO General Assembly took note of the “Report of the Standing Committee on the Law of Patents” (document WO/GA/48/4).

ITEM 13 OF THE CONSOLIDATED AGENDA

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

107. Discussions were based on document WO/GA/48/5.

108. The Chair opened the floor for delegations that wished to intervene on document WO/GA/48/5 containing the report of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).

109. The Delegation of Chile, speaking on behalf of GRULAC, thanked the Secretariat for the report on the work of the SCT. The Group hoped that an agreement could be reached on the Design Law Treaty (DLT) and wished to stress the importance of the protection of country names, which offered an opportunity to provide value to the distinctive signs of a country through the use of trademarks, especially for developing countries. GRULAC expressed interest in the discussions on the proposal made by the Delegation of Jamaica and contained in document SCT/32/2 as well as the continuation of work on the protection of country names. The Group hoped that based on the decision taken by the General Assembly in 2015, discussions on geographical indications would continue, examining various systems of protection and covering all aspects.

110. The Delegation of Latvia, speaking on behalf of the CEBS Group, took note of the report of the SCT and stated that interesting discussions had thus far taken place in the area of trademarks and the protection of country names. The CEBS Group looked forward to analyzing the different approaches adopted by Member States regarding the protection of country names. The Group supported the proposal made by a number of Member States on the protection of geographical indications and country names in the domain name system (DNS) and believed that the SCT should address this new challenge linked to the technological developments and the expansion of the DNS.

111. The Delegation of China took note of the report of the SCT and expressed its appreciation for the work accomplished during the past year. The Delegation was mindful of the protection of

country names and expressed its readiness to engage in further discussions and studies with other SCT members. The Delegation supported the idea that the SCT conduct a full study or survey on geographical indications protection systems in various countries. Regarding the protection of geographical indications and country names in the DNS, the Delegation believed that research and studies could be conducted as a basis for further action to be taken on this matter. The Delegation affirmed the importance of the DLT for improving the design law systems of various countries and believed that the treaty would play an important role in the national design industries. For this reason, it was important to reach an agreement and the Delegation called upon members to show a constructive spirit in advancing the discussions during the current Assemblies.

112. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair and Vice-Chairs of the SCT, as well as the Secretariat, for their hard work over the past year. The Group considered that the issues under discussion were very important. The Delegation expressed the view that there seemed to be an inclusivity gap in the SCT discussions, such as the discussions on the DLT. Such an approach did not foster progress, especially when taking into account the diversity of the WIPO membership and their equally diverse priorities. The Delegation indicated that the Group would continue to engage constructively in the SCT and called upon all members to have the same approach.

113. The Delegation of the Russian Federation noted with satisfaction the report on the work of the SCT, and pointed out that priority should be given to completing the work on the DLT, bearing in mind the high level of preparedness of the draft text, over which a large compromise had been reached. The Delegation supported the convening of a diplomatic conference for the adoption of the treaty and believed that this would help with the registration of designs around the world and contribute to IP more generally. The Delegation pointed out the importance and usefulness of the work done by the SCT regarding the protection of country names and supported future work in that area. It expressed great interest in a study concerning national systems for the protection of designs and supported the initiative to undertake further studies on geographical indications.

114. The Delegation of Japan welcomed the work of the Secretariat regarding the questionnaire that was based on the proposal presented by the Delegations of the United States of America, Israel and Japan and entitled "Industrial Designs and the Emerging Technologies, Similarities and Differences in the Protection of New Technological Designs". The Delegation pointed out that the result of this questionnaire would be invaluable in terms of discussing the relationship between industrial designs and emerging technologies and hoped that the issue might be discussed at the next session of the SCT.

115. The Delegation of Iran (Islamic Republic of) took note of the report of the SCT and thanked the Secretariat for the preparation of this document. While affirming the key importance of the work of the SCT on the protection of country names, the Delegation stated that the study undertaken by WIPO, which compiled the national laws and practices on this matter, indicated there was a need for international action to prevent the registration or use of country names as trademarks. The Delegation encouraged discussions in the SCT on how to ensure that trademarks are not used to constrain the ability of countries to regulate the use of trademarks or brand names on harmful products in the interest of public health.

116. The Delegation of Trinidad and Tobago supported the statement made by the Delegation of Chile on behalf of GRULAC and stated that the SCT had continued to advance and provide useful guidance since the last session of the Assemblies. The issue of the protection of country names continued to be of particular importance to countries in the Caribbean region and especially to Trinidad and Tobago, which sought to diversify its economy. The Delegation held the view that the DNS raised challenges for the protection of IP, due to the global nature of the Internet and the implications which emanate therefrom, such as bad faith registration and use of

domain names corresponding to trademark rights. International approaches to addressing this issue were particularly important to anticipate these developments. The DLT discussions were of particular importance to Trinidad and Tobago, as it anticipated completing its agreement in principle to accede to The Hague Agreement. The Delegation looked forward to receiving information on the WIPO Digital Access Service (DAS), since the electronic exchange of documents between offices would contribute significantly to added efficiency by providing quicker means of transferring such documents. Exploring effective measure against the misuse of geographical indications and other important geographical names in the operation of the DNS was of particular relevance to Trinidad and Tobago. This was especially so for the promotion of local products, such as cocoa, which had international reputation for being a premium product that was used to make some of the world's finest chocolates. The Government of Trinidad and Tobago was actively working with local cocoa farmers to provide them with assistance for the filing of a geographical indication. The Delegation wished to acknowledge the support and assistance extended by WIPO for drafting Trade Mark Regulations 2016. The Delegation reported that a proposal was contained in the Regulations allowing for online filing of applications.

117. The Representative of TWN drew the attention of Member States on the decision of the International Center for the Settlement of Investment Disputes (ICSID) in a case between the tobacco company Philip Morris and the Government of Uruguay. The company had challenged two specification measures taken by Uruguay as part of their obligations under the WHO Framework Convention on Tobacco Control. As a first measure, Uruguay prevented tobacco companies from advertising cigarettes. Secondly, Uruguay required tobacco companies to use 80 per cent of the front and back of packets for graphic warnings of the health hazards of smoking. Philip Morris held that Uruguay had violated its rights under an investment agreement but the tribunal rejected the claim. ICSID held that Uruguay did not deprive Philip Morris from using its trademark rights because the measures were enacted in the interests of legitimate health policy. TWN called upon Member States to initiate discussions on the implications of trademarks on public policies related to medicines for products targeting, among others, children. The Representative stated that trademark protection related to country names was important and that these issues should be addressed by the Member States effectively in the upcoming sessions of the SCT. The Representative affirmed that the proposal on design protection in the digital context would need more information and a study regarding its implications before any decision be taken on norm setting.

118. 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/48/5).

ITEM 14 OF THE CONSOLIDATED AGENDA

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

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

120. The Delegation of Latvia, speaking on behalf of the CEBS Group, regretted the inability of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) to reach an agreement on convening the diplomatic conference. The Delegation, thanking the Chair of the SCT for his tireless efforts in facilitating the discussions and for the proposals he had put forward, recalled that the aim of the Design Law Treaty (DLT) was to simplify and harmonize registration procedures, which would benefit designers from the entire world. Pointing out that a proposal on a disclosure requirement had been discussed during the last two SCT sessions, the Delegation stated that it was still not convinced that such

requirement had a place in a formalities treaty or would facilitate the registration of designs. The Delegation, indicating that the CEBS Group had carefully listened to the concerns behind the proposal and had made numerous proposals to address those concerns, observed that no agreement had been reached. Taking into account that the text of a draft DLT had been finalized already a few years ago, the Delegation urged proponents to withdraw the proposal in order to convene the diplomatic conference. The Delegation was of the view that the IGC was the appropriate forum for all discussions related to traditional knowledge (TK), genetic resources (GRs) and traditional cultural expressions (TCEs). Pointing out that the CEBS Group was ready to engage in informal and formal discussions on the DLT during the General Assembly, with the aim to convene a diplomatic conference, the Delegation reiterated the position that, if the General Assembly failed to take a decision in this respect, the CEBS Group was against reverting the issue back to the SCT since, in its opinion, no further work on the treaty was necessary.

121. The Delegation of Greece, speaking on behalf of Group B, recalled the long history of the issue under discussion and expressed its regret that considerations falling outside of the scope of the treaty were currently preventing users from benefitting from a simplification of formalities in the industrial design system. The Delegation recalled that, at the 2014 General Assembly, Group B had stood ready to agree on sending document SCT/31/2 to a diplomatic conference in 2015. In this regard, although it appreciated the explanations provided during the thirty-fifth session of the SCT about the relevancy of the proposed disclosure requirement, the Delegation stated that Group B remained unconvinced of the necessity of such requirement.

122. The Delegation of the European Union, speaking on behalf of the European Union and its member states, thanked the Chair of the SCT for his tireless efforts during the SCT sessions in trying to bring matters forward to convene a diplomatic conference for the adoption of the DLT, which would be of benefit to designers across the globe. The Delegation said that the DLT aimed at harmonizing and simplifying design registration procedures to the benefit of users and WIPO members across the spectrum of development. Noting that a long time had passed since the substantive provisions of the DLT had been stabilized in 2014, the Delegation recalled that the European Union and its member states had supported the convening of a diplomatic conference during the General Assembly of 2014, based on that mature text, and noted that the only open question at that stage concerned the issue of technical assistance and capacity building. During the thirty-fourth and thirty-fifth sessions, the SCT had, in line with the mandate by the 2015 General Assembly, extensively discussed the subsequent proposal for a disclosure requirement to be included in Article 3 of the DLT. The Delegation said that the European Union and its member states remained however unconvinced that the proposal on a disclosure requirement was relevant to industrial designs or that it would simplify and harmonize current design registration procedures. On the contrary, the Delegation considered that the proposal moved the text further away from the objective of simplification and alignment of design registration formalities. Pointing out that the disclosure requirement was linked to the patents system, the Delegation stated that the IGC was the appropriate forum to discuss the underlying issues related with it. In this regard, recognizing that progress had been made in relation to GRs in the IGC, the Delegation expressed the view that this year's discussion on GRs had been fruitful and interesting. The Delegation recalled that the European Union and its member states had made significant and constructive contributions to those discussions, including confirmation of a concrete proposal on a disclosure requirement in relation to GRs in patents. The Delegation also recalled that the disclosure requirement contained in its proposal included certain safeguards, as a disclosure requirement that discouraged, undermined or created legal uncertainty in the patent system would not be in anybody's best interest. Taking the foregoing into account, the Delegation called on the proponents of a disclosure requirement in the DLT to withdraw their proposal, which was extraneous to the treaty's purpose. Observing that the two remaining issues had been discussed extensively and repeatedly in the Committee, the Delegation expressed the view that the General Assembly had a responsibility to take a decision on the two issues and the future of the DLT. The Delegation stated that, if an

agreement could not be reached, the European Union and its member states did not see any need for further discussions of the DLT in the framework of the SCT. The Delegation said that, in relation to technical assistance, the European Union and its member states supported the effective delivery of technical assistance and capacity building in implementing the DLT and remained flexible with regard to the options on the table. The Delegation considered that, whichever the option agreed, it should be geared towards the requirement of end users.

123. The Delegation of Chile, speaking on behalf of GRULAC, expressed the hope that a consensus would be reached on the outstanding issues related to the DLT. Reiterating the view that technical assistance and capacity building were of vital importance, since they ensured effective cooperation with developing countries and LDCs, the Delegation declared that it supported the inclusion of a provision on technical assistance, irrespective of its nature. The Delegation concluded by reaffirming its constructive position in the negotiations and its commitment to participate actively in a diplomatic conference next year, if the General Assembly agreed to convene it.

124. 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 on a mandatory disclosure requirement for TK in the DLT. The Delegation held the view that both these issues should be reflected as specific provisions within the text of the DLT. Finally, the Delegation reiterated its position 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.

125. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair of the SCT for his tireless effort in trying to bring Member States to reach agreement on the DLT. The African Group, regretting that an agreement had not been reached on this question and on technical assistance at the thirty-fourth and thirty-fifth sessions of the SCT, as directed by the General Assembly in 2015, said that in its view, those discussions had not been successfully completed. However, the Delegation believed that opportunities to approach the subject in a constructive manner continued to exist, with tolerance for the priorities determined by other groups. Reiterating the African Group's commitment to the disclosure of GRs, TK and TCEs utilized in industrial designs, the Delegation expressed the view that the disclosure requirement was not irrelevant to the draft DLT. As sovereign States, the African Group rejected the idea that any proposed international instrument would foreclose national policy options. The Group was not in a position to accept any final outcome that foreclose national policy options. The Delegation also pointed out that it had demonstrated flexibility and explained the rationale behind the inclusion of a disclosure requirement in the text, while the demanders had not showed any reciprocity, beyond a request to the African Group to withdraw its proposal. The Delegation believed that that was not a constructive approach and would not yield positive result. The Delegation therefore called on the demanders to exhibit the tenets of the multilateral system. To conclude, the Delegation said that the African Group remained open to discuss further, including in informal consultations, and looked forward to reaching consensus on the pending issues of disclosure and technical assistance.

126. The Delegation of India, speaking on behalf of the Asia and Pacific Group, said that the SCT had worked towards bridging the gaps among the Member States on the text of a possible DLT. The Delegation believed that the implementation of the DLT should be accompanied with

enhanced capacity of Member States to carry out the new obligations. Therefore, in order to achieve the desired outcomes, the proposed treaty should contain adequate provisions on capacity building within the IP infrastructure of developing countries and LDCs. Reiterating its strong support to the inclusion of the provisions on technical assistance in the form of an article in the DLT, the Delegation expressed the hope that a decision on this matter would be adopted to the satisfaction of all members. Noting that most of the members of the Asia and Pacific Group had expressed their support for the principle of disclosure of source, the Delegation believed that sovereign Member States of WIPO should have the flexibility to include in the treaty, as part of the design eligibility criteria, components that are deemed important to complete the formalities for protection of industrial designs within their own jurisdiction. Finally, the Delegation welcomed the 2015 General Assembly decision on DLT and reiterated its engagement to work towards a constructive and complete resolution of all outstanding issues, enabling the convening of a diplomatic conference.

