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Geneva, April 11 to 13, 2005

PROPOSAL BY THE UNITED STATES OF AMERICA FOR THE
ESTABLISHMENT OF A PARTNERSHIP PROGRAM IN WIPO

Document prepared by the Secretariat

1. In a communication dated March 11, 2005, the International Bureau received a proposal from the United States of America for the establishment of a partnership program in WIPO for consideration by Member States at the Inter-Sessional Intergovernmental Meeting (IIM) on a Development Agenda for WIPO, to be held in Geneva from April 11 to 13, 2005.

2. The said proposal is annexed to this document.

3. The IIM is invited to note the contents of the attached proposal of the United States of America.

[Annex follows]

ANNEX

**Proposal by the United States of America
For the Establishment of a Partnership Program in WIPO**

Introduction

1. At its meeting September 27 to October 5, 2004, the WIPO General Assembly welcomed the initiative for a development agenda in WIPO and noted the proposals of Argentina and Brazil contained in document WO/GA/31/11. The General Assembly decided to examine these proposals, as well as additional proposals of Member States in inter-sessional intergovernmental meetings, and to prepare a report by July 30, 2005, for the consideration at the September 2005 WIPO General Assembly.
2. The United States believes that intellectual property (IP) has an important role to play in promoting economic, social and cultural development, and strongly supports WIPO's efforts to strengthen its assistance to Member States in this area in order to see this development realized. The following proposal is submitted in the spirit of advancing the discussions on intellectual property and development in WIPO.

The Role of WIPO in Development

3. As outlined by Director General Kamil Idris in his book entitled "Intellectual Property: A Power Tool for Economic Growth", intellectual property serves as an important tool in economic, social and cultural development by encouraging domestic innovation and creativity, investment and technology transfer. WIPO's current vision for the Millennium, as approved by its Member States, is to promote intellectual property strategies that facilitate the "journey from developing to developed." Examples of economic development following improved IP protection abound worldwide, whether it is in the cultural sector (e.g., music, film, literature) or the technology sector (e.g., computer software, information and communication technologies). Such economic growth has been evidenced by increases in employment and tax revenues in these countries and sectors. Improved IP protection, which includes the effective enforcement of rights and the use of proven best practices, promotes domestic innovation and creativity, domestic and foreign investment and technology transfer.

4. WIPO has played a key role in developing the international intellectual property system and its use by developing countries as a tool for development. WIPO devotes substantial resources to helping developing countries implement an IP framework that will foster local innovation and economic growth, taking into consideration a country's circumstances, needs and objectives. Simply put, WIPO already has had a robust "development agenda" in all of its work for a long time, delivering high-quality development activities to Member States on a demand-driven basis. Driven by the success of its Global Protection Systems, namely the PCT System for patents, the Madrid System for trademarks and the Hague System for industrial designs, WIPO has established itself as a leading provider of IP development assistance. In the past decade, WIPO's budget, including its Cooperation for Development budget, has tripled in size, greatly expanding WIPO's role in IP development assistance. Use of the intellectual property global protection services at WIPO by developing countries has risen dramatically in recent years. WIPO has played, and must continue to play, an important role in fostering development through the promotion of intellectual property around the world, and by deepening and expanding, rather than diluting, its intellectual property expertise.
5. Intellectual property alone, however, cannot bring about development and can contribute only part of the solution. All countries benefit from IP but not all countries will achieve the same benefits because IP is simply one part of the necessary infrastructure needed to stimulate development. Development is also contingent upon many other factors, including building human capital, liberalizing trade and investment policies, strengthening the rule of law, pursuing stable macroeconomic policies, and implementing pro-competitive regulatory policies. Moreover, the extent of corrupt practices in a country is also an important determinant of economic growth. Bribery, corruption and extortion distort competitive markets, involve non-productive diversion of resources, and deter investment, technology transfer and development.
6. WIPO, as the U.N. specialized agency whose contribution to development is made through promoting creative intellectual activity and technology transfer, has a very important, albeit somewhat limited, role to play in fostering economic development and cultural diversity. The 1974 Agreement Between the United Nations and WIPO recognizes WIPO as a specialized agency of the UN that is

