

Committee on Development and Intellectual Property (CDIP)

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DESCRIPTION OF THE CONTRIBUTION OF THE RELEVANT WIPO BODIES TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

prepared by the Secretariat

1. The WIPO General Assembly in its forty-sixth session held in Geneva, from September 22 to 30, 2014, considered the document WO/GA/46/4 on “Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations”.
2. The WIPO General Assembly took note of the contents of the above-mentioned document and decided to forward the relevant paragraphs from the reports of the various bodies to the Committee on Development and Intellectual Property (CDIP).
3. Accordingly, the description of the contribution of the following relevant WIPO bodies to the implementation of the respective Development Agenda Recommendations is reproduced below from their reports to the WIPO General Assemblies:
 - (a) Report on the Work of the Standing Committee on Copyright and Related Rights (SCCR), document WO/GA/46/5, paragraph 22 to 29:

“Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies a description of their contribution to the implementation of the respective Development Agenda recommendations,” the following oral and written statements were made for the 28th Session of the SCCR and are reproduced hereafter:

The Chair stated in a written statement that the SCCR has undertaken its activities consistent with the WIPO Development Agenda since its last report. In particular he highlighted the decision to hold a diplomatic conference to adopt the text of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, and Print Disabled. Like the previous Beijing Treaty on Audiovisual Performances, the Marrakesh VIP Treaty has an explicit reference to the Development Agenda in its Preamble, which includes the following provision: "Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work". The adoption of this Treaty focused on limitations and exceptions is consistent with Development Agenda recommendations 15 and 17. Work towards implementing this Treaty continues with the signature of the Treaty by 80 SCCR Members and the announcement of the first ratification, by India, during the 28th meeting of the SCCR.

The Delegation of Kenya, speaking on behalf of the African Group, recalled that the General Assembly recognized in 2010 a mechanism to help mainstream the Development Agenda (DA) recommendations within WIPO's work. The SCCR, especially regarding norm-setting activities, should contribute to the DA and more specifically with its recommendation 15 which calls for all activities to be inclusive and member-driven, to take into account different levels of development and the balance between costs and benefits, and to be a participatory process which takes into consideration the interests and priorities of all WIPO Member States and the viewpoints of stakeholders. The Delegation noted that the Committee had topics reflecting that balance, but that discussions did not seem to be working towards the interests of all Member States. It was necessary to look carefully at how the Committee was handling discussions, especially where there was no balance in terms of weight and manner in which discussions had been carried out: While some topics gained or had a lot of weight, others seemed to be treated casually. This was exemplified during that day, when at the same time the plenary took place a regional coordination meeting also occurred, preventing Member States from actively participating in a topic of discussion. There had been no similar mechanism in the first two days of the SCCR. While the Development Agenda Group (DAG) stated that all DA recommendations should be mainstreamed in WIPO's work, that did not seem to happen. The Member States and the General Assembly should emphasize the need to have a balance, and that balance should be reflected in terms of outcomes and not only in terms of the topics on the table. The Delegation concluded that the weight and importance given to the different topics should be equal.

The Delegation of India stated that appropriate time should be allocated to all agenda items and associated itself with the statement delivered by the Delegation of Kenya on behalf of the African Group.

The Delegation of Brazil supported the statements made by the Delegation of Kenya on behalf of the African Group and India. There were concerns about how important issues of the DA were being handled at the Committee and in the Organization as a whole. The SCCR's contribution to the implementation of the DA was very relevant. The work program on limitations and exceptions and the clear reference to the DA included in the Beijing Treaty were concrete examples. It was important to mainstream to a more development-oriented perspective in WIPO. The SCCR's agenda items on limitations and exceptions were one of the most important contributions to the DA because they directly contributed to the more balanced intellectual property system in a practical way. The work undertaken by the SCCR

comes from the value of copyright. Encouraging creative cultural developments while recognizing the need to establish limitations and exceptions in key areas strikes the necessary balance in the intellectual property system and assures that those rights do not adversely affect access to knowledge and culture for the disadvantaged segments of the population. The Delegation encouraged Member States to stay committed to advance the limitations and exceptions' agenda.