127. The Delegation of Egypt, aligning itself with the statement made by the Delegation of Nigeria on behalf of the African Group, recalled that Member States had agreed last year to urge the SCT to reach an agreement on the two elements of the proposal by the African Group. Indicating that consensus was key to move to a diplomatic conference, the Delegation declared that Member States should be able to express their concerns and priorities and to have them reflected in norm-setting activities undertaken within WIPO. The Delegation believed that qualifying the elements proposed by the African Group as irrelevant and not understandable denoted the fact that some delegations did not respect the priorities of other delegations.

128. The Delegation of Bangladesh, speaking on behalf of the LDCs, expressed its strong support for the inclusion of an article on technical assistance in the text of the DLT.

129. The Delegation of Algeria, aligning itself with the statement made by the Delegation of Nigeria on behalf of the African Group, thanked the Chair of the SCT for his strong engagement on the subject matter. The Delegation expressed the view that both the issue of technical assistance and a mandatory disclosure requirement had to be reflected in the form of specific provisions in the basic proposal of the DLT and in the text of the DLT itself. The Delegation recalled that the 2015 General Assembly decision had been to convene a diplomatic conference, only if the discussions on technical assistance and a mandatory disclosure requirement were concluded. Noting that both provisions were still in brackets, the Delegation considered that the discussions had not been concluded and that further discussions were necessary.

130. The Delegation of Sudan, expressing its appreciation for the work done by the Chair within the SCT, aligned itself with the statement made by the Delegation of Nigeria on behalf of the African Group.

131. The Delegation of France, thanking the Chair of the SCT for his efforts and work, endorsed the statements by the Delegations of Greece, on behalf of Group B, and the European Union. Considering that the text of the DLT, the purpose of which was to simplify and harmonize design registration procedures, had been largely finalized, the Delegation said that it attached great importance to the adoption of the DLT over the next few months. The Delegation stated that there were no sufficient reasons to defer again the convening of the diplomatic conference and expressed the hope that a consensus would be reached during the Assembly. The Delegation also recalled that it had demonstrated flexibility during the discussion on technical assistance, pointing out that the issues related to a disclosure requirement needed to be discussed in the IGC or at national level.

132. The Delegation of Cuba, aligning itself with the statement made by the Delegation of Chile, on behalf of GRULAC, reiterated the position that the provision of technical assistance should be included in an article in the main text of the treaty.

133. The Delegation of South Africa, aligning itself with the statement made by the Delegation of Nigeria, on behalf of the African Group, expressed its willingness to move towards the convening of a diplomatic conference. The Delegation assured Member States that the aim of including a provision on disclosure in Article 3 of the draft DLT was to allow Member States that had provisions for the protection of TK in their national design laws to comply with the filing requirements in their national legislation when joining the DLT. With respect to technical assistance, the Delegation considered that this was an important issue for all Member States and reiterated its position regarding the form of the provision and the need to resolve the issue before convening a diplomatic conference. The Delegation concluded by stating that there was a need for political will and understanding.

134. The Delegation of the Russian Federation, speaking on behalf of the IP Offices of BRICS countries, expressed its support for the inclusion of a compulsory article on technical assistance in the text of the DLT. In its national capacity, the Delegation declared that it supported the DLT and the convening of a diplomatic conference for the adoption of the treaty in 2017, in a location to be determined subsequently by the Preparatory Committee. The Delegation believed that the conclusion of the treaty would have benefic impact on design application and registration procedures in terms of costs, quality and time efficiency. Finally, expressing the hope that the work on the outstanding issues related to the treaty would conclude soon, the Delegation reiterated its readiness to participate in consultations in order to find a solution acceptable to all.

135. The Delegation of Nigeria, aligning itself with the statement of the African Group, encouraged Member States to hold constructive discussions, with a view to resolving the outstanding issues in the draft DLT. Expressing concern about the closed nature of the list of requirements in the DLT, the Delegation announced that it would not lend support to an outcome which would not preserve the sovereign rights of Member States to make decisions in their national interest or in accordance with their national law. Finally, the Delegation expressed its readiness to continue engaging constructively on these issues.

136. The Delegation of Indonesia, endorsing the statement made by the Delegation of India on behalf of the Asia and Pacific Group, stated that, in its view, a diplomatic conference on the adoption of the DLT should be convened only with a technical assistance and capacity building clause reflected in the draft text. Considering that an article would provide legal certainty on the implementation of the DA Recommendations, the Delegation also said that it believed that the DLT should include a provision on a mandatory disclosure related to TK, TCEs or GRs in an industrial design application.

137. The Delegation of India, expressing support for the position stated by the Delegation of the Russian Federation, underlined the fact that technical assistance for developing countries and LDCs was an important aspect of the DLT. The Delegation pointed out that, after extensive deliberations, BRICS countries requested binding commitments in the DLT for providing technical assistance, by way of an article in the draft DLT.

138. The Delegation of Colombia thanked the Chair of the SCT and the Secretariat for their efforts in providing options for a text, with a view to moving towards an agreement and towards the convening of a diplomatic conference. Underlining its determination to protect its TK and GRs and recalling that it had shown such determination in various working groups and fora, the Delegation stated that the DLT was a treaty aiming at reducing formalities and at bringing down costs for designers. The Delegation therefore urged all countries to show clear political will and flexibility.

139. The Delegation of China, lending its support to the statement made by the Delegation of the Russian Federation on behalf of BRICS countries, stated that it considered that the DLT could play a positive role in improving national design protection regimes and in promoting the development of related industries and expressed the hope that the treaty could be adopted as

soon as possible. The Delegation noted progress in the discussions, while observing that differences remained on specific issues. The Delegation expressed the hope that the General Assembly would intensify its work with the view to reducing differences. The Delegation also hoped that all parties would take into account other countries' concerns and show flexibility, in order to reach consensus and create fair conditions for the convening of a diplomatic conference in the first half of 2017.

140. The Delegation of Brazil, aligning itself with the statements made by the Delegation of Chile, on behalf of GRULAC, and by the Delegation of the Russian Federation, on behalf of BRICS countries, pointed out that the implementation of the DLT would require technical cooperation for the adaptation of national legal practices and procedures to the requirements of the treaty. In its opinion, the provisions on technical assistance should provide clear guidance and enable legal certainty to Members, so that the cooperation activities could be carried out by the Secretariat in close dialogue with recipient countries. Underlining the importance of the matter, in line with the DA Recommendations, the Delegation expressed the view that the provisions would be better reflected in the form of an article. The Delegation also declared that it looked forward to continuing the discussions, in order to reach an agreement.

141. The Delegation of the Democratic People's Republic of Korea declared that it lent its support to delegations that had expressed themselves in favor of the inclusion of technical assistance in the text of the DLT and to the convening of a diplomatic conference to adopt the DLT.

142. The Delegation of Senegal, endorsing the statement made by the Delegation of Nigeria on behalf of the African Group, expressed its support to the possibility of convening a diplomatic conference for the adoption of the DLT. Underlining its attachment to a clause on disclosure and on technical assistance, the Delegation expressed the wish to see both matters included in the body of the text of the DLT, as a condition for the convening of the diplomatic conference, given the decision taken by the General Assembly at its fifty-fifth session.

143. The Delegation of South Africa, aligning itself with the statement made by the Delegation of the Russian Federation on behalf of BRICS countries, reiterated its demand for the inclusion of provisions on technical assistance and a mandatory disclosure in the treaty.

144. The Chair took note of the exchange of opinions and observed that the technical assistance issue left room for flexibility. The Chair suggested holding informal consultations and asked Mr. Adil El Maliki, Chair of the SCT, to facilitate those consultations.

145. The Chair informed the plenary that the item had been the subject of several bilateral and plurilateral informal consultations, facilitated by the Chair of the SCT. Noting that there had been no advancement on the topic, he proposed a decision paragraph, which was adopted:

146. The WIPO General Assembly decided that, at its next session in October 2017, it will continue considering the convening of a diplomatic conference on the Design Law Treaty, to take place at the end of the first half of 2018.

ITEM 15 OF THE CONSOLIDATED AGENDA

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

147. Discussions were based on documents WO/GA/48/7, WO/GA/48/8 and WO/GA/48/13.

148. The Secretariat noted that there were three 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/48/7), the “Decision on the Committee on Development and Intellectual Property (CDIP) Related Matters” (document WO/GA/48/8) and the “Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations” (document WO/GA/48/13). Concerning the first document, the Secretariat stated that the CDIP met twice since the 47th meeting of the General Assembly, held in October 2015. It recalled that the sixteenth session and the seventeenth session of the Committee took place in November 2015 and in April of the current year, respectively. As agreed by the Committee, 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 (DA), discussed by the Committee at its seventeenth 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 that document the Committee requests the General Assembly to allow it to continue the discussion on these two matters during its eighteenth and nineteenth sessions and to report back to the General Assembly in 2017. The third document also addressed the implementation of the Coordination Mechanism. It includes the Report on the IGC, document WO/GA/48/9, paragraphs 10 and 11, and the Report on the SCCR, document WO/GA/48/3, paragraphs 31 to 35. The General Assembly is requested to take note of the information contained in the document WO/GA/48/13 and forward it to the CDIP. The Secretariat also referred to the Independent Review of the Implementation of the Development Agenda Recommendations, whose report will be considered by the CDIP in its next session. It also highlighted the success of the International Conference on IP and Development, which gathered 400 on-site and 600 participants through webcasting.

149. The Delegation of Chile, speaking on behalf of GRULAC, highlighted the importance of the CDIP for developing countries. It stressed that the development dimension should be mainstreamed in WIPO’s work. It also underlined the importance of making efforts to implement the DA. It referred to the Report on the Independent Review of the Implementation of WIPO Development Agenda (document CDIP/18/7) to be discussed at the eighteenth session of the Committee. It also referred to the SDGs, stating that they represented the efforts expected to be undertaken by the international community in the coming 15 years. The objective of the SDGs was to gather world efforts to put into practice the three dimensions of sustainable development, namely, the economic, social, and environmental aspects. As a specialized UN agency, WIPO had the necessary technical capacity to play an active role in the discussions and actions related to the SDGs. In view of the legal nature of the Agreement of 1974 between the UN and WIPO, and the terms of the Resolution adopted by the General Assembly on September 25, 2015 (A/RES/70/1), the Organization, along with other relevant actors, should actively participate in achieving the SDGs. In GRULAC’s view, the discussion of WIPO’s role in the implementation of the SDGs was of great importance. It expected that the future contributions would continue in the direction of the ongoing work undertaken by the Organization. Finally, it expressed its appreciation for the organization of the International Conference on IP and Development.

150. The Delegation of Greece, speaking on behalf of Group B, stated that all WIPO's work, including the DA, should be undertaken with an unwavering view to contributing to the policy and service objectives which underpins the Organization. It referred to the Independent Review of the Implementation of the DA Recommendations, stating that it would further elaborate on it in the forthcoming session of CDIP. As regards the second document under discussion (WO/GA/48/8), it reiterated that having a standing agenda item on IP and development was unnecessary as any related issue could be proposed and discussed under a specific agenda item as it has been the case so far. Finally, it recalled the divergence of views in relation to the Summary by the Chair of the Seventeenth session of the Committee (document CDIP/17/SUMMARY) as regards the External Review of WIPO Technical Assistance in the Area of Cooperation. The different views were reflected in the draft Report of the seventeenth session of the Committee (document CDIP/17/11 Prov.). The Group looked forward to concluding the matter at the upcoming eighteenth session of the Committee.

151. The Delegation of Nigeria, speaking on behalf of the African Group, commended the Organization of the International Conference on IP and Development held in April of the current year. The Conference was able to crystallize some of the obstacles encountered by developing countries and LDCs in the use of IP in development. It also shed light on some of the ideas that might be used by the Organization and Member States to mitigate the gaps. It highlighted the importance of the projects and cooperation activities undertaken in the context of the CDIP in several African capitals. Nonetheless, it called for accelerating the long standing discussions on a number of issues, namely, implementation of the third pillar of the CDIP mandate, coordination mechanism, technical assistance in the area of cooperation for development, technology transfer, mainstreaming of the DA into WIPO's work, and governance at WIPO. On the SDGs, it stated that the African Group did not consider WIPO as a development agency but as a UN agency which had a responsibility to meet and a role to play in fulfilling the UN agencies global view and objectives. Consequently, it expected that the CDIP and WIPO at large would play a critical role in contributing to achieve the SDGs. That commitment was made by all UN Member States at the multilateral level. It stressed that Member States and other stakeholders would facilitate discussions in that regard. Finally, it looked forward to discussing the Independent Review of the Implementation of the DA at the eighteenth session of the CDIP.

152. The Delegation of Latvia, speaking on behalf of the CEBS Group, took note of the Report on the CDIP and commended its efforts in implementation of the DA recommendations and its monitoring, assessment, and reporting. It also commended the efforts deployed by the Secretariat in the implementation of projects and development oriented activities covering all areas of IP. In view of the Group, the DA had become an integral part of WIPO's work. It stated that the coordination mechanism had been implemented and the relevant WIPO bodies were reporting on the development oriented activities on a regular basis.

153. The Delegation of India, speaking on behalf of the Asia and Pacific Group, highlighted the organization of the International Conference on IP and Development, and the diverse range of speakers from different backgrounds gathered in the meeting. The Conference was indeed very beneficial and instructive. The focus of South-South cooperation activities in WIPO should be on promoting full use of IP flexibilities so that WIPO could address developmental goals. As regards the mechanism for updating the WIPO database on flexibilities, the Group was of the view that Member States should communicate updates concerning their national provisions on flexibilities which would be consequently added to the database. On the SDGs, it looked forward to discuss at future CDIP sessions the important steps to be taken on how IP should contribute to its achievement. The Group urged all other Regional Groups to work in the spirit of multilateralism and build consensus towards the resolution of the General Assembly decision on CDIP related matters. It recalled that it included the issue on the implementation of the coordination mechanism and referred to the discussions on the PBC and the CWS as the relevant WIPO bodies to report on the implementation of the DA. With respect to technical assistance, an important area for Members of the Asia and Pacific Group, it considered that to

be effective, it should be delivered in a timely, efficient and coherent manner. An institutional mechanism should be devised for avoiding duplication and for the optimal channelization of resources. On the external review of WIPO technical assistance in the area of cooperation for development, it expressed its wish that the discussions would bring uniformity, better organization and clarity to the existing process and practices in the CDIP. Those discussions should continue on the basis of the proposal by the Development Agenda Group (DAG) and the African Group as the only formal proposals submitted to the Committee. It also mentioned the need to evaluate the gains achieved through projects completed under the DA, and to identify areas of complementarity and supplementary work under the matters addressed. It reiterated that the Secretariat should present a compilation of the data and propose potential new activities for consideration of the Member States.