"responsible for taking appropriate action in accordance with its basic instrument, treaties and agreements administered by it, *inter alia*, for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to developing countries in order to accelerate economic, social and cultural development, **subject to the competence and responsibilities** of the United Nations and its organs, particularly the United Nations Conference on Trade and Development, the United Nations Development Programme and the United Nations Industrial Development Organization, as well as of the United Nations Educational, Scientific and Cultural Organization and of **other agencies**

within the United Nations system.” (Article 1 of U.N.-WIPO Agreement; emphasis added)

7. The language in the 1974 Agreement explicitly states that WIPO’s role in development is subject to the competence and responsibilities of other U.N. agencies. WIPO is not a core development agency like the United Nations Conference on Trade and Development (UNCTAD) or the United Nations Development Program (UNDP). Its role, rather, is as the U.N. specialized agency whose contribution to development is made through promoting creative intellectual activity and technology transfer. The 1974 Agreement, while encouraging coordination and cooperation with the U.N. and its organs and agencies (in Article 2), also seeks to avoid overlapping or conflicting relationships with other U.N. bodies that would result in waste or inefficient expenditure of U.N. resources. WIPO’s contribution to overall U.N. development goals is best achieved not by diluting WIPO’s role within the U.N. system but, rather, by strengthening WIPO’s intellectual property expertise and its IP-related development assistance. Other agencies, which likewise have specialized expertise in their subject areas, should address other development concerns, such as labor (International Labor Organization), health (World Health Organization), education and culture (United Nations Educational, Scientific and Cultural Organization), environment (United Nations Environment Program), hunger (World Food Program, Food and Agriculture Organization, and International Fund for Agriculture Development), and so on. The proposal for a WIPO Partnership Program would strengthen WIPO’s development efforts by ensuring its core mission of promoting intellectual property protection as a tool for development is realized.
8. The United States fundamentally believes that strong intellectual property protection is beneficial to the economic development of all countries. The United States believes that development is not only one of the most important challenges facing the international community, but also one of the most daunting. The proposal for a WIPO Partnership Program would multiply the availability of IP-related development assistance for developing countries and help them realize the benefits of IP protection that so many other countries have seen.

Proposal for a WIPO Partnership Program

9. The US proposes the creation of a **WIPO Partnership Program**, an Internet-based tool to facilitate the strategic use of intellectual property by developing countries and to maximize WIPO’s positive impact on development. This tool would bring together all stakeholders to match specific needs with available resources and to amplify the developmental impact of intellectual property development assistance. Utilizing existing WIPO resources, the WIPO Partnership Program would improve the transparency of intellectual property development assistance, avoid duplication of efforts, and help to focus resources on the specific needs of developing countries. Synergies obtained

through partnerships would dramatically magnify current IP development efforts of WIPO and other entities. The WIPO Partnership Program would facilitate practical, concrete achievements.

10. The Internet-based WIPO Partnership Program would have two features: a WIPO Partnership Database and a WIPO Partnership Office. The Partnership Database would be available on a dedicated web page on the WIPO Internet Web Site. These features are described in more detail below. WIPO would ensure that developing countries are able to use WIPONET to access and utilize the WIPO Partnership Program. WIPONET, WIPO's project to provide Internet connection to the IP offices of all WIPO Member States, is now fully deployed, ensuring access to the Partnership Program by developing countries.

a. WIPO Partnership Database

11. The Partnership Database would bring together donors and recipients of IP development assistance. WIPO would invite all stakeholders to submit information on needs and available resources relating to IP and development, and WIPO would update the database with information provided by stakeholders. In this way, WIPO would maintain the database as a partnering tool for developing countries and developing country institutions. Partnering would be left to the developing country or institution and potential partner(s) concerned, with WIPO's Partnership Database serving as the primary facilitator. A developing country IP Office might, for example, partner with a developed country IP Office and a funding entity. A copyright collecting society in a developing country might partner with a developed country collecting society and grant provider, and so on.