The Delegation of Indonesia supported the statements made by the Delegations of Kenya on behalf of the African Group, India, and Brazil regarding the allocation of time. The Delegation proposed to include the discussion on the contributions to the DA as the first agenda item.

The Delegation of Iran (Islamic Republic of) endorsed the statement delivered by the Delegation of Indonesia.

The Delegation of Japan, on behalf of Group B, believed that development considerations formed an integral part of WIPO's work in the field of copyright, including the SCCR. The work relating to a treaty for the protection of broadcasting organizations at the SCCR also contributed to the DA relating to norm setting and in particular to recommendation 15. The negotiation was being conducted in an inclusive and member-driven manner that gave due consideration to levels of development. The Delegation stated that the work done at the Committee on limitations and exceptions also contributed to an increased understanding, including on copyright flexibilities. The DA could continue to be implemented in a positive way in the work of the SCCR".

(b) Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), document WO/GA/46/6, paragraphs 8 and 9:

"Further to the 2010 WIPO General Assembly decision "to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations", IGC 28 also discussed the contribution of the IGC to the implementation of the Development Agenda (DA) Recommendations.

In this regard, the following statements were made at IGC 28. These will also appear in the initial draft report of IGC 28 (WIPO/GRTKF/IC/28/11 Prov.), which will be made available, as requested by the IGC, by September 19, 2014:

The Delegation of Iran (Islamic Republic of) reiterated the importance of an efficient, functional and practical coordination mechanism to realize the contribution of WIPO Committees towards the full and effective implementation of the DA Recommendations and to carry out coordination between Committees. Unfortunately, despite the decision of the 2010 WIPO General Assembly and the establishment of such mechanism, proper functioning of the system currently had turned out to be a challenge in the implementation of the DA, which should be addressed by Member States at the General Assembly and CDIP meetings. It believed that the statements of Member States and their proposals under Agenda Item 7 should properly be addressed in the CDIP through a coordination mechanism so as to contribute to development in all WIPO activities. The fact that Recommendation 18 specifically referred to the IGC and called for the acceleration of its process was a clear demonstration of the importance of the IGC's negotiations and the ramifications of its outcome for development in the countries. The IGC process was an obvious example of the development-oriented IP norm-setting in

WIPO. Success would send a message to developing countries that WIPO, as a UN specialized agency promoting IPRs, also took into account development concerns. By contrast, the failure of the process would not only undermine all ongoing norm-setting in the IP system, but also send a wrong message that WIPO Member States were not determined to strengthen the IP system in its entirety so as to enable developing countries to enjoy the necessary protection. A tiered approach to protection was being discussed. The scope of protection and different categories of rights arising from that could lead to economic and moral rights for the beneficiaries -- those who in most cases were living in developing countries. It was their long-pending aspirations to see that their TK, TCEs and GRs were protected against misappropriation, misuse and biopiracy. Doing so would move the IP system in a more balanced direction, increasing the interests of developing countries in the IP system, improving the enabling environment for development, and enhancing the contribution of developing countries to global knowledge and global cultural partnerships. To realize all those objectives, the establishment of international binding instruments to protect TK, TCEs and GRs was essential. Building upon the Nagoya Protocol, the IGC should devise a mechanism which would ultimately bring comfort to the owners of TK, TCEs and GRs, to ensure their legitimate interests, and through that, to promote creativity and innovation. The Delegation invited the Secretariat to provide technical assistance to countries in order to enable them to formulate national protection systems for TK, TCEs and GRs, as well as to explore methods for the commercialization of TK and TCEs for the benefit of their owners.