154. The Delegation of Bangladesh, speaking on behalf of the LDCs, highlighted the actual developments on the implementation of the DA in different WIPO bodies and commended the efforts undertaken to mainstream the DA Recommendations into different programs as approved by the PBC. It stated that the experience proved that in case of IP and development, rights and responsibilities go hand in hand. For IP to be beneficial for the LDCs, recognizing and promoting innovation was essential. On the Independent Review of the Implementation of the DA Recommendations, it looked forward to discussions at the eighteenth session of the CDIP. It also welcomed the new approved projects, "Project on the Use of Information in the Public Domain for Economic Development" and "Cooperation on Intellectual Property Rights and Development Education and Professional Training with Judicial Training Institutes in Developing and LDCs". It referred to the customization required *vis-à-vis* the LDCs training needs on IP and related issues, as provided by WIPO. It stated that both content and method should include innovation, IP implementation and agreed flexibilities. It also referred to the engagement of WIPO with other international organizations. On the South-South cooperation, it stated that it was the time to share, learn and advance different socio-economic activities. It looked forward to further strengthening South-South cooperation activities at WIPO and to implementing them in LDCs. Future developments in South-South cooperation should include the use of current IP flexibilities for LDCs under the TRIPS Agreement, the protection of GRs, TK and TCEs, the limitations and exceptions in several IP fields and other *sui generis* procedures. It also highlighted that the project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase I had been completed with encouraging progress. Phase II should be supported by sufficient budgetary resources to ensure its sustainability. It also referred to the implementation of the Project on Capacity-Building in the Use of Appropriate Technology Specific Technical and Scientific Information as a Solution for Identified Development Challenges - Phase II. As regards the SDGs, it pointed out the engagement of WIPO with other international organizations. It expected that WIPO's engagement would be wide, diversified and focused on the balance between rights and responsibilities. The Group would appreciate receiving regular briefs on the participation of WIPO in different SDGs-related activities. On the relevant WIPO bodies to report on the implementation of the DA Recommendations, it considered the PBC and the CWS as relevant WIPO bodies in this regard. It urged Member States to make serious efforts to reach a consensus on the subject.

155. The Delegation of Slovakia, speaking on behalf of the European Union and its member states, expressed their continued support for the implementation of the DA Recommendations. The recent report from the Director General on the matter illustrated that since the adoption of the DA Recommendations, many projects and a range of activities had been initiated and that the DA had truly become an integral part of WIPO's work. They commended the efforts made by the Secretariat to achieve the goals set out by WIPO's Member States and appreciated its valuable contribution to the work of the Committee. A robust and balanced IP infrastructure underpinned by adequate capacity-building measures coupled with development-oriented IP culture could contribute significantly to the attainment of development goals. The CDIP activities enhanced global ownership of IP as demonstrated by several DA projects. It was

essential to include the importance and relevance of IP in key international initiatives as a tool in economic, social, and cultural development. It was also important to encourage domestic innovation and creativity, investment and technology transfer, and the promotion of production models oriented towards sustainable development. They therefore highly valued the involvement of WIPO Secretariat in the UN Interagency Task Team on Science, Technology and Innovation for the SDGs, the Technology Mechanism of the UN Framework Convention on Climate Change (UNFCCC) and the World Summit on Information Society. The European Union and its member states continued to be committed to further progress in the field in order to implement the DA Recommendations in an appropriate and consensus-driven manner.

156. The Delegation of China stated that since the adoption of the DA, WIPO as an important UN agency had made great efforts to mainstream development in its work. The DA Recommendations had been implemented achieving fruitful results and benefiting developing countries in a very concrete manner. It highly appreciated the important contribution made by the Secretariat in promoting and implementing the DA. It was delighted to note that the CDIP made remarkable progress and achieved positive results in the past years. Regarding the important breakthrough on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development, it highly appreciated the flexibility and positive attitude demonstrated in the consultations by all Member States. In its view, the Report was very important for promoting technical assistance and discussions on the topic should be continued on that basis at the CDIP. The Delegation also highlighted the success of the International Conference on IP and Development, held in April 2016. It provided a strong impetus on the discussion on the DA's future work. On the SDGs, it considered that discussions had been deepening gradually. A number of Member States including China made proposals in that respect. It considered the SDGs as the common objectives for both developing countries and developed countries. WIPO as a multilateral platform could play a unique and important role in the implementation of all the SDGs in the upcoming 14 years. Finally, it appreciated that WIPO had translated into the six UN official languages the documents prepared in the context of the "Project on Innovation and Technology Transfer Support Structure for National Institutions" such as the "Guide on Intellectual Property (IP) Commercialization" (CDIP/16/INF/4). The Delegation would promote and make good use of them in its future work.

157. The Delegation of Ecuador associated itself with the statement made by the Delegation of Chile on behalf of GRULAC. It reiterated its support for the work undertaken in the CDIP. It was an ideal but not exclusive forum to discuss development within WIPO and the concrete actions which the Organization might undertake in order to support its Member States and allow them to achieve the SDGs. Consequently, the Delegation of Ecuador would follow very closely the work of the Committee in the implementation of the recommendations of the DA. It believed that the Independent Review of the implementation of the DA and the reports prepared by the Secretariat on the initiatives undertaken by WIPO aimed at disseminating technology were very important inputs to the activities which would be undertaken in the future. It thanked WIPO for cooperating with Ecuador by selecting it as a pilot country of the Project on Intellectual Property, Tourism and Culture: Supporting Development Objectives and Promoting Cultural Heritage in Egypt and Other Developing Countries (document CDIP/15/7 Rev.). Thanks to WIPO's support, Ecuador was able to organize in Quito last September the National Conference on Intellectual Property Rights for Judges and Prosecutors which was an important event. It also thanked the Deputy Director General, Development Sector for his participation and support.

158. The Delegation of Iran (Islamic Republic of) associated itself with the statement made by the Delegation of India on behalf of the Asia and Pacific Group. The Delegation of Iran (Islamic Republic of) was of the view that the CDIP had made good progress in the recent years in implementing some parts of the DA and in achieving some results. However, there was a long way ahead to have DA Recommendations fully implemented. The Committee should continue its commitment and political will in consolidating and building further on what had been achieved and address existing shortcomings. In this regard, the ultimate goals were to reduce

the knowledge gap between developing and developed countries, the maximum use of existing flexibilities in IP treaties, the promotion of access to education, health, and medicine, and the protection of natural resources, TCEs and TK. The Delegation of Iran (Islamic Republic of) believed 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. In the area of norm setting, the CDIP was a body to explore ways to use IP as a means to serve development objectives. In this regard CDIP should refocus and strengthen its activities in the area of access to knowledge and technology transfer with the view of contributing to transfer and dissemination of technology and to a balance of rights and obligations.

159. The Delegation of Brazil supported the statement made by the Delegation of Chile on behalf of GRULAC. The Delegation found the implementation of the 45 DA Recommendations fundamental for the legitimacy of the Organization. The principle of a fair remuneration for the creations of human spirit went together with the imperative of insuring the right to health, culture, knowledge, information and education. The International Conference on IP and Development which was held in the first semester of 2016 provided an excellent ground for discussions. A general thought expressed by panelists was that one size fits all approaches were inadequate for addressing the increasing complexity of operationalization of IP rights. The necessity of preserving policy space for countries to fine tune their legislation came as a natural conclusion. The imperative of development had to be taken into account in all of WIPO's work. Considering the success of the Conference, the Delegation of Brazil looked forward to further explore the issues that were discussed. It believed that WIPO should have a substantive contribution to the implementation of the SDGs as a specialized Agency of the UN. The mandate of CDIP naturally brought the topic of SDGs under the discussions of the Committee without prejudice to all other WIPO Committees. While the document on Mapping of WIPO Activities Related to the SDGs Implementation (document CDIP/17/8) provided useful information, the Delegation suggested a greater link between WIPO activities related to SDGs implementation and the DA, especially with regard to IP and public health. It also found that the implementation of the SDGs should have been an integral part of the Medium Term Strategic Plan for the period 2016 to 2021. Brazil has submitted a document which aims to further contribute to the discussion. An important point was that an integrated approach was the lynchpin of the 2030 Agenda and should lead to cross-cutting understanding of the significant interlinkage across the 17 SDGs and their associated targets. WIPO must play an active role with the view of supporting their implementation. The Delegation expected that the CDIP could spur the appropriate and comprehensive treatment of the topic. Finally, the Delegation thanked the experts for the preparation of the Independent Review of the Implementation of the DA Recommendations. It provided interesting recommendations for reflection by Member States and underlined the importance of the high level debate towards emerging needs and issues related to IP rights. The Delegation looked forward to discussing the matter in the next session of the Committee.

160. The Delegation of the Russian Federation noted the high outputs of the CDIP during its sixteenth and seventeenth sessions. It found the DA an integral part of WIPO bodies' work and the evaluators gave good marks to the projects it carried out. A large number of projects were being implemented. The Delegation supported WIPO's efforts in doing practical work in implementing the DA and in improving its methods. The Delegation was in favor for the constructive continuation of the work in the Committee.

161. The Delegation of South Africa aligned itself with the statement delivered by the Delegation of Nigeria on behalf of the African Group. It thanked WIPO for organizing a dynamic, informative and prerogative Conference on IP and Development held in Geneva. In the keynote address at the Conference, South Africa's Honorable Minister of Trade and Industry stated as follows: "Seven of the top ten fastest growing economies in the global economy are African and Africa now offers the highest return on investment of any region in the world economy. Africa's abundant natural resources, the growing consumer power of Africa's

emerging middle class and favorable demographics offer sustainable economic growth across the continent. However, the sustainable growth from a commodity based economy to knowledge based economy coupled with large scale industrialization to address the unique challenges that Africa faces.” The Delegation stated that innovation and creativity were central to any knowledge based economy. The DA was a critical tool to address developmental needs. Although the last two years of the CDIP showed particularly slow progress, the Delegation of South Africa believed that with political will and understanding, progress should be realized. It was particularly encouraged by the growing support for the concept of IP for development and not just IP and development. In this regard, the Delegation looked forward to engaging on the reports of the Independent Review of the Implementation of the DA Recommendations at the next meeting, as well as reaching an agreement on the implementation on the External Review of WIPO’s technical assistance in the area of cooperation for development. In this spirit of constructive inputs and direction to WIPO, the Delegation informed that it had submitted a project titled “Intellectual Property Management and Transfer of Technology: Promoting the Effective Use of Intellectual Property in Developing Countries” (document CDIP/18/6). It looked forward to receiving adequate support for it.

162. The Delegation of Peru supported the statement made by the Delegation of Chile on behalf of GRULAC. It reminded that the SDGs were an agreement reached at the highest political level leading to the adoption of a number of measures for a sustainable DA and also specific measures and goals to be achieved over the next 15 years. However, the Delegation believed that in order for those goals to be achieved all players should be involved. That included WIPO. It considered that efforts should be made in the CDIP and other relevant bodies to identify areas where it should step up its contribution. This went beyond Goals 17 and 9. It also suggested considering the establishment of a platform to follow up the actions taken by the Organization as well as to assess the effectiveness of those actions. The SDGs should form an integral part of any development plan promoted in the Organization.

163. The Delegation of Japan supported the statement made by the Delegation of Greece on behalf of Group B. It greatly appreciated that WIPO had been steadily working towards implementing the DA recommendations. The Delegation attached great importance to development activities, including technical assistance and capacity building. It had been providing various types of assistance through the WIPO Funds-in-Trust (FIT) which would mark the 30th anniversary the following year. The Fund was for Member States in Africa and LDCs and it was for Member States in the Asia Pacific region. The FIT activities included the organization of regional, sub regional and national seminars and workshops, training courses, expert advisory missions and long-term fellowship programs. Through these channels the Delegation of Japan had supported a number of WIPO administrated projects and activities and shared its experience in the use of IP to create wealth, enhance competitiveness and develop the economy. The Delegation strongly believed that improving the IP system would drive the sustained economic development of developing countries as well as contribute to the development of the global economy.

164. The Delegation of Chile, speaking in its national capacity, supported the statement delivered on behalf of GRULAC. It thanked the Secretariat for the good organization of the International Conference on IP and Development in which it participated. The Delegation was very much committed to the DA right from its birth. It considered that Member States and WIPO should make the best use of the DA. It believed that apart from asking the Secretariat to report on the activities of the CDIP, the members too, had an enormous responsibility to report on what they were doing for the DA in implementing it in their own countries and IP Offices. That was the vision of the National Institute of Intellectual Property (INAPI), the Chilean IP Office, which had taken into consideration the objectives of the DA and was determined to develop the IP system not only looking at protection and registration, but also paying attention to the transfer of technology and dissemination of information. In INAPI, in the marks and patents divisions there was a division on transfer of knowledge. It also had a division on policy. Their mission,

inter alia, was to carry out an exhaustive monitoring of the 45 recommendations of the DA. Same was with the SDGs. The Delegation of Chile supported the statement made by the Delegation of China in noting that great progress had been made in the CDIP's work and that the CDIP was a very operational forum which was using a correct methodology, although it could always be improved. The Delegation also believed very much in South-South cooperation and Chile had offered to cooperate in South-South cooperation. It was ready to extend its cooperation. It concluded by saying that Chile would participate with great pleasure in the next session of the Committee and it believed that the Independent Review which it had very carefully read, would be a good basis for the future work of the CDIP.