12. The **WIPO Partnership Database** would have 3 Sections:

- (1) **Partners Section** that would include intergovernmental organizations (IGOs), non-governmental organizations (NGOs), intellectual property offices (IPOs), private sector groups, industry, universities, charitable organizations, bar groups and other institutions wishing to provide assistance to developing countries to develop their intellectual property systems as a tool for economic, social and cultural development. The WIPO International Bureau would register these entities as "WIPO Partners" in the Partners Section of the WIPO Partnership Database. The Partners Section should also include a "Projects" section in which donor organizations may announce specific projects planned or underway in developing countries or regions, and other IP development assistance being made available. The Partners Section would also include WIPO Cooperation for Development activities and those of other relevant IGOs. The

Partners Section should be searchable by category of partner, with contact information, and country of donor (where applicable) so that donor institutions may be contacted with specific needs.

- (2) **Country/Region Section** that would include developing countries and developing country agencies and institutions, such as intellectual property offices (IPO's), government ministries and offices, educational institutions, inventor associations, technology transfer organizations and collective administration organizations. The Country/Region Section of the Partnership Database is where specific needs for intellectual property development assistance requests would be made known. Such requests might relate to IP policy development, IP office automation, information dissemination, capacity building, human resource development, training, strategic use of IP to exploit areas of competitive advantage, IP licensing and marketing, technology transfer, IP education and awareness raising and other IP-related development needs. The country/region database would facilitate the coordination of IP development assistance available from all sources, including WIPO itself and other institutions. The Country/Region Section of the Partnership Database would be searchable by country and region to assess specific needs and stimulate partnerships for IP development.
- (3) **Success Section** that would list successful partnership matches, and possibly include evaluations of the partnerships. WIPO, as the primary facilitator of the WIPO Partnership Program, would collect and post information on successful partnerships in the Success Section of the Partnership Database.

b. WIPO Partnership Office

13. The Partnership Program would also include, within the WIPO International Bureau, a Partnership Office staffed by WIPO personnel specifically deployed for the purpose of evaluating requests for assistance and actively seeking to find partners to fund and execute projects. The WIPO Partnership Office would aggressively seek out potential partners in other intergovernmental organizations development agencies such as UNDP and regional development banks, IPOs, NGOs, the private sector, academia, charitable organizations, bar groups and other institutions and seek to persuade them of the need to provide assistance to a particular country to develop their intellectual property protection and enforcement systems as a tool for economic, social and cultural development. This Office might, for example, be staffed with IP development

experts from WIPO's Cooperation for Development Regional Bureaus (for Africa, Latin America, Asia, Arab Countries, Eastern Europe).