The Delegation of Kenya, speaking on behalf of the African Group, noted that the 45 Recommendations adopted in 2007 had marked a big milestone in terms of balancing the IP system. Recommendation 18 called for “[accelerating] the process on the protection of genetic resources, traditional knowledge and folklore, without prejudice to any outcome, including the possible development of an international instrument or instruments”. The African Group noted that the work undertaken at the IGC had progressed very well. What the IGC needed to do was, taking into account the needs of developing countries, to make a final decision to complete the work which had been ongoing for 15 years. The IGC could not continue to discuss endlessly without having an end date. In order to implement Recommendation 18, the IGC had to make a decision to convene a diplomatic conference. The African Group highlighted the importance of TK, TCEs and GRs. The work done by the IGC was substantive, substantial and mature. It was time to make a decision to bring the work to a close. With such a decision, the IGC would effectively contribute to the implementation of Recommendation 18. Otherwise, the IGC would fail in terms of the implementation of that particular recommendation.

The Delegation of India supported the statements made by the Delegation of Iran (Islamic Republic of) and the Delegation of Kenya on behalf of the African Group. The work of the IGC clearly reflected several DA Recommendations. The Delegation fully supported the view that the Member States needed to reach a common understanding in the IGC and other WIPO committees, as well as the WIPO General Assembly, to implement the DA Recommendations and the DA itself. Developing countries would like to see such an understanding.

The Delegation of Indonesia supported the statements made by the Delegations of Iran (Islamic Republic of), Kenya, on behalf of African Group, and India. It believed that Recommendation 18 of the DA should be implemented in an appropriate manner. In that regard, it would like to discuss further how the IGC could accelerate the process in concluding the international instrument or instruments, and how to accelerate and implement Recommendation 18 in a

concrete manner. Regarding the texts of GRs, TK and TCEs, it was glad to see some provisions on technical assistance and awareness-raising. It would also like to add “development” in the objectives and principles of the texts, because the objectives of those texts were to develop the local society and indigenous peoples. The Delegation highlighted Articles 55 and 56 of the UN Charter. It was the obligation of WIPO, as a specialized agency of the UN, and each Member State of the UN, to reach agreements.

The Delegation of Nigeria supported the statement made by the Delegation of Kenya on behalf of the African Group. It congratulated the work of the IGC, and acknowledged the importance of the IGC coming to a swift and positive conclusion to its work, including its work and deliberations on the question of the Voluntary Fund. The Delegation remained committed to seeing a positive end to the process and, in particular, to seeing Member States come forward with recommendations that were both facilitative and positive. It was particularly looking forward to the recommendations on the work program, the diplomatic conference and the Voluntary Fund, which were the remaining three issues.

The Delegation of Brazil supported the statements made by the Delegations of Iran (Islamic Republic of), India, Indonesia and Nigeria, and the intervention made by the Delegation of Kenya on behalf of the African Group. The DA had been an achievement of WIPO and of all its Member States. It was the key to guarantee that the 45 Recommendations of the DA would be mainstreamed in the work of the IGC, as well as all other bodies in WIPO. The Delegation highlighted Recommendation 18. The IGC had made good progress in terms of substance in the past years, but it needed to move forward with the process. In this regard, the work plan to be adopted for 2015 needed to reflect the importance and the high priority attached by Member States to the IGC. It was time to show strong commitment to expedite negotiations and finalize the work. The adoption of effective and binding instruments to protect and to prevent the misappropriation and misuse of GRs, TK and TCEs was what the IGC should be looking for. The full implementation of the DA was incompatible with a lack of interest of Member States in the IGC negotiations. Taking into account the 13 years that had been put into the IGC's work on the three subjects, it should be unacceptable that all the efforts done did not culminate in a positive outcome that fulfilled the recommendations of the DA and the aspirations of indigenous peoples and local communities.