165. The Delegation of Nigeria, speaking in its national capacity aligned itself with the statement delivered on behalf of the African Group. The Delegation attributed great importance to the work of the CDIP, bearing in mind the impact of the CDIP negotiations and agreements on the development needs of developing countries like Nigeria. In that regard, the Delegation expressed appreciation for its selection as one of the pilot countries for the project on Cooperation on Development and Intellectual Property Rights Education and Professional Training with Judicial Training Institutions in Developing and Least Developed Countries (document CDIP/16/7 Rev.). The Delegation was holding consultations and looked forward to the smooth implementation of the project.

166. The Representative of TWN noted that as a specialized UN Agency, WIPO needed to have development at the core of its work. The relevance of DA in WIPO had increased with the adoption of the UN SDGs. The Representative highlighted some of the weaknesses of the implementation of the DA. The Representative noted that the DA was being implemented through projects. TWN was concerned that the DA was being reduced to mere technical assistance activities rather than implementing systemic changes in WIPO. In fact, often it seemed as if WIPO continued business as usual in its promotion of IP protection and enforcement. In a number of cases there had been good findings in studies or reports commissioned, but there was no follow-up and even resistance in the implementation of the findings. The CDIP had also been unable to fully implement the General Assembly decisions regarding the third pillar of its mandate to discuss IP and development related issues as agreed by the Committee, as well as those decided by the General Assembly. The CDIP had failed to introduce it as a standing agenda item. The Representative noted that TWN was concerned of the lack of appropriate mechanisms to facilitate transparency and accountability of the WIPO technical assistance. There had been an Independent Review and based on the proposals from the developing countries Member States but, except for the superficial changes, most of the recommendations aimed at introducing more systematic and qualitative changes and mechanisms of accountability were ignored. The failure to implement mechanisms of transparency and accountability meant that a significant aspect of the DA remained unrealized. TWN called on Member States to pursue systematic reforms of technical assistance and it urged developed countries to not resist such attempts. Finally the Representative reiterated its call to reform the governance structure of the Organization for the effective implementation of DA and to reorient WIPO management towards development oriented approach. In particular, to avoid conflict of interests, there should be firewalls between WIPO service activities and its activities in the area of norm setting.

167. 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/48/7);
- (b) with respect to document WO/GA/48/8 entitled "Decision on the Committee on Development and Intellectual Property (CDIP) Related Matters", allowed the CDIP to continue, during its eighteenth and nineteenth sessions, the discussion on the

decision on CDIP related matters adopted at the forty-third session of the WIPO General Assembly, and to report back and make recommendations on the two matters to the WIPO General Assembly in 2017;

(c) took note of the information contained in the “Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations” (document WO/GA/48/13), and forwarded to the CDIP the reports referred in that document.

ITEM 16 OF THE CONSOLIDATED AGENDA

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

168. Discussions were based on document WO/GA/48/9.

169. The Secretariat stated that, in terms of the mandate of the IGC for the current biennium, the IGC was requested to provide, for information only, a factual report to the General Assembly on its work. The factual report was contained in document WO/GA/48/9. That document reported on the IGC sessions that had taken place so far in 2016, that were, IGCs 29, 30 (both of which had addressed genetic resources (GRs)) and 31 (which had addressed traditional knowledge (TK)), and attached the latest drafts of the texts on GRs and TK that were under negotiation in the IGC. The document also contained statements made by delegations at IGC 31 on the contribution of the IGC to the implementation of the DA Recommendations. The document reported also on the Seminar on Intellectual Property and Genetic Resources held in May 2016. The General Assembly was invited simply to take note of the contents of document WO/GA/48/9.

170. The Delegation of India, speaking on behalf of the Asia and Pacific Group, was in favor of a differential level of protection of TK using a “tiered approach”. Such an approach would provide an opportunity to strike an optimal balance between the rights and interests of owners, the users of TK and the wider public interest. Establishing different levels of rights based on the characteristics of TK could be a way forward towards narrowing the existing gaps, with the ultimate objective of reaching an agreement on an international legal instrument(s) which would ensure the balanced protection of TK, in addition to the protection of GRs and TCEs, if there were instances in which TK could not be directly attributed to a local community. On the issue of scope of protection, the Group was in favor of providing maximal possible protection for widely held TK, as such knowledge, especially traditional medical knowledge, was of immense commercial value. There had to be some form of economic rights flowing, such as user fees as decided by contracting parties. In case of research and development, widely established concepts of prior informed consent, mutually agreed terms and access and benefit-sharing should be included while providing protection to such widely held TK. On limitations and exceptions, it was of fundamental importance that the provisions should be considered in a balanced way between the specific situations of each Member State and the substantive interests of TK holders. Hence, the integration of the principle of differential protection of TK should be reflected in the text of the instrument(s). The Group expressed its appreciation for the leadership provided by the IGC Chair, Mr. Ian Goss, and the two Vice-Chairs in the previous IGC sessions. It also thanked the Traditional Knowledge Division for its meticulous preparations of IGC meetings.

171. The Delegation of Chile, speaking on behalf of GRULAC, thanked the Secretariat for the report and the IGC Chair and Vice-Chairs for their work. Since the 2015 General Assembly, GRULAC had actively participated in the sessions of the IGC, and would continue to implement the work program of the IGC with a firm commitment. GRULAC believed that it was vital that

the starting point must be the work already done by the IGC with a view of narrowing the gaps and reaching a common understanding on core issues. It reiterated that, in accordance with the mandate, the objective was to reach an agreement on an international legal instrument(s) relating to IP which would ensure the balanced and effective protection of GRs, TK and TCEs. GRULAC would continue to work in a constructive way to achieve that goal.

172. The Delegation of Greece, speaking on behalf of Group B, thanked the IGC Chair for his continuous guidance and commitment, as well as for his tireless efforts to bring the work of the IGC forward. The Group recognized the importance of a balanced and effective outcome on GRs, TK and TCEs. Following the decision reached during the 2015 General Assembly, the IGC had held two sessions on GRs, one session on TK and one Seminar in May 2016 with a focus on narrowing existing gaps. It believed that the primary focus of the work should continue to be to reach a common understanding on core issues, including the objectives of the IGC's work. The Group felt that the Seminar held in May 2016 had been useful to help to describe and to further reflect on concrete experiences. In that respect, the importance of reaching a common understanding on key issues had been repeatedly pointed out in the negotiations of the IGC. In addition, useful information had been shared during the informal sessions of the IGC. Concrete and actual experiences had contributed and should further contribute towards a shared understanding on core issues and towards achieving the stated objective of the mandate. The Group was committed to being engaged in the negotiations with a constructive and forward looking spirit.

173. The Delegation of Latvia, speaking on behalf of the CEBS Group, took note of the report and welcomed the discussions held during the three IGC sessions that had taken place in 2016 under the new mandate. There had been interesting exchanges on both topics tackled, namely GRs and TK. Regarding GRs, the Delegation of the European Union, on behalf of the European Union and its member states, had made a proposal on the disclosure requirement that would apply to the patent system. The CEBS Group supported that proposal. It believed the proposal addressed the issues outlined in the IGC mandate, namely to achieve effective protection in the context of the IP system. The CEBS Group had carefully examined the proposals on the table regarding TK. Taking into account the complexity of the issue, it believed that the discussions on the core issues should continue in the same positive manner that Member States had done at IGC 31. The members of the CEBS Group were looking forward to deepening their understanding of the issues during the upcoming Seminar on TK.

174. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the IGC Chair, the Vice-Chairs and the facilitators for their hard work, time and consistent efforts towards advancing the negotiations in the IGC. It also thanked the Secretariat for the excellent preparation of IGC sessions and for the preparation of the report. It further thanked WIPO for the technical assistance and capacity-building activities provided to African countries. The Group reiterated the priority attached to the IGC negotiations. It welcomed the thrust of the ongoing text-based negotiations, and acknowledged the existing difficulties while noting that opportunities existed for consensus and advancement. The crucial technical work had been done on the GRs text. The outcome of the first session on TK had successfully built a common understanding and narrowed gaps. The Group looked forward to continued progress on the TK text and counted on the constructive engagement of Member States for the remainder of the IGC's work program for the 2016/2017 biennium. It recalled DA Recommendation 18, which urged the IGC to "accelerate the process on the protection of genetic resources, traditional knowledge and folklore, without prejudice to the outcome, including the possible development of an international instrument or instruments". In that context, the Group requested the IGC to conclude its negotiations with an outcome of a minimum standard, functional, international legally binding instrument that enhanced the transparency and efficacy of the international IP system, promoted and protected tradition-based knowledge, creation and innovation in the modern IP framework (whether commercialized or not), and assured equitable economic benefits, and as appropriate, moral rights for the owners of such knowledge. This would be an

unassailable outcome of WIPO's current normative agenda and a pivotal contribution of the IGC to implementation of the DA Recommendations. The Group would continue to engage constructively in the IGC and called on Member States and all stakeholders to demonstrate their flexibility and political will that would enable the IGC to achieve success.

175. The Delegation of China believed that the IGC played an important role in building an international regime for the protection of GRs, TK and TCEs. Under its new mandate for the 2016/2017 biennium, the IGC had held two sessions on GRs and one session on TK. During those meetings, under the coordination of the Secretariat, Member States had fully exchanged their national experiences and strived to advance discussions on international instrument(s) which fully reflected Member States' proactive approach and good faith. It believed that such in-depth thematic discussion was very useful for advancing the negotiations in a substantive manner. The Delegation supported continued efforts by all Member States to push for substantive progress on reaching an agreement on an international legally binding instrument(s) which would ensure the effective protection of GRs, TK and TCEs.

176. The Delegation of Indonesia, speaking on behalf of the Like-minded Countries (LMCs), welcomed the report on the IGC. It believed that substantial progress had been made within the IGC regarding GRs and associated TK at IGC 29 and IGC 30, and noted as well the progress made regarding TK during IGC 31. It was looking forward to a positive outcome on TK at IGC 32. It re-emphasized the need to prevent misuse and misappropriation of GRs and associated TK. It believed that a legally binding instrument could prevent and tackle the transnational problems through a full compliance mechanism. Having taken note of the progress made during IGC 29 and IGC 30 on the protection of GRs, it observed that the new text in this regard provided clear options for Member States to consider. The consolidated document relating to IP and GRs included a mandatory disclosure requirement clause. It believed that the IGC could bring this position forward for a positive decision and that it was time for all stakeholders to finalize the consolidated document. IGC 29 and IGC 30 had narrowed down all the divergent views, as the consolidated document contained a possible solution. It noted that the meeting atmosphere had been very positive with what had appeared to be a genuine desire by the majority of Member States to deliver an outcome. It called on Member States to show flexibility and to find a win-win solution in order to set up a full compliance mechanism. Most Member States were in a position to support a compromise text, as only two or three issues needed to be resolved at a political level. The technical work had been done. The IGC needed to take the consolidated document on GRs forward and seek political commitment. It was also confident that good outcomes from the discussion on TK and TCEs would also be reported to the 2017 General Assembly. The normative agenda to conclude a legally binding instrument(s) could not be stalled without good reasons. The progress made could not be ignored. The process since 2001, when the IGC was established, and progress made through text-based negotiations since 2010, could not be undone. The text-based negotiations should continue.

177. 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. It believed that the discussions on GRs that had taken place in 2016 had undoubtedly been fruitful and interesting. The Delegation recalled that the European Union and its member states had made significant and constructive contributions to those discussions, including the confirmation of a concrete proposal on patent disclosure requirements in relation to GRs which would contain certain safeguards, as a disclosure requirement which would discourage, undermine or create legal uncertainty in the patent system would not be in everybody's best interests. In relation to TK, the Delegation noted that a significant number of fundamentally important issues needed to be resolved. In that regard, it recalled the proposal it had made on terms of reference for a study on national experiences and domestic legislation and initiatives recently adopted in relation to the protection of TK, in order to provide a solid basis for the discussions on TK. It looked forward to IGC 32, which would be preceded by a seminar.

178. The Delegation of Bangladesh, speaking on behalf of the LDCs Group, recalled that LDCs had rich GRs, TK and TCEs. However, for historical reasons, they lacked the capacity to exploit them for the benefit of their people. With the continuous misappropriation of their resources, LDCs were vulnerable to lose in this unbalanced system. The Delegation expected that on the three issues, namely GRs, TK and TCEs, the IGC could deliver a package of agreement or agreements. It recommended that the proposed diplomatic conference be convened soon and that the IGC work towards that goal. The experience of LDCs was that their resources would not be protected effectively without a legally binding agreement. It reiterated the urgent requirement to prevent the misuse and misappropriation of GRs and associated TK and TCEs in order to protect and promote the interests of their people. The Delegation noted that the IGC had made a lot of progress on the development of texts. What the IGC needed was only political will to move ahead. The Delegation urged all Member States to show maturity and seriousness to complete an international legally binding instrument(s) as soon as possible. In concluding, it thanked the WIPO Traditional Knowledge Division and the IGC Chair for all their hard work.

179. The Delegation of the Russian Federation stated that it was necessary to note the progress achieved in 2016. However, in the context of the renewed mandate, the IGC needed to do substantive text-based negotiations. It was important to bring the positions closer on a number of issues, such as beneficiaries and scope of protection, and to find well balanced solutions. It noted the usefulness of the Seminars organized by WIPO. The Delegation preferred to have separate texts. In any case, any text adopted should be flexible, sufficiently clear and include definitions and limits. Taking into account DA Recommendations 16, 17 and 19, it supported the adopted work program, including three thematic seminars and the idea of discussing cross-cutting issues.