Rationale for the WIPO Partnership Program

14. At present, there is no significant coordination of IP-related development assistance available from available sources. In the World Trade Organization (WTO), developed countries provide annual reports on technology transfer incentives for least-developed countries (under Article 66.2 of the Agreement on Trade-Related Intellectual Property Rights, or TRIPS Agreement) and on technical cooperation activities in favor of developing and least-developed countries (under Article 67 of TRIPS). While the reports are circulated to all WTO Members and made available on the WTO web site, these reports do not specifically match resources with specific needs. Similarly, in WIPO, reports on development activities prepared by the International Bureau are considered by Member States, but these reports do not generally lead to coordination of efforts outside of WIPO or to matching donors and recipients of IP development assistance. WIPO's Permanent Committee on Cooperation for Development Related to Intellectual Property (PCIPD) and the WIPO General Assembly consider these WIPO reports, but little coordination of efforts or matching specific needs with available resources generally results from these reports. Finally, it appears that the developing countries themselves do not have a central forum in which to articulate, evaluate and compare their IP-related development needs.
15. The WIPO Development Agenda Partnership Program would, for the first time, provide an enhanced tool to help developing countries develop IP strategies to foster local innovation, technology transfer, and economic growth, taking into considerations a country's circumstances, needs and objectives. Partnerships with NGOs, IGOs, IPOs, the private sector, academia, industry, charitable organizations and other institutions made possible through the Partnership Program promise to achieve synergies not possible until now, without imposing a great burden on the WIPO International Bureau. WIPO's International Bureau would maintain the web site and Partnership Database and facilitate partnering through the Partnership Office. Invitations would be issued to all stakeholders to participate in the WIPO Partnership Program.
16. The Partnership Program would build on WIPO's significant successes in addressing the intellectual property development needs of developing countries. The WIPONET project has linked the IP offices of developing countries to the Internet, providing access to multiple databases of IP information, including the "technology blueprints" contained in millions of expired patents. It has greatly facilitated the distance learning courses offered over the Internet by the WIPO Academy. WIPO has executed countless projects in developing countries to exploit areas of comparative advantage for economic, social and cultural gain. The U.S. strongly supports exploring new

ideas and approaches to strengthen and expand WIPO's programs to better meet the needs of developing countries, particularly through the PCIPD.

17. WIPO, nevertheless, cannot meet all IP-related development needs, but could exponentially increase its efforts by launching the WIPO Partnership Program. Through this proposal, the U.S. seeks to maximize the effectiveness of WIPO's development programs. WIPO is redoubling its efforts to make its development programs even more relevant to the changing needs of developing and least developed countries. WIPO has already partnered with other organizations within the family of U.N. organizations in order to more effectively deliver its development-related IP programs. WIPO cooperates with other U.N. agencies, including the United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Program (UNDP), the United Nations Industrial Development Organization (UNIDO), the United Nations Environmental Program (UNEP) and others. As the pace of global change only continues to accelerate, it is entirely appropriate for WIPO to examine its development activities, with a view toward making them ever more relevant to developing countries. WIPO should explore new ways to bring its intellectual property expertise to bear on the development work of other agencies within the UN system. The WIPO Partnership Program would complement WIPO efforts in assisting Member States to implement intellectual property protection and enforcement that advances innovation, creativity, and technology transfer and stimulates economic, social and cultural development.
18. The WIPO Partnership Program is based on the premise that market forces, complemented by assistance from IGOs, NGOs, IPOs, and other institutions, are the most effective driver of technology, investment and development. The Partnership Program would permit developing countries to quickly learn about the programs offered by WIPO and other agencies, as well as resources (financial and in-kind) that may be available from NGOs, IGOs, IPOs, corporations, charitable organizations and other entities. Conversely, governments in developed countries, NGOs, private sector right holders and right holder associations with a similar strong interest in working to improve protection in individual countries and globally would be made aware, through the database and through the urgings of the Partnership Office of the various development-oriented IPR projects that are being proposed by particular countries. Recognizing that existing WIPO budgetary resources may not be enough to meet the growing demand for IP-related development assistance, the Partnership Program would serve as an important tool for developing countries to facilitate the strategic use of intellectual property for development, by matching their IP development needs with outside partners. Although the Partnership Program would operate largely outside of the WIPO budgetary framework, The Partnership Database and the Partnership Office, by matching projects with funding sources, would act to dramatically increase the total resources available for IP-related development work.

19. The United States believes that pursuing a “development agenda” has been an integral part of WIPO’s mission since its incorporation into the U.N. family of organizations under its 1974 Agreement with the U.N. We strongly support WIPO’s efforts to address development needs in all of its work, whether that work is norm-making, development cooperation work, or delivery of IP services, while at the same time acknowledging that more can and should be done to meet the growing IP-related development needs of its Member States. The United States looks forward to actively participating in discussions on the issue of IP and development, and offers this proposal in the spirit of cooperation to advance the discussions.

[End of Annex and of document]