The Representative of Tupaj Amaru supported the statement made by the Delegation of Iran (Islamic Republic of) and by the Delegation of Kenya on behalf of the African Group. He stated that the IGC had failed in its task over the last three years. For example, the IGC was trying to define sacred TK. No-one had actually been able to define it. He remembered that 15 years ago the Member States of the UN had wanted to define indigenous peoples and to recognize their rights. It was the same exercise. He believed that the success of the IGC would depend on the political will of Member States to recognize indigenous peoples and local communities. The issues discussed in the IGC were urgent because indigenous peoples were becoming extinct and their natural resources and GRs were being misused by some big multinational companies. Indigenous peoples needed an international instrument(s) to protect their GRs, TK and TCEs. Indigenous peoples did not want development that would destroy their GRs and TK. They wanted development that was equitable and fair, and would enable indigenous peoples to share their wealth. He believed that indigenous peoples needed a binding instrument which could be applied and implemented.

The Delegation of Morocco supported the statement made by the Delegation of Kenya on behalf of the African Group. It shared the interest shown by the other delegations as to the vision of the IGC and the implementation of the DA Recommendations to ensure equitable and sustainable development of the Member States, in particular developing countries. It emphasized its desire to see an outcome of the IGC's work, and to be able to make a recommendation to the 2014 WIPO General Assembly on holding a diplomatic conference to adopt an instrument or instruments, which would ensure the effective protection of GRs, TK and TCEs.

The Delegation of China supported the statements made by the Delegations of India, Indonesia, Kenya on behalf of the African Group, and Iran (Islamic Republic of). It believed the protection of GRs, TK, and TCE was of great significance for the implementation of the DA and the IGC's work was of utmost importance for the protection of GRs, TK and TCEs. Despite the difficulties, the IGC had made significant progress. It hoped that, when the time was right, agreements could be reached on a legally binding instrument(s) which would contribute to the realization of the legitimate concerns of developing countries and implementation of the DA.

The Delegation of Peru believed that the negotiations were approaching the final phase for the adoption of an international legally binding instrument(s) to determine the access to and the use of GRs, TK and TCEs, to avoid misappropriation of GRs, TK and TCEs, and to ensure fair and equitable benefit-sharing arising from the use of GRs, TK and TCEs. Those three elements were closely linked to development. The Delegation supported the work of IGC 28 with the objective of formulating a recommendation to the WIPO General Assembly to ensure to hold a diplomatic conference in 2015.

The Delegation of South Africa aligned itself with the statement made by the Delegation of Kenya on behalf of the African Group, and supported the statements made by the Delegations of Brazil, Iran (Islamic Republic of) and other LMCs. The work of the IGC was aligned to Recommendation 18. The IGC had been asked to accelerate the work since 2007, so the ultimate conclusion of the work must be to convene a diplomatic conference to adopt a legally binding instrument(s) on GRs, TK and TCEs. That would realize Recommendation 18. The Delegation believed that it was time to conclude the work of the IGC. The Delegation reminded other delegations that, when discussing the work program and the recommendation to the WIPO General Assembly, the main aim must be to conclude the work of the IGC.

The Delegation of Azerbaijan noted that, although the IGC had not achieved the expected outcome of establishing an international system for protecting GRs, TK and TCEs, WIPO was continuing to focus its steadfast attention on addressing the issue. Convening IGC 28, where the draft texts would be put forward and recommendations for the consideration of the WIPO General Assembly would be prepared, was the next step for WIPO Member States towards adopting an international instrument(s) for protecting TK, TCEs and GRs. It was more important than ever to combine the efforts of all Member States to agree upon the final texts containing the proposals and comments made by all stakeholders. The Delegation believed that IGC 28 would provide significant momentum to resolve many of the contentious issues relating to the final texts. That required, however, that delegations should continue to maintain an atmosphere of mutual understanding, since only through the constructive participation of all sides could the IGC achieve a mutually acceptable agreement. It should be recognized that the texts of the instruments were a significant achievement and were testament to the substantial and important work of Member States towards adopting an international