180. The Delegation of South Africa aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. It had been persistent in achieving the mandate of the IGC, in the same way as when the IGC had been born in 2000. Consistent with the WIPO DA, the Delegation reiterated the call, based on the UN SDGs, for balance in an equitable global IP system that accommodated all legitimate interests of WIPO Member States. Progress on reaching agreement on international legal instruments towards the protection of GRs, TK and TCEs would strengthen the Member States' faith and trust in WIPO. The Delegation believed that the IGC's mandate had provided enough explanation as to why there was a need for an international legally binding instrument(s) for the protection of GRs, TK and TCEs. Those Member States who believed that the texts had not reached maturity had not met the burden of providing enough evidence or criteria for their views. South Africa had proceeded with the further development of legislation for the protection, promotion, development and management of indigenous knowledge. The Indigenous Knowledge Bill had been introduced to the Parliament. The Parliamentary Portfolio Committee would soon be conducting a robust public hearing engagement as a last step towards the enactment of the Bill.

181. The Delegation of Brazil supported the statements made by the Delegation of Chile, on behalf of GRULAC, and the Delegation of Indonesia, on behalf of the LMCs. It recalled that the IGC had had three very productive meetings in 2016, two on GRs and one on TK. It believed that the new consolidated text on GRs encompassed normative options which could lead to feasible implementation in the IP system of international rules aimed at the protection of biodiversity. It was glad to identify an option of mandatory disclosure requirements in the patent system. The Delegation was ready and eager to discuss during the 2017 General Assembly the convening of a diplomatic conference. It commended the improvement of the text on TK. It hoped that IGC 32 would continue in the same path towards a streamlined document.

182. The Delegation of Iran (Islamic Republic of) expressed its appreciation to the IGC Chair and the facilitators. It supported the statements made by the Delegation of Indonesia, on behalf of the LMCs, and the Delegation of India, on behalf of the Asia and Pacific Group. There was

no doubt that the international IP system should be developed in a balanced manner to ensure its sustainability. Unfortunately, the ongoing normative activities in WIPO lacked such a balance, particularly in the areas of GRs, TK and TCEs. The Delegation believed that the conclusion of a legally binding instrument(s) could remedy that by providing efficient protection of GRs, TK and TCEs against misappropriation, which would ensure their sustainable and legitimate use in the future. It recalled that the 2015 General Assembly had decided that the IGC continue to expedite its work, with a focus on narrowing existing gaps, with open and full engagement, with the objective of reaching an agreement on an international legal instrument(s). The Delegation was deeply concerned about the slow pace of the negotiations in the IGC. In spite of the work done so far, there still remained unresolved issues which required the attention of the General Assembly, which might take appropriate decisions to accelerate the work of the IGC and to help the instruments reach such a level of maturity that would enable Member States to hold a diplomatic conference. There was no question as to what the IGC was set out to achieve. The mandate was clear. It was important that all Member States showed flexibility and engaged constructively in order to assure the mandate of the IGC be fulfilled without any undue delay.

183. The Delegation of Ethiopia aligned itself with the statements made by the Delegation of Nigeria, on behalf of the African Group, and the Delegation of Bangladesh, on behalf of the LDCs. It also joined with the Director General, Mr. Francis Gurry, who had stressed in his opening address the need for a concentrated effort at a political level in order to report positive results to the 2017 General Assembly.

184. The Delegation of India expressed its appreciation to the Secretariat for providing a comprehensive report on the IGC. After two IGC sessions on GRs, a second revision of the consolidated document related to IP and GRs had been produced, which was annexed to document WO/GA/48/9. The Delegation stressed that the Seminar held in May 2016 had given more clarity and had provided a platform to understand different perspectives. It noted the progress made during IGC 29 and IGC 30 on GRs, but it was also concerned that the second revision of the consolidated document relating to IP and GRs was full of open brackets and that no consensus had been achieved. The Delegation emphasized the importance for all Member States to engage in the negotiations in good faith for mutual benefits. It observed that India was rich in terms of TK. Such TK could be widely spread, might or might not be confined to a particular community and might subsist in codified, oral or other forms. Its heritage of traditional medicinal knowledge had immense social, cultural and commercial value, and, therefore, the Delegation stressed the urgent need to intervene and protect such knowledge from misappropriation while providing space and environment for the dynamic development of TK for the benefit of custodians of such knowledge and other members of society. It attached great importance to the work of the IGC as the protection of GRs, TK and TCEs against misappropriation was a priority issue in India. The Traditional Knowledge Digital Library (TKDL) was a pioneering initiative in providing defensive protection to TK specifically to traditional medicinal knowledge, including the ancient traditional systems of Ayurveda and Yoga, and in enabling patent examiners to examine claims of novelty made in patent applications. The Delegation stressed that the finalization of an international legal instrument(s) on GRs, TK and TCEs was of importance. The absence of such a legally binding instrument(s) allowed the continuous misappropriation and biopiracy of GRs and TK and resulted in the imbalance of the global IP system. The Delegation indicated that the core issues identified by the IGC Chair during IGC 31 on the protection of TK were well thought of and would help in resolving the outstanding issues. It favored the “tiered approach” for the scope of protection for different types of TK based on the characterization and use of TK and agreed moral and economic rights, as appropriate. The Delegation concluded by highlighting the importance of assuring appropriate moral and economic rights for widely, freely available TK which had immense commercial value and was vulnerable to misappropriation.

185. The Delegation of Canada supported the IGC and would continue to actively and constructively participate in the work of the IGC. It looked forward to participating in the work of the IGC in 2017 and, as the mandate encouraged the IGC, to focusing its work on reaching a common understanding on core issues. The Delegation emphasized the use of an evidence-based approach to leverage discussion of national experience and to take into consideration the practical implications of proposed approaches where national experience did not exist. Exchanges of experience were crucial in shedding more light on the meaning of the various options and in forming an integral part of the work of the IGC. Such exchanges would prove key to advancing the objectives of the IGC. It concluded by reaffirming its commitment to the IGC and its will to continue discussing issues related to the protection of GRs, TK and TCEs, as well as to foster a common understanding on core issues to clear the path forward.

186. The Delegation of Japan supported the statement made by the Delegation of Greece, on behalf of Group B. It expressed its appreciation to the IGC Chair and the Secretariat for their hard work. The IGC had had a fruitful discussion on the core issues based on the notes prepared by the IGC Chair with the aim of narrowing existing gaps. The IGC had been making definite progress with the outstanding efforts of all Member States. However, divergent views still existed on the fundamental issues such as objectives, subject matter and disclosure requirements. Thus, the Delegation believed that the IGC should place more emphasis on exchanging national experiences and conducting factual studies. It would continuously participate in the future IGC sessions in a constructive manner.

187. The Delegation of Australia supported the work of the IGC. It thanked the Secretariat for the detailed and useful report. The Delegation welcomed, in particular, the progress made on GRs, the first of the three topics to be addressed by the IGC. Progress on narrowing the gaps had been made by Member States engaging constructively and in good faith. The IGC had been able to reach the decision at the conclusion of IGC 30 to transmit a negotiating text addressing GRs to the stocktaking session (IGC 34) in 2017. The Delegation welcomed that development. It noted with some concern that the WIPO Voluntary Fund to support the participation of indigenous peoples was currently empty. It appreciated the importance of the contribution of the indigenous peoples to the IGC. The Delegation urged Member States to consider making a contribution to the Voluntary Fund.

188. The Delegation of Ghana aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. It welcomed the ongoing progress made in the IGC in respect of norm-setting for international legally binding instrument(s) for GRs, TK and TCEs. It hoped that the outstanding issues would be agreed on in a balanced manner, so as to serve the interests of all Member States.

189. The Delegate of Nigeria aligned itself with the statement of the African Group. It believed that the negotiations in the IGC had gone far too long. It was important for developing and least developed countries to protect their TK. The Delegation urged the IGC to speedily conclude discussions with an international legally binding instrument(s) that ensured promotion and protection of GRs, TK and TCEs. It looked forward to working with all Member States to achieve that outcome.

190. The Delegation of the Republic of Korea stated that, with respect to GRs and associated TK, there was no doubt that the discussions in the IGC were very important and that fair and equitable benefit-sharing should be highly respected. However, there were disagreements on what the effective way of protecting such GRs and associated TK was. Some users and stakeholders had expressed their concerns. The Delegation had a concern that the disclosure requirement put a burden and obstacle to those wishing to utilize the patent system which was the core of innovation. The IP policies and the patent system could not be viewed separate from the users. Therefore, such policies and systems needed to be made more convenient for the users. The Delegation firmly believed that the most effective form of protection for GRs and

associated TK in patent systems was to prevent erroneously granted patents through the establishment and use of database systems. It preferred non legally binding instruments. The IGC should consider all aspects of the proposals and options. It was necessary to take more time to deeply discuss and research while giving consideration to others' opinions as well as the potential impact on industry and other related users.

191. The Delegation of Peru stated that the text-based negotiations had been going on for eight years. What the IGC had done on GRs had shown that technical negotiations were probably coming to their final point. It did not think that there were any more technical issues to be dealt with. The matters the IGC had to deal with were basically political. At least the GR text was at the point where Member States could make a political decision. On TK and TCEs, the Delegation hoped that the IGC would be able to sufficiently advance the texts to be mature enough so that Member States could take a final decision in 2017.

192. The Delegation of Côte d'Ivoire supported the statement made by the Delegation of Nigeria, on behalf of the African Group. The issues dealt with in the IGC affected fundamental areas such as health, economic development and social development. The Delegation supported the adoption of a legally binding international instrument(s). Agreement on such instruments would be a giant stride forward for the whole mankind. There were many plants which had miraculous medical effects but were not widely known because it was impossible to share them fairly. With a legally binding international instrument(s), indigenous peoples in those countries where they tried to protect GRs, TK and TCEs could move the use and development of those resources forward.

193. The Representative of TWN viewed the ongoing discussions in the IGC as an important process to address the misappropriation of GRs, TK and TCEs by the owners of IP rights. The 2015 General Assembly had extended the mandate of the IGC for the budgetary 2016/2017 biennium and requested the IGC to 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). However, in the last three IGC sessions, especially in the two sessions on GRs, namely IGC 29 and IGC 30, the mandate had not been strictly adhered to. Instead of narrowing existing gaps, new texts had been introduced. That had resulted in widening the gaps between the proponents of a legally binding instrument(s) for GRs, TK and TCEs and those opposing those instruments. He was disappointed that certain issues had been introduced in the texts with an intention to block progress in the text-based negotiation. The manner in which the facilitators' texts had been developed had effectively eliminated any possibilities of text-based negotiation. The Representative called upon the IGC Chair and the Member States to honor the IGC's mandate, and urged the IGC Chair and the Member States to focus on text-based negotiations, with a focus on narrowing existing gaps, by relying on the existing IGC documents instead of looking at the facilitators' texts.

194. The Representative of KEI stated that KEI was interested in how regimes proposed in the IGC impacted the economics of stewardship, curation and the sharing of TK and GRs. KEI generally opposed the creation of exclusive rights that could block innovations and access to knowledge and materials in the context of TK and GRs. However, benefit-sharing did not require the granting of exclusive rights. Liability rule approaches seemed to offer a better model. In the past, KEI had encouraged the IGC to consider approaches modeled on the Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the Legal Protection of Biotechnological Inventions, that created a mandatory cross-licensing regime between *sui generis* plant breeders rights and patents, when either one used the other's innovations. Aspects of that Directive might be relevant to some of the challenges in implementing benefit-sharing when TK or GRs were involved. On July 17, 2013, KEI had presented a possible liability rule for TCEs at the IGC meeting at that time for certain limited

cases of commercial exploitation, such as entertainment work or performance generating significant revenues.

195. The WIPO General Assembly took note of the “Report on the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)” (document WO/GA/48/9) in accordance with the IGC’s mandate for the 2016/2017 biennium and the IGC’s work program for 2016.

ITEM 17 OF THE CONSOLIDATED AGENDA

REPORT ON THE COMMITTEE ON WIPO STANDARDS (CWS)

196. Discussions were based on document WO/GA/48/10.

197. The Secretariat reported that the Committee on WIPO Standards (CWS) had met in March 2016, after an interval of nearly two years. Disputes on one agenda item had been resolved before the meeting, thanks to the constructive engagement and the flexibility of the Member States. The Secretariat highlighted that the CWS had adopted two new WIPO standards: one relating to the presentation of the electronic data of nucleotide and amino acid sequence listing as an integral part of a patent application and the other new standard concerning technical requirements for an electronic management of a sound mark for trademark registration. The Secretariat also reported that the CWS had revised three standards and had completed technical annexes to a recently adopted standard of data structure and format applicable to all types of industrial property information. The Secretariat indicated that the CWS had started to prepare for the development of new standards for the next meeting in 2017, one of which related to patent legal status data and the other concerned an authority file of patent documents issued by an industrial property office. As regards to the implementation of WIPO Standards, the Secretariat reported that the CWS had agreed to conduct two surveys by sending out questionnaires to all industrial property offices. In view of the request from the African Group, one survey intended to look into difficulties encountered by IP offices, in particular, in developing countries, in implementing WIPO Standards. The Secretariat stated that the questionnaire should be returned before the end of October 2016. The Secretariat further reminded all Member States, in particular, developing countries, to fully participate in that survey so that the next meeting of the CWS in 2017 might have fact-based and productive discussions on how to promote the implementation of WIPO Standards. Finally, the Secretariat reported that the CWS had noted with satisfaction various activities that the Secretariat had undertaken for technical assistance and capacity building in the area of technical infrastructure and standards.

198. The Delegation of Latvia, speaking on behalf of the CEBS Group, reiterated the importance that the Group attached to the work of the Committee. The Delegation stated that the work on common standards supported the global aspect of IP and facilitated the work of patent offices around the world. The Delegation further stated that the Group was pleased to see that the Member States had been able to find a solution enabling the reconvening of that important Committee. In that regard, the Delegation thanked the Vice-Chair of the Committee, the Ambassador of Panama, and the Secretariat for their tireless efforts and patience in the facilitation process. The Delegation further thanked the Member States for their constructive engagement and flexibility that had allowed an agreement to be reached. Finally, the Group expected that in the future that kind of situation could be avoided and that differences in the positions of the Member States would no longer block the work of the CWS.

199. The Delegation of Greece, speaking on behalf of Group B, acknowledged that after its adjournment in May 2014, the CWS had been reconvened from March 21 to 24, 2016. In that respect, the Group thanked all parties for their engagement as well as their constructive

approach in bringing the work of the Committee forward. The Delegation stated that WIPO Standards were used by IP offices and WIPO, which fulfilled an essential role in the standardization of industrial property documentation and information. The Delegation further stated that WIPO Standards were also used in several WIPO products, for example, the Industrial Property Automation System (IPAS), which in turn were used in an increasing number of small and medium IP offices, in particular, in developing countries. The Delegation, therefore, welcomed the fact that the Committee had been reconvened as important standards had been waiting to be adopted. The Delegation welcomed the progress made during the session of the Committee and noted that the progress of some Task Forces of the CWS would be mature enough to consider new or revised standards at the next session of the CWS. The Delegation stated that the CWS had approved two sets of questionnaires: one was on the use of WIPO Standards by IP offices and the other was on former practices of numbering of applications and priority applications. The Delegation acknowledged that both approved questionnaires allowed the Secretariat to conduct surveys and present the results at the next session of the CWS. The Delegation underscored that the CWS played an important role in elaborating standards for the exchange of industrial property information which could be followed by national IP offices. The Delegation affirmed that by doing so, the Committee promoted international exchange of documents and data; therefore, it was fundamentally of a technical nature. The Delegation appealed to other delegations and groups to continue the constructive approach adopted for the last session of the CWS, which had allowed the Committee to successfully carry out its work for the benefit of all national IP offices and WIPO.

200. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair of the reconvened fourth session of the CWS and stated that the Group had been pleased when the agreement to reconvene that session had been reached. The Delegation noted the activities of the CWS on the standard development negotiations for the use and ease of communication between IP offices around the world. The Delegation stated that it was for the reason of the CWS being a norm-setting committee that the African Group considered that the CWS should form part of the coordination mechanism and should report on contribution to implementation of the DA Recommendations. Similarly, the African Group supported the call for technical assistance to IP offices in order to build their capacities to use, and sometimes even to understand the standards being developed. The Delegation underscored that there were different levels of development amongst Member States and therefore an inclusive approach would ameliorate the engagement on the issues of contention in the CWS. The Delegation thanked the Committee for reaching consensus on the survey that had been issued to Member States. They looked forward to responses to that survey and believed it would enable the Committee to engage the use, understanding and impact of the standards being developed at WIPO at the national IP offices of many African countries.

201. The Delegation of the Russian Federation was grateful to the Secretariat and the Group Coordinators for the efforts made to hold informal consultations so that the CWS could be reconvened. The Delegation highlighted the undeniable progress made in the technical work in the basic lines of activity of the CWS: developing and revising WIPO Standards, as well as in dealing with other issues related to IP information and documentation. The Delegation supported the decision of the Committee to conduct the survey on the use of WIPO Standards, in particular to find out the problems faced by IP offices during the practical implementation of WIPO Standards. The Delegation also supported the decision to postpone the implementation of the new WIPO Standard ST.26 "Presentation of nucleotide and amino acid sequence listings using XML" until the recommendations for the transition from WIPO Standard ST.25 to the new WIPO Standard ST.26 are agreed on by the CWS. The Delegation recognized practical benefits of regular implementation into its practice of WIPO Standard ST.3, as well as of WIPO Standard ST.14 "References cited in patent documents", in particular, of newly adopted recommendations related to citing non-patent literature published in languages other than English or in languages other than the language of the search report. The Delegation supported continuing work related to WIPO Standards ST.96 "Processing of Industrial Property

information using XML” and ST.60 “Bibliographic data relating to marks”, as well as the development of the new WIPO standards on legal status data and authority files, the latter of which would allow to assess the completeness of national collections of published patent documents. The Delegation welcomed the initiative related to maintenance and update of surveys published in the WIPO Handbook on Industrial Property Information and Documentation and appreciated the effort made by the Secretariat on the provision of technical advice and assistance for capacity building to industrial property offices in connection with the mandate of the CWS.

202. The Delegation of Brazil stated that it was pleased that the CWS could reconvene its session after a two year adjournment. The Delegation indicated that the CWS dealt with important technical issues and its correct functioning was vital for the Organization. The Delegation pointed out that it could not differentiate between technical and non-technical bodies. The Delegation believed that all discussions related to IP necessarily involved technical aspects. The Delegation stated that at the same time the Organization was indeed an organization under the UN umbrella and development objectives must be part of its work.

203. The Delegation of Iran (Islamic Republic of) noted with deep concern that after so many efforts and endeavors of the Member States and the Secretariat to mainstream development in all WIPO works and activities there were still a few countries that were in denial of the nature of the work of the CWS. The Delegation indicated that the CWS 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 highlighted that the main task of the CWS was standard setting and developing new standards for the benefit of IP offices. The Delegation indicated that it was a process which should be guided by the Cluster B of the DA Recommendations, mainly taking into account the needs and priorities of developing countries with their different levels of development. The Delegation encouraged all Member States to try to accept the DA as a fact and 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. Given the role that the CWS played in mainstreaming the recommendations of the DA in the work of the Organization and the effective implementation of the DA, the Committee should report on its contribution directly to the General Assembly, particularly, with regard to their recommendations on technical assistance and capacity building as well as the recommendations concerning norm setting.

204. The WIPO General Assembly took note of the “Report on the Committee on WIPO Standards” (document WO/GA/48/10).

ITEM 18 OF THE CONSOLIDATED AGENDA

REPORT ON THE ADVISORY COMMITTEE ON ENFORCEMENT (ACE)

205. Discussions were based on document WO/GA/48/11.

206. The Secretariat introduced the document, which reported on the tenth session of the Advisory Committee on Enforcement (ACE), which had taken place from November 23 to 25, 2015, and the eleventh session of the ACE, which had taken place from September 5 to 7, 2016. The tenth session had addressed: “Practices and operation of alternative dispute resolution (ADR) systems in IP areas; and preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view to reducing the size of the market for pirated or counterfeited goods”. The eleventh session had addressed: “National experiences on awareness building activities and strategic campaigns as a means for building respect for IP among general public, especially the youth, in accordance with Member States’ educational or any other priorities; National experiences relating to institutional arrangements

concerning IP enforcement policies and regimes, including mechanism to resolve IP disputes in a balanced, holistic and effective manner; National experiences in respect of WIPO's legislative assistance, with a focus on drafting national laws of enforcement that take into account the flexibilities, the level of development, the difference in legal tradition and the possible abuse of enforcement procedures, bearing in mind the broader societal interest and in accordance with Member States' priorities; and Success stories on capacity building and support from WIPO for training activities at national and regional levels for agencies and national officials in line with relevant DA Recommendations and the ACE mandate". The exchange of information in the two sessions was facilitated by expert presentations and panel discussions. At the eleventh session, the Committee had agreed to continue, at its twelfth session, with the current work program. The General Assembly was invited to take note of document WO/GA/48/11.

207. The Delegation of Greece, speaking on behalf of Group B, thanked the Chair of the Committee, as well as the Vice-chairs for their continuous engagement. Group B considered the ACE and its subject matter, namely the enforcement of IP rights (IPRs), to be extremely important. Without effective and balanced enforcement mechanisms, IPRs could not fulfill their central objective of promoting innovations. In this regard, enforcement was a subject that all WIPO Members should take seriously, remain sincerely engaged with and consider the area as a common interest, irrespective of the level of development. Group B also recognized that frequently the challenges of effective enforcement existed in its application, rather than in the applicable laws and the regulations. Therefore, it was very important to learn lessons from others' experiences, and the ACE was a place where Member States could do so. Group B wished to express its satisfaction with the balanced nature of the program of the last session of the ACE. The long list of presentations was indicative of the interest expressed by Member States and signaled the positive spirit in which the Committee could operate. Group B therefore welcomed the opportunity to continue working on these topics.

208. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Chair of the ACE and its Vice-Chairs for their professionalism in steering the work of the Committee and expressed gratitude to the Secretariat for its work for the Committee sessions, the present report, and information on recent WIPO activities in the field of building respect for IP. The Group further thanked the Member States and regional IP Offices that had added value to the Committee's work through discussing their experiences, holding exhibitions and sharing information on the different mechanisms they employed to build respect for IP. As the African Group had noted in the past, different levels of development and capacity gaps among WIPO Member States inherently meant that a "one size fits all" approach could not be efficient. The ACE provided opportunities to learn more on the best practices that would best suit the different needs of the diverse membership of WIPO. For the future work of the ACE, the African Group looked forward to presentations that would significantly address the promotion of IP for societal growth, for instance, through education and inclusivity in the value chain as important elements for building respect for IP. The African Group specifically made reference to DA Recommendation 45 in this regard. Finally, the African Group welcomed the upcoming International Conference on Building Respect for IP - Stimulating Innovation and Creativity, due to take place on November 17 and 18, 2016, in Shanghai, China. The African Group viewed the forthcoming Conference as a forum to build knowledge and create opportunities for building respect for IP, through stimulating innovation and creativity. The African Group therefore thanked WIPO and the Government of China for organizing the Conference.

209. The Delegation of Latvia, speaking on behalf of the CEBS Group, stated that the CEBS Group welcomed the Report of the Committee. The ACE was a unique international forum, where WIPO Member States could exchange experiences and best practices in the area of enforcement. The Member States were facing multiple challenges in the area of enforcement, extending from the elaboration of an appropriate legal framework to its concrete implementation. The CEBS Group believed that the enforcement of IPRs created positive effects on social, cultural and economic development. It was pleased to see that an agreement had been

reached on the future work of the Committee, and was of the view that in future the Committee should not allocate a considerable amount of time to such discussions. The Group believed that the number of presentations made during the eleventh session of the ACE illustrated the necessity to dedicate most of the time to substantive discussions.

210. The Delegation of Tajikistan, speaking on behalf of the CACEEC Group, stated that the increasing impact of the IPR infringements both on businesses and consumers are well known. Having said that, the Group firmly believed that the ACE was a place to share national experiences on the challenges governments and businesses faced in IP enforcement. The Group held the view that WIPO could play a crucial role in IP enforcement, both regionally and globally. WIPO should provide training and capacity building to authorities dealing with IP enforcement, as well as raising public awareness of IP enforcement related matters. The Group noted that the promotion of IP enforcement increased innovation. It stated that the approach should be to foster the transfer of technology, which would result in increasing social and economic welfare with a balance of rights and obligations. The Group welcomed the forthcoming Conference on Building Respect for IP to be held in Shanghai, and thanked the Government of China and WIPO for organizing the Conference.

211. The Delegation of the European Union, speaking on behalf of the European Union and its member states, welcomed the previous fruitful discussions of the ACE. The Delegation observed that intensified efforts by the Committee to build a shared understanding of the impacts of IP infringements were a key driver for effective prevention and enforcement strategies. During the eleventh session of the ACE, the European Union had welcomed the balanced agenda, which included an item on voluntary presentations of respective national IP enforcement frameworks. A high number of contributions were received in relation to the State-centric agenda point which the Delegation believed was indicative of its relevance for WIPO Members. The European Union and its member states therefore supported the Committee in continuing to place the item on future agendas. The European Union and its member states were confident that fruitful collaboration would continue between delegations in order to combat more effectively IP infringements which affected them all. The European Union and its member states believed that WIPO, as a hub for all IP-related issues, had a greater role to play in coordinating enforcement activities across the Member States to ensure the long-term integrity of global IP systems.

212. The Delegation of Brazil wished to reiterate its belief that balance should be a guiding principle for the protection and enforcement of IPRs. Enforcement activities in Brazil were coordinated by the National Council to Combat Piracy and Intellectual Property Crimes. Those activities combined not only repressive, but also educational and economic actions. That approach recognized the dynamic character of IPRs and allowed for more effective protection. Those three actions were instrumental in tackling the complex issue of protecting IPRs in a balanced way. The Delegation believed that truly effective enforcement procedures enabled the protection of legitimate holders' rights without curbing the dissemination of knowledge. The Delegation wished to stress that the discussions in the ACE should not lose sight of the importance of making legitimate choices affordable.

213. The Delegation of Paraguay observed that at the eleventh session of the ACE it had put forward two documents to the Committee: one, on the awareness-raising programs undertaken by the National Directorate of Intellectual Property of Paraguay, and the second on the enforcement of IP and the fight against counterfeiting and piracy, which was an absolute priority for Paraguay. Paraguay would continue to support the work of the Committee and would participate in the International Conference on Building Respect for IP, which was due to take place in China in November 2016.

214. The Delegation of India, speaking on behalf of the Asia and Pacific Group, stated that the Group expected that technical assistance provided by WIPO on IP enforcement should be in the

spirit of DA Recommendation 45, which calls upon WIPO to address IP enforcement in the context of broader societal interests and especially development-oriented concerns. The Group firmly believed that the protection and the enforcement of IPRs should contribute to the promotion of technological innovation, and at the same time, was of the view that it should also transfer and disseminate technology to the mutual advantage of producers and users in a manner conducive to social and economic welfare and a balance of rights and obligations. Therefore, it was important that WIPO should approach the issue of the enforcement of IPRs in a more holistic manner, to ensure that the means to enforce IPRs were in line with the objectives of Article 7 of the TRIPS Agreement, as stated in Recommendation 45 of the WIPO DA.

215. The WIPO General Assembly took note of the “Report on the Advisory Committee on Enforcement (ACE)” (document WO/GA/48/11).

ITEM 23 OF THE CONSOLIDATED AGENDA

WIPO ARBITRATION AND MEDIATION CENTER, INCLUDING DOMAIN NAMES

216. Discussions were based on document WO/GA/48/12 Rev.

217. The Secretariat noted that the document for the General Assembly provides an update on the Center’s activities as an international resource for time- and cost-efficient alternatives to court litigation of IP disputes. The Secretariat affirmed that the Center administers cases and provides legal and organizational expertise in alternative dispute resolution. The Secretariat further noted that the document also provides an update on the domain name related activities of WIPO. It covers the Center’s administration of domain name disputes especially under the Uniform Domain Name Dispute Resolution Policy (UDRP). It furthermore covers policy developments, including rights protection mechanisms for new domains, the 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.