instrument(s). An analysis of the drafts showed that, during their preparation, a flexible and balanced approach had been taken and the best elements had been selected for the final texts. It also noted the particular role of the WIPO Secretariat, which had carried out dedicated work to study, compile and analyze the delegations' proposals. It believed that all delegates would make every effort to achieve the goal of preparing the final texts at IGC 28. The statements made by the delegations at previous sessions and IGC 28 confirmed that WIPO Member States were optimistic and were able to reach consensus on contentious issues where their positions differed somewhat. The Delegation wished to emphasize that the issues under discussion were most timely for Azerbaijan. The Government of Azerbaijan was interested in adopting an international legal instrument(s) which would ensure the effective protection of GRs, TK and TCEs. The Delegation supported the efforts made by WIPO regarding the adoption of an international legal instrument(s) and was ready to make its contribution to fulfilling the recommendations of the DA. That would ensure that work on the drafts advanced in a meaningful manner in order that the 2014 WIPO General Assembly could take stock and decide on convening a diplomatic conference in 2015".

(c) Report on the Work of the Standing Committee on the Law of Patents (SCP), document WO/GA/46/7, entitled "Reports on other WIPO Committees", Annex I, paragraph 13:

"Further to the 2010 WIPO General Assembly decision "to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations", the following statements extracted from the preliminary draft Report¹ of the twentieth session of the SCP (document SCP/20/13 Prov., paragraphs 160 to 165) are reproduced hereafter:

The Delegation of Egypt, speaking on behalf of the DAG, attached great importance to the coordination mechanisms developed for the implementation of the Development Agenda. It considered that the Committee was entitled to contribute to the Development Agenda recommendations, as it had done in 2012 and 2013. Therefore, in its view, that agenda item should become a standing item on the agenda of the SCP, which would enable the Committee to set up recommendations. The Delegation observed that, since the Development Agenda had been adopted, the Committee had made efforts in that area by tackling with a number of important subjects for Member States and guaranteeing a balanced implementation of the recommendations involving every Member State. In its opinion, the consideration of all national legislations, avoiding any marginalization and working with a common focus, would make it possible to get good results. The Delegation expressed its belief that those were the underlying principles for the work of the Committee, in accordance with recommendation 17 of the Development Agenda. The Delegation further stated that the work on quality of patents was connected with recommendations 8, 10 and 17, and that strengthening of the IP infrastructure and increasing quality could lead to the implementation of those recommendations. The Delegation was of the opinion that the Committee had been able to achieve progress in the area of technology transfer and the implementation of the recommendations of the Development Agenda. However, it considered that it was necessary to make more efforts to implement them. The Delegation explained that its Group was in the process of adopting recommendations for the implementation

¹ In accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), the preliminary draft Report of the twentieth session of the SCP has been made available on the SCP Electronic Forum to the members and observers of the SCP to comment on it, prior to its submission to the twenty-first session.

of other recommendations under the Development Agenda and expressed its willingness to cooperate with all Member States in the SCP.

The Delegation of South Africa, speaking on behalf of the African Group, noted that the Committee was taking stock of how it had contributed to the mainstreaming of the Development Agenda in its areas of work. It underscored that the patent system was a key in the IP framework that directly impacted national socio-economic development and societal welfare. It noted that there was a growing recognition that the current IP system was focusing heavily on ensuring rights to IP holders, without adequately ensuring that the public interest was taken into account. Subsequently, that was leading to the thought of the Delegation that the IP system was not working as it was originally intended. While the Delegation recognized that there had not been a discussion in the Committee on some of those aspects, it emphasized that it was necessary to have a more open and frank discussion about some of the current inefficiencies of the system. It considered that such discussion could only happen if there was a willingness and commitment to improving the system, where needed, both for the benefit of Member States and the future viability of the system itself. To that end, the Delegation welcomed the discussions that had taken place in the Committee on a wide range of issues, including exceptions and limitations to patent rights and patents and health. However, it noted that the Committee had to go beyond the theoretical debate to address issues that were the subject of intense debate outside WIPO but had not yet been addressed in the Committee. The Committee, therefore, should not be afraid of discussing and better understanding how patents were used in the market, and how those uses promoted or hindered innovation, technological growth and development. It considered that only through frank discussions, the Committee could be expected to generate the collective will and actions needed to improve the system. It stated that, similarly, more tangible discussions were needed on how patents could better contribute to addressing the challenges humanity was facing in the areas such as food, energy, security, environment, disaster management, climate change and education. It hoped that there would be an open and constructive engagement on those important issues in the Committee. It considered that the long prevalent and naive assumption that providing patent holders with stronger rights would by itself foster innovation and attract investments had presently been rejected in light of global economic realities and experience. In its opinion, so far, there had only been an academic discussion in the Committee on how countries could optimally calibrate the level of protection of IP rights, using exceptions and limitations, as well as other flexibilities. The Delegation, therefore, considered the establishment of an analysis on that issue would allow WIPO to play its dual role, in assisting countries and in establishing evolving and tailor-made IP policies. Noting that the SCP had started an important and necessary discussion on various development-related aspects of the patent system, the Delegation welcomed that positive step and looked forward to a meaningful translation of those discussions into concrete elements of a work program. It reminded the Committee that many critical issues had not yet been addressed and could become the subject of honest and constructive consideration leading to their integration in a holistic, development-oriented and balanced work program for the SCP.