218. The WIPO General Assembly took note of the document “WIPO Arbitration and Mediation Center, Including Domain Names” (document WO/GA/48/12 Rev.).

ITEM 29 OF THE CONSOLIDATED AGENDA

REVIEW OF THE OFFICE OF INTERNAL OVERSIGHT SERVICES (OIOS) REPORT

219. Discussions were based on documents A/56/13 and WO/GA/48/15.

220. The Chair noted that Agenda Item 29 was now before the consideration of the Assemblies and expressed his hope that the discussions had on this matter on two occasions recently would not be fully repeated. The Chair invited Ambassador Chavez, Chair of the Coordination Committee, to the podium and noted that Agenda Item 29 concerned the Review of the Office of Internal Oversight Service Report.

221. The Chair of the Coordination Committee expressed his appreciation to the Chair of the General Assembly for giving him the floor with respect to the deliberations of the WIPO Coordination Committee held on Friday concerning the Review of the Office of Internal Oversight Services Report. The Chair of the Coordination Committee noted, at the outset, that the Coordination Committee is charged with the consideration of staff related matters and it was in this context that he presented his report to facilitate the task of the General Assembly in considering Agenda Item 29. He noted that the Coordination Committee, on two previous

occasions, had discussed these issues which were part of its mandate and the previous Chair of the Coordination Committee had been asked to undertake this task. The Chair of the Coordination Committee referred to the agreements adopted by consensus at the extraordinary session of the Coordination Committee in September and emphasized that after fruitful discussion, the Coordination Committee had taken note of the previous Chair's statements as well as all the statements made by Member States. The exchange of points of view had been very complete and constructive and this had allowed for the decision to be taken which was then put before the General Assembly.

222. "The 73rd (47th Ordinary) session of the WIPO Coordination Committee reaffirmed the decision of the 72nd (26th Extraordinary) session of the WIPO Coordination Committee and recommended to the WIPO General Assembly to:

- "(1) welcome the audit of the "Ethical Framework", currently being conducted by the Internal Oversight Division (IOD);
- "(2) request the Secretariat to review the Whistleblower Protection Policy, taking into account lessons learned, recent developments in this area, and best practices from other organizations, and request the Independent Advisory Oversight Committee (IAOC) to review and comment on the proposed revision;
- "(3) request the Chief Ethics Officer to also include, in the annual report, information on any active cases of retaliation against witnesses who cooperate with an investigation of a report of wrongdoing, consistent with applicable WIPO procedures; and
- "(4) request the Director, IOD to review the WIPO's Procurement Policies and Procedures after the review currently being undertaken by the Director General, as recommended by the General Assembly and the Coordination Committee Chairs, to ensure clarity and transparency in WIPO's procurement process, so that the conclusions and/or recommendations will be submitted to the Program and Budget Committee (PBC) for consideration by Member States."

223. The Chair of the Coordination Committee reiterated that the Coordination Committee devoted many hours over two long sessions to arrive at these definitive conclusions on the issues presented to it. As such, the Chair of the Coordination Committee hoped that, as the Chair of the General Assembly had mentioned, that no further time and energy would need to be spent on these matters which had been so thoroughly discussed by Member States and concerning which consensus conclusions had been reached.

224. The Chair thanked the Chair of the Coordination Committee for his report and for his leadership in driving the work of the Coordination Committee, and asked whether there were any delegations which wished to take the floor prior to adoption of the draft decision. He added that there would also be the possibility to make statements after the draft decision is adopted.

225. The Delegation of Chile, speaking in its national capacity, thanked the Chair of the Coordination Committee for his report and for the conclusions which he put to the General Assembly. The Delegation also underlined its appreciation for the way in which this issue had been organized and led by him which had been a very significant contribution to the Organization and to the continuity of activities. As such, the Delegation fully supported the report that the Chair of the Coordination Committee had put to the General Assembly.

226. The Chair noted that as he did not see any further requests to take the floor, he would proceed with the draft decision which read as follows:

227. The WIPO General Assembly took note of the report by the Chair of the WIPO Coordination Committee and approved the recommendations made by the seventy-second and seventy-third sessions of the WIPO Coordination Committee (documents WO/CC/72/4 and A/56/16).

228. The Delegation of the United States of America welcomed the advancement of the important reforms agreed to during the Assemblies and noted that these were reforms that would make WIPO a stronger and more transparent Organization with greater accountability for employees at all levels. The Delegation appreciated the efforts of the IAOC, WIPO Member States and the WIPO Secretariat for their contributions to the important progress that had been made. The Delegation stated that for several years, allegations of wrongdoing had undermined confidence in the Organization, shifted focus away from its important work and diminished perceptions of its integrity. On repeated occasions, WIPO staff had asserted that they had been retaliated against for speaking up about perceived wrongdoing or for expressing concerns about the Organization's leadership. The Delegation said that it was known from experience that organizations that encourage frank and open dialogue and which are committed to addressing concerns in a constructive, transparent manner perform better than organizations that do not. Therefore, the Delegation had been and remained strongly committed to reforms such as those that had been adopted to ensure accountability and provide for the expeditious and fair resolution of disputes and reports of wrongdoing. It underlined that Member States should not stop at this and that Member States have a responsibility to establish and continuously refine robust policies and prompt action to achieve the goal of zero wrongdoing and zero retaliation. The Delegation felt that it was the collective responsibility of Member States to ensure that WIPO staff and others who participated in the recent investigation and whose identities had been disclosed suffer no adverse consequences for having participated in the investigation. The posture that Member States and the head of the Organization took and the way that these issues are communicated sets the tone by which others, including the staff of the Organization, view Member States. Consequently, all parties should work together to promote a culture and an environment at WIPO where trust and respect are rebuilt and become the foundation of a relationship between WIPO leadership and WIPO Member States and also become the foundation of relationship between WIPO leadership and WIPO staff. The Delegation stated that Member States needed to promote accountability and adherence to the highest ethical standards and ensure that WIPO staff felt free to express concerns and make suggestions for improving the Organization without fear of retaliation or negative consequences for their careers. The Delegation applauded and welcomed the reforms Member States had adopted, especially the revisions to the Internal Oversight Charter. It noted that reforms addressed flaws in WIPO's internal processes that made it more difficult for Member States to discharge their oversight responsibilities. In this regard, the Delegation considered that it was especially troubling that the Chairs of the General Assembly and the Coordination Committee had concluded an investigation concerning the Director General when most Member States had not had adequate access to the OIOS report and were, thus, not prepared to engage in detailed or meaningful consultations on it. In spite of its best and resolute intentions to ensure accountability, the Delegation felt that this lack of clarity had made it more difficult to address the issues forthrightly. In short, the matters raised in the OIOS report and its recommendations had not been well handled. Despite the fact that most Member States believed that continuing discussion would not be productive, the Delegation remained vigilant to ensure that this period of turmoil at WIPO would not be repeated. Finally, the Delegation wished to highlight the ongoing duties of all UN agencies to fully implement whistleblower protections. The Delegation welcomed the decision of the General Assembly directing the reporting on any retaliation against witnesses who cooperate with investigations and directing WIPO to review its whistleblower policies to ensure effective implementation and enforcement of those policies across the board. Especially following such a decisive chapter in WIPO's history, the

United States of America saw no greater responsibility for WIPO leadership than to restore the credibility and the integrity of the Organization in this fashion.

229. The Delegation of Switzerland welcomed the decision that the Assembly had taken as well as the recommendations made by the 72nd and 73rd sessions of the Coordination Committee. It fully supported the revision process of the rules at WIPO and was convinced that these adjustments would strengthen the governance of the Organization. The Delegation felt that the measures that took into account the conclusions of the OIOS report as well as those of the Chairs of the Coordination Committee and General Assembly would allow Member States to look to the future. The Delegation noted that Switzerland had always attached great importance to the OIOS report being dealt with transparently and this was why it had asked that the report be published as soon as it was concluded. The fact that the report had been made available and distributed to Member States is an opportunity that the Delegation welcomed. The Delegation also noted that it wanted to address once and for all the criticisms directed against it in the OIOS report on the DNA case, namely the lack of cooperation by the Swiss authorities. The Delegation agreed that, in one case, there had been a problem of communication and continued that, owing to a simple oversight, the OIOS had not received a response to a request it had submitted. In the meantime, the Government of Switzerland had recognized this problem with the OIOS which was remedied at the end of September. The Delegation noted that in 2015, the OIOS had asked Switzerland to facilitate a meeting with the public prosecutor of the Canton of Geneva and the public prosecutor said he did not plan to take any distance from his position that he had put to the WIPO audit and internal oversight Director in 2014. At that point, the prosecutor said that a third party not party to the proceedings could not be granted access because Swiss law does simply not allow it. The Delegation underlined that with regard to the other criticism, in no case had Swiss authorities attempted to become an obstacle to the OIOS obtaining information. It noted that under the separation of powers, it was not up to the Government to take a position on a criminal procedure nor to instruct the judiciary how to act. The Delegation continued that if there were members of staff who felt they were affected by the taking of DNA samples without their knowledge, it was up to them to exercise their rights through the public prosecutor.

230. The Delegation of Nigeria, speaking in its national capacity, welcomed the reforms that had been adopted at the General Assembly. Concerning the OIOS report, the Delegation wished to reiterate its regret at the manner in which the whole matter had been handled. The Delegation underlined that WIPO is a Member State driven organization and as such, Member States had the collective responsibility to ensure and uphold the integrity and accountability of the Organization. The Delegation believed that the steps that had been taken at this General Assembly were part of a continuous process, as needed, to ensure the highest level of integrity, transparency and accountability and good management in WIPO.

231. The Chair, noting that there were no further requests for the floor, closed the agenda item.

[Annex follows]

Revised Internal Oversight Charter as adopted by the WIPO General Assembly

A. INTRODUCTION

1. This Charter constitutes the framework for the Internal Oversight Division (IOD) of the World Intellectual Property Organization (WIPO) and establishes its mission: to examine and evaluate, in an independent manner, WIPO's control and business systems and processes in order to identify good practices and to provide recommendations for improvement. IOD thus provides assurance as well as assistance to Management in the effective discharge of their responsibilities and the achievement of WIPO's mission, goals and objectives. The purpose of this Charter is also to help strengthen accountability, value for money, stewardship, internal control and corporate governance in WIPO.

2. The internal oversight function in WIPO comprises internal audit, evaluation and investigation.

B. INTERNAL OVERSIGHT DEFINITIONS AND STANDARDS

3. In accordance with the definition adopted by the Institute of Internal Auditors (IIA), internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

4. The internal audit function in WIPO shall be carried out in accordance with the International Standards for the Professional Practice of Internal Auditing and the Code of Ethics promulgated by IIA and adopted by the Representatives of Internal Audit Services of the United Nations Organizations, Multilateral Financial Institutions and Associated Intergovernmental Organizations (RIAS).

5. An evaluation is a systematic, objective and impartial assessment of an on-going or completed project, program or policy, its design, implementation and results. The aim is to determine the relevance and fulfilment of objectives, its efficiency, effectiveness, impact and sustainability. An evaluation should contribute to learning and accountability and provide credible, evidence-based information, enabling the incorporation of findings and recommendations into the decision-making processes of WIPO.

6. Evaluations in WIPO shall be carried out in accordance with the standards developed and adopted by the United Nations Evaluation Group (UNEG).

7. An investigation is a formal fact-finding inquiry to examine allegations of or information concerning misconduct or other wrongdoing involving WIPO personnel in order to determine whether they have occurred and if so, the person or persons responsible. Investigations may also examine alleged wrongdoing by other persons, parties or entities, deemed to be detrimental to WIPO.

8. Investigations in WIPO shall be carried out in accordance with the Uniform Principles and Guidelines for Investigations adopted by the Conference of International Investigators and with WIPO's regulations and rules.

C. MANDATE

9. The internal oversight function provides the Management of WIPO with independent, objective assurance, analyses, appraisals, recommendations, lessons learned, advice and

information, through the undertaking of internal audits, evaluations and investigations. Its objectives include:

- (a) Identifying means for improving WIPO's relevance, effectiveness, efficiency, and economy of the internal procedures and use of resources,
- (b) Assessing whether cost-effective controls are in place, and
- (c) Assessing compliance with WIPO's Financial Regulations and Rules, Staff Regulations and Rules, relevant General Assembly decisions, the applicable accounting standards, the Standards of Conduct for the International Civil Service, as well as good practice.

D. AUTHORITY AND RESPONSIBILITY

10. The Director, IOD reports administratively to the Director General but is not part of operational management. The Director, IOD enjoys functional and operational independence from Management in the conduct of his/her duties. In the exercise of his/her functions, he/she takes advice from the WIPO Independent Advisory Oversight Committee (IAOC). He/she has the authority to initiate, carry out and report on any action, which he/she considers necessary to fulfil his/her mandate.

11. The Director, IOD and oversight staff shall be independent of all WIPO programs, operations and activities, to ensure impartiality and credibility of the work undertaken.

12. The Director, IOD and oversight staff shall conduct oversight work in a professional, impartial and unbiased manner and in accordance with good practice, standards and norms generally accepted and applied by the United Nations system organizations, as detailed in Section B above.

13. For the performance of his/her duties, the Director, IOD shall have unrestricted, unlimited, direct and prompt access to all WIPO records, officials or personnel, holding any WIPO contractual status, and to all the premises of WIPO. The Director, IOD shall have access to the Chairs of the General Assembly, the Coordination Committee, the Program and Budget Committee and the IAOC.

14. The Director, IOD shall maintain facilities for the submission of complaints by individual staff members as well as any other internal or external parties, concerning alleged misconduct, wrongdoing or irregularities including but not limited to: fraud and corruption, waste, abuse of privileges and immunities, abuse of authority, and violation of WIPO regulations and rules. Notwithstanding the foregoing, the mandate of the Director, IOD normally does not extend to those areas for which separate provision has been made for review, including workplace-related conflicts and grievances, personnel grievances arising from administrative decisions affecting a staff member's terms of appointment, and performance issues and performance-related disagreements. It rests with the Director, IOD to determine whether such matters may involve wrongdoing and should be handled by IOD or whether they should be referred to other internal bodies.