The Delegation of the United States of America did not support the proposal of including the agenda item as a standing item in the agenda of the SCP. It stated that it should be continued to be treated as a temporary agenda item.

The Delegation of Japan, speaking on behalf of Group B, endorsed the statement made by the Delegation of the United States of America. In its understanding, that item was not a standing agenda item but a provisional one.

The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, supported the statements made by the Delegations of the United States of America and Japan on behalf of Group B.

The Representative of the TWN supported the statement made by the Delegation of South Africa on behalf of the African Group".

(d) Report on the Work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), document WO/GA/46/7 entitled "Report on Other WIPO Committees", Annex I, paragraph 24:

"Further to the 2010 WIPO General Assembly decision "to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations", the following statements extracted from the draft Report of the thirty-first session of the SCT (document SCT/31/10 Prov., paragraphs 215 and 216) are reproduced hereafter:

The Delegation of Egypt, on behalf of the DAG, requested that the Development Agenda issue become an agenda item on the future meetings of this Committee. The Delegation recalled Development Agenda Recommendation 15, which stated that WIPO norm setting activities should be inclusive and member-driven, take into account different levels of development, take into consideration a balance between costs and benefits, and be a participatory process, which takes into consideration the interests and priorities of all WIPO Member States and views of other stakeholders and be in line with the principle of neutrality of WIPO Secretariat. The Delegation said that Cluster A, also relating to technical assistance and capacity building, was addressed by delegations. Observing that the Chair proposal on technical assistance contained concrete provisions for the technical assistance article to be included in the DLT, the Delegation also welcomed the fact that the mandate given to the SCT by the General Assembly regarding the work on the text on technical assistance was observed. The DAG stated that it looked forward to further streamlining the text through resolving the existing brackets of some of the existing provisions regarding technical assistance and capacity building for developing countries and LDCs, and to the implementation of a possible future DLT treaty.

The Delegation of Japan, on behalf of Group B, said that it believed that the Development Agenda had been fully mainstreamed in the WIPO activities in the field of industrial design, trademark and geographical indications, including the work at the SCT. It believed that the work relating to the DLT during the SCT contributed to the Development Agenda relating to norm setting, in particular Recommendation 15. The negotiations had been conducted in an inclusive and member driven manner, and the negotiations had taken into account the study on the potential impact of the work of the SCT, including technical assistance, which gave due consideration to the level of developments and costs and benefits. The streamlining of the formalities of design applications could contribute to the improvement of the environment and, as a consequence, would enable more investors to enter into the market. The Delegation added that the implementation of the DLT would benefit developing countries and LDCs, especially SMEs in those countries. Group B further stated that the work done at the SCT on trademarks and geographical indications also contributed to an increased understanding. The Delegation also said that an increased investment in the economy would promote economic development, which was a goal achieved through the implementation of the

Development Agenda. In conclusion, Group B believed that that the Development Agenda could continue to be implemented in a positive way in the field of the SCT”.