15. The right of all staff and personnel to communicate confidentially with, and provide information to the Director, IOD, without fear of reprisal, shall be guaranteed by the Director General. All WIPO staff members shall take appropriate steps to ensure that the confidentiality of such communications is maintained. This is without prejudice to measures that may be taken under WIPO Staff Regulations and Rules regarding allegations which are intentionally and knowingly false or misleading or made with reckless disregard for accuracy of the information.

16. The Director, IOD shall respect the confidential nature of, and protect from unauthorized disclosure, any information gathered or received in the course of an internal audit, evaluation, or investigation, and shall use such information only in so far as it is necessary for the performance of his/her duties.

17. The Director, IOD shall liaise regularly with all other internal and external providers of assurance services to ensure the proper coordination of activities (External Auditor, Risk Officer, Compliance Officer). The Director, IOD shall also periodically liaise with the Chief Ethics Officer and with the Ombudsperson.

E. CONFLICT OF INTEREST

18. In the performance of their oversight work, the Director, IOD and oversight staff shall avoid perceived or actual conflicts of interest. The Director, IOD shall report any significant impairment to independence and objectivity, including conflicts of interest, for due consideration of the IAOC.

19. Notwithstanding the foregoing, where allegations of misconduct concern the staff of IOD, the Director, IOD shall seek the advice of the IAOC on how to proceed.

20. Allegations of misconduct against the Director, IOD shall be reported to the Director General, who shall, at the earliest opportunity, but not later than one month, inform the Chair of the Coordination Committee and seek the advice of the IAOC on how to proceed. The IAOC shall conduct or arrange for a preliminary evaluation. Based on its results, the IAOC shall provide a recommendation to the Director General and the Chair of the Coordination Committee on whether to close the case or refer the matter for investigation to an independent external investigative entity. If the Director General and the Chair of the Coordination Committee decide to refer the case to an independent investigative entity, the IAOC shall provide advice on the Terms of Reference of the investigation and on a suitable investigative entity.

21. Allegations of misconduct against WIPO personnel at the Deputy Director General and Assistant Director General levels shall be reported to the Director, IOD, who shall, at the earliest opportunity, but not later than one month, inform the Director General and the Chair of the Coordination Committee.

22. Allegations of misconduct against the Director General shall be reported to the Director, IOD, who shall immediately inform the Chairs of the General Assembly and of the Coordination Committee and seek the advice of the IAOC on how to proceed. The IAOC shall advise the Director IOD on whether to conduct a preliminary evaluation or arrange for a preliminary evaluation by an independent external investigative entity. Based on the results of the preliminary evaluation, the IAOC shall provide a recommendation to the Chairs of the General Assembly and of the Coordination Committee on whether to request the Director, IOD to close the case or to refer the matter for investigation to an independent external investigative entity. In the event the Chairs cannot reach an agreement or propose to deviate from the IAOC recommendation, the Vice-Chairs of the General Assembly and of the Coordination Committee shall be involved in the decision. In case of referral, the IAOC shall also provide advice to the Chairs on the Terms of Reference of the investigation and on a suitable investigative entity.

23. Where the advice of the IAOC is required, such advice shall be provided within one month, unless the complexity of the matter requires more time.

F. DUTIES AND MODALITIES OF WORK

24. The internal oversight function contributes to the efficient management of the Organization and the accountability of the Director General to the Member States.

25. To carry out his/her mandate, the Director, IOD shall conduct audits, evaluations, and investigations. The types of audits should include, but not be limited to, performance audits, financial audits, and compliance audits.
26. To effectively implement WIPO's internal oversight functions, the Director, IOD shall:
- (a) Establish long and short term internal oversight work plans in coordination with the External Auditor. The annual work plan shall be based, where relevant, on a risk assessment to be carried out at least annually, on which basis work would be prioritized. In preparing the annual work plan, the Director, IOD shall take into account any suggestions received from Management, the IAOC or from Member States. Prior to finalizing the internal oversight plan, the Director, IOD shall submit the draft plan to the IAOC for its review and advice.
 - (b) In consultation with Member States, establish policies for all oversight functions, i.e., internal audit, evaluation, and investigation. The policies shall provide rules and procedures on the access to reports while ensuring rights to due process and the preservation of confidentiality.
 - (c) Prepare, for review by the IAOC, and issue an internal audit manual, an evaluation manual, and an investigation manual. Such manuals shall include the terms of reference of the individual oversight functions and a compilation of applicable procedures. They shall be reviewed every three years or earlier.
 - (d) Establish and maintain follow-up systems to determine whether effective action has been taken in response to oversight recommendations, within a reasonable time. The Director, IOD shall periodically report in writing to Member States, the IAOC and the Director General on situations where adequate, timely corrective action has not been implemented.
 - (e) Liaise and coordinate with the External Auditor and monitor the follow-up of their recommendations.
 - (f) Develop and maintain a quality assurance/improvement program covering all aspects of internal audit, evaluation and investigation, including periodic internal and external reviews and ongoing self-assessments in accordance with the applicable standards. Independent external assessments shall be conducted at least once every five years.
 - (g) Liaise and cooperate with the internal oversight or similar services of other organizations of the United Nations system and of Multilateral Financial Institutions, and represent WIPO in relevant inter-agency meetings.
27. In particular, the Director, IOD shall assess:
- (a) The reliability, effectiveness and integrity of WIPO's internal control mechanisms.
 - (b) The adequacy of organizational structures, systems and processes to ensure that the results WIPO produces are consistent with the objectives established.
 - (c) The effectiveness of WIPO in meeting its objectives and achieving results and, as required, recommending better ways of achieving such results, taking into account good practices and lessons learned.
 - (d) Systems aimed at ensuring compliance with WIPO's regulations, rules, policies and procedures.

(e) The effective, efficient and economical use, and the safeguarding of human, financial and material resources of WIPO.

(f) Significant exposure of WIPO to risk and contributing to the improvement of risk management.

28. The Director, IOD shall also undertake investigations into allegations of misconduct or other wrongdoing. The Director, IOD may decide to proactively initiate investigations based on risks identified.

G. REPORTING

29. At the completion of each audit, evaluation or investigation, the Director, IOD shall issue a report, which shall present the objectives, scope, methodology, findings, conclusions, remedial action or recommendations of the specific activity concerned and include, if applicable, recommendations for improvements and lessons learned from the activity. The Director, IOD shall ensure completeness, timeliness, fairness, objectivity and accuracy in the reporting of internal audits, evaluations and investigations.

30. Draft internal audit and evaluation reports shall be presented to the program manager and other relevant officials directly responsible for the program or activity that has been the object of the internal audit or evaluation, who shall be given the opportunity to respond within a reasonable time to be specified in the draft report.

31. Final internal audit and evaluation reports shall reflect any relevant comments from the managers concerned and, if applicable, the related management action plans and timetables. Should the Director, IOD and the program manager be unable to agree on the findings of a draft audit and evaluation report, the final report shall contain the opinion of both the Director, IOD and of the managers concerned.

32. The Director, IOD shall submit final internal audit and evaluation reports to the Director General with a copy to the IAOC and the External Auditor. Upon request, the External Auditor shall be provided with any supporting documentation of internal audit and evaluation reports.

33. The Director, IOD shall publish internal audit and evaluation reports, as well as Management Implication Reports resulting from investigations, on the WIPO website within one month of their issuance. If required to protect security, safety or privacy, the Director, IOD may, at his/her discretion, withhold a report in its entirety or redact parts of it. However, Member States may request access to reports withheld or to the original version of the redacted reports; such access shall be granted under condition of confidentiality at the offices of IOD.

34. Unless otherwise stipulated in this Charter, the Director, IOD shall submit final investigation reports to the Director General with a copy to the Director of the Human Resources Management Department; the External Auditor and the IAOC shall have access to investigation reports upon request.

35. The Director, IOD shall submit final investigation reports involving WIPO personnel at the Deputy Director General and Assistant Director General levels, to the Director General with copies to the Chairs of the General Assembly and of the Coordination Committee, the IAOC and the External Auditor. The Director General shall, at the earliest opportunity, inform the Chairs of the General Assembly and of the Coordination Committee as well as the IAOC and the External Auditor of the final disposition of the case and the reasons thereof. However, in case of termination of appointment, prior consultation of the Coordination Committee is required. In cases where allegations are substantiated, and upon request, Member States shall be provided confidential access to the reports.

36. Final investigation reports concerning the Director, IOD, shall be submitted to the Director General, with copies to the Chairs of the General Assembly and of the Coordination Committee, the IAOC, and the External Auditor. The Director General shall, at the earliest opportunity, inform the Chairs of the General Assembly and of the Coordination Committee as well as the IAOC and the External Auditor, of the final disposition of the case and the reasons thereof.
37. Final investigation reports concerning the Director General shall be submitted to the Chairs of the General Assembly and of the Coordination Committee, with copies to the IAOC, the External Auditor and the Director, IOD.
38. If the investigation referred to in paragraph 37 does not substantiate the allegations made, the Chairs of the General Assembly and of the Coordination Committee shall, after consultation with the IAOC, request the Director, IOD to close the case. If the Director General so requests, the Chair of the General Assembly shall inform Member States of the disposition of the case.
39. If the investigation referred to in paragraph 37 substantiates some or all of the allegations of misconduct, the IAOC shall, at the earliest opportunity, inform Member States, through the Regional Group Coordinators, that such findings, conclusions and/or recommendations have been made. The Chairs of the General Assembly and of the Coordination Committee shall:
- (a) provide Member States with a redacted summary of the report's findings, conclusions, and recommendations, prepared preferably by the investigative entity;
 - (b) upon request by a Member State, provide that Member State with a full version of the final investigation report, redacted, preferably by the investigative entity;
 - (c) authorize access for Member States under condition of confidentiality to the unredacted final investigation report and the Terms of Reference;
 - (d) submit to the Coordination Committee, taking account of written advice provided by the IAOC, a recommendation with detailed reasoning to close the case or to initiate a disciplinary procedure; and
 - (e) convene the Coordination Committee within two months of the recommendation to decide whether to close the case or initiate and conduct a disciplinary procedure.
40. Final investigation reports, drafts, materials, findings, conclusions and recommendations are fully confidential, unless disclosure is authorized by the Director, IOD or by the Director General.
41. For oversight matters of a minor or routine nature, which do not require formal reporting, the Director, IOD may issue communications to any concerned WIPO manager.
42. The Director General is responsible for ensuring that all recommendations made by the Director, IOD are responded to promptly, indicating actions taken by Management regarding specific report findings and recommendations.
43. The Director, IOD shall submit, on an annual basis, a report to the Director General, with a copy to the IAOC, regarding the implementation of recommendations made by the External Auditor.
44. The Director, IOD shall submit, on an annual basis, a summary report to the WIPO General Assembly, through the Program and Budget Committee (Annual Report). The Director General and the IAOC shall be provided with a draft version of the Annual Report for their comments, if any. The Annual Report shall give an overview on the internal oversight activities conducted during the reporting period, including the scope and objectives of such activities, the schedule of work undertaken and progress on the implementation of internal oversight

recommendations. The Director General may submit comments on the final Annual Report in a separate report as deemed appropriate.

45. The Annual Report shall include the following, *inter alia*:

- (a) A description of significant issues and deficiencies relating to WIPO's activities in general, or a program or operation in particular, disclosed during the period.
- (b) A description, including the financial impacts, if any, of those investigative cases found to be substantiated and their disposition, such as disciplinary measures, referral to national law enforcement authorities, and other sanctions taken.
- (c) A description of all high priority internal oversight recommendations made by the Director, IOD during the reporting period.
- (d) A description of all recommendations which were not accepted by the Director General, together with his/her explanations for not doing so.
- (e) An identification of high priority recommendations in previous reports on which corrective action has not been completed.
- (f) Information concerning any significant management decision which in the view of the Director, IOD constitutes a serious risk for the Organization.
- (g) A summary of any instance where IOD's access to records, personnel and premises was restricted.
- (h) A summary of the report submitted by the Director, IOD to the Director General regarding the status of implementation of external audit recommendations.
- (i) A confirmation of the organizational independence of the internal oversight function and information on the scope of the internal oversight activities and the adequacy of resources for the purposes intended.

H. RESOURCES

46. In presenting Program and Budget proposals to the Member States, the Director General shall take into account the need to ensure the operational independence of the internal oversight function and shall provide the necessary resources to enable the Director, IOD to achieve the objectives of his/her mandate. The allocation of financial and human resources including in-sourcing, outsourcing or co-sourcing of services shall be clearly identified in the Program and Budget proposal, which will take into account the advice of the IAOC.

47. The Director, IOD shall ensure that IOD comprises staff, appointed in accordance with WIPO Staff Regulations and Rules, which collectively possess the knowledge, skills and other competencies needed to perform the internal oversight functions. He/she shall promote continuing professional development to meet the requirements of this Charter.

I. APPOINTMENT, PERFORMANCE APPRAISAL, AND DISMISSAL OF THE DIRECTOR, IOD

48. The Director, IOD shall be a person with high qualifications and competence in oversight functions. The recruitment of the Director, IOD shall be based on an open, transparent international selection process to be conducted by the Director General in consultation with the IAOC.

49. The Director, IOD shall be appointed by the Director General after endorsement by the IAOC and the Coordination Committee. The Director, IOD shall have a non-renewable fixed

term of office of six years. On completion of the fixed term of office he/she shall not be eligible for any further employment in WIPO. Steps should be taken, where possible, to ensure that the start of the terms of the Director, IOD should not be the same as that of a new External Auditor.

50. The Director General may dismiss the Director, IOD only on specific and documented grounds and after endorsement by the IAOC and the Coordination Committee.

51. The performance appraisal of the Director, IOD shall be made by the Director General after receiving input from and in consultation with the IAOC.

J. REVISION CLAUSE

52. This Charter shall be reviewed by the Director, IOD and the IAOC, every three years or earlier, if necessary. Any proposed amendments by the Secretariat to the Charter shall be reviewed by the IAOC and the Director General and shall be submitted to the Program and Budget Committee for approval.

[End of Annex and of document]