(e) Report on the Work of the Advisory Committee on Enforcement (ACE), document WO/GA/46/7, entitled “Report on Other WIPO Committees”, Annex I, paragraph 53:

“Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, the following statements extracted from the draft Summary by the Chair of the ninth session of the ACE, (document WIPO/ACE/9/29 Prov., paragraphs 48 to 52) are reproduced hereafter.

The Delegation of Egypt, speaking on behalf of the DAG, believed that Development Agenda Recommendation 45, as well as other relevant Recommendations, for example on capacity building and technical assistance, were directly related to the competences of the ACE. It thanked the Secretariat and the presenters for the useful experiences, both on preventive actions to reduce the market for counterfeit or pirated goods, and on alternative dispute resolution mechanisms, shared during the ninth session of the ACE. The DAG believed that these activities represented a positive contribution to enriching the debate on how to build respect for IP. Nonetheless, the DAG believed that the ACE would still have to enlarge the scope of the discussions to make them consistent with the objective of building respect for IP, which was a much broader and inclusive concept than sheer IP enforcement. Policies and activities developed on the basis of this concept not only benefited from a greater degree of legitimacy but were also more likely to be effective, as they were based on a deeper understanding of the underlying causes of IP infringements. The DAG believed that it was in this light that the experiences brought to the ACE should be analyzed. Despite some progress made by WIPO in general, and the ACE in particular, the DAG believed that there was still a long way to fully implement the Development Agenda. The DAG members recognized that it was a work in progress and as such entailed a change of paradigm in the organizational activities, so that it could fulfil the mandate agreed upon by the Member States. Finally, the DAG hoped the activities to be set for the tenth session would contribute to improve the work of ACE in this direction, always having the Development Agenda Recommendations as a guideline, and the final goal of establishing a balanced agenda that addressed the interests of all Member States.

The Delegation of South Africa, speaking on behalf of the African Group, stated that the adoption of the Development Agenda Recommendations in 2007 had been a watershed moment in the organization and had sent a clear message that the organization was embracing development. Subsequent to that, the General Assembly of WIPO had adopted the Coordination Mechanism three years later. The 2010 WIPO General Assembly had approved this mechanism with a view that all relevant WIPO bodies should report on their contribution towards the implementation of the Development Agenda Recommendations. The Delegation emphasized that over and above its purpose of enabling the reporting to the General Assembly on the mainstreaming of the Development Agenda, the Coordination Mechanism was also meant to provide an opportunity to Member States to scrutinize cross-cutting issues and activities in the organization. In this regard, time had come that an agreement was reached on a standing agenda item on the contribution of the ACE to the implementation of the relevant Development Agenda Recommendations. As already stated at the 2012 General Assembly, the Delegation remained committed to the mainstreaming of the Development Agenda in all of WIPO’s work. It was pleasing to see that the activities conducted by the

ACE were primarily premised on Development Agenda Recommendation 45. Taking note of document WIPO/ACE/9/2, the Delegation was of the view that, over and above other sources or activities, it provided a good basis for assessing the contribution of the Committee to implementing the Development Agenda. However, there was a need for more detailed information on the activities undertaken by the Secretariat. On the issues pertaining to international coordination and cooperation, the Delegation noted the importance of WIPO's engagement with other intergovernmental organizations, international organizations, and other relevant stakeholders in the field of IP. In this area of WIPO's work, more detailed information was also needed. In conclusion, the Delegation reiterated the need for a balanced approach between enforcement and development in the work undertaken by the Committee in line with Recommendation 45 of the Development Agenda.

The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, noted that mutual trust and confidence in the positive impact of an efficient IP system on development could be built through the contributions of Member States and through discussions within the ACE. The CEBS Group emphasized that enforcement measures aimed at combating counterfeiting and piracy helped to create a predictable environment for investment which in turn promoted economic and social development, as was also stressed by the 2013-2014 Global Competitiveness Report: "The quality of institutions has a strong bearing on competitiveness and growth. It influences investment decisions and the organization of production and plays a key role in the ways in which societies distribute the benefits and bear the costs of development strategies and policies. For example, owners of land, corporate shares, or intellectual property are unwilling to invest in the improvement and upkeep of their property if their rights as owners are not protected". A contribution to the Development Agenda Recommendations, in particular to Development Agenda Recommendation 45, was therefore intrinsic to enforcement. The CEBS Group also noted that the ACE was an excellent platform for all Member States to see the practices of others and build upon these experiences when establishing or improving their own legislative frameworks on issues related to enforcement. The CEBS Group comprised countries with different levels of development and per capita income. Despite this, or rather thanks to this, it was able to agree on the principle that the work of WIPO on enforcement was a valid contribution to economic and social welfare and numerous aspects of transfer of technology. The States of the CEBS Group were building upon experience shared by other members and by the Secretariat, and were reflecting upon this knowledge in their national projects and strategies; they relied on the ideas and practices presented by delegations during the past and present sessions of ACE. The CEBS Group believed that these dynamics should not be lost in future sessions. The States of the CEBS Group were also sharing their experience. For example, during the last session, great focus had been dedicated to awareness raising through public education, specialization of IP courts through training programs and improvement of technical assistance, and a number of these elements had formed part of presentations delivered by its members to the ACE. Furthermore, in the course of the ninth session of the ACE, several presentations had contributed to sharing experience and knowledge regarding awareness building. In order for the ACE to be able to treat development issues with even greater efficiency, the CEBS Group encouraged higher numbers of Members facing such challenges to share their specific experience and problems they faced when putting in practice their enforcement policies. In this regard, the CEBS Group thanked the Delegation of South Africa for its presentation and document WIPO/ACE/9/18, where, among other valuable elements, it pointed out the importance of IPR for any country's social, economic and cultural development. This was done in the context

of awareness raising, one of the topics of the ACE, and the CEBS Group could not but subscribe to this notion.

The Delegation of Japan, speaking on behalf of Group B, believed that the core mandate of the ACE, namely, the exchange of experiences on the enforcement of IP rights, contributed to the Development Agenda, in particular, Recommendation 45. In many of Group B's own national experiences, it had found that international investors were attracted to markets where they saw stable business environments that were supported by the transparent, predictable, and effective rule of law. Whether or not effective IPR enforcement efforts were being practiced in a country was increasingly becoming a factor in the decision-making of investors when they examined which markets to enter, as well as from which markets to withdraw. Group B believed that an increase in investment in an economy not only promoted economic development, but also created the prerequisite platform for the promotion of technological innovation and the transfer and dissemination of technology. In this regard, the productive and active exchange of experiences on the two enforcement-related issues at the ninth session of the ACE had contributed to the implementation of the Development Agenda, especially Recommendation 45. The sharing of national experiences on a range of practices, including awareness raising, new business models, and alternative dispute resolution in IP areas, had certainly improved the understanding of delegations of the various paradigms being utilized around the world, and this would contribute to the respective and collective ideas of the members of the ACE as to how to proceed in this area. Group B believed that the Development Agenda could continue to be implemented in a positive way as relating to enforcement.

The Delegation of the EU, speaking on behalf of the EU and its Member States, stated that discussions on IP were by their nature an exercise in balancing the interests of right holders and the benefit of society at large. This balance should be reflected in the enforcement strategies of each WIPO Member State and in full respect of IP conventions. The ACE mandate provided a forum for the exchange of views regarding these practices and played a key role in helping Member States inform their strategies according to their national needs. During the ninth session of the ACE, Member States had seen numerous presentations by countries that successfully utilized WIPO technical assistance and best practices discussed during previous sessions to improve and enhance their enforcement policies. The Delegation of the EU therefore saw the ACE as already contributing significantly to the implementation of the Development Agenda, especially Recommendation 45 and remained committed to continuing its active participation in this exchange of information with a view to moving the work of this important Committee forward".

4. The Committee is invited to take note of the information contained in this document.

[End of document]