

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Twenty-Ninth Session
Geneva, May 27 to 31, 2013**

REPORT

*adopted by the Standing Committee**

INTRODUCTION

1. The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (hereinafter referred to as “the Standing Committee” or “the SCT”) held its twenty-ninth session, in Geneva, from May 27 to 31, 2013.

2. The following Member States of WIPO and/or the Paris Union for the Protection of Industrial Property were represented at the meeting: Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Brazil, Burkina Faso, Cambodia, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d’Ivoire, Czech Republic, Denmark, Djibouti, Dominican Republic, El Salvador, Estonia, Ethiopia, Finland, France, Germany, Greece, Hungary, India, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Latvia, Lithuania, Madagascar, Malaysia, Mauritania, Mexico, Morocco, Nepal, Netherlands, Nicaragua, Nigeria, Norway, Panama, Paraguay, Poland, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Singapore, South Africa, Spain, Sri Lanka, Sweden, Syrian Arab Republic, Switzerland, the former Yugoslav Republic of Macedonia, Togo, Trinidad

* This Report was adopted at the thirtieth session of the SCT.

and Tobago, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen (82). The European Union was represented in its capacity as a special member of the SCT.

3. The following intergovernmental organizations took part in the meeting in an observer capacity: African Regional Industrial Property Organization (ARIPO), African Union (AU), Benelux Organization for Intellectual Property (BOIP), South Centre, World Trade Organization (WTO) (5).

4. Representatives of the following non-governmental organizations took part in the meeting in an observer capacity: *Association française des praticiens du droit des marques et modèles (APRAM)*, Centre for International Intellectual Property Studies (CEIPI), European Association of Trade Mark Owners (MARQUES), European Law Students' Association (ELSA International), International Association for the Protection of Intellectual Property (AIPPI), International Federation of Industrial Property Attorneys (FICPI), International Trademark Association (INTA), Japan Patent Attorneys Association (JPAA), Organization for an International Geographical Indications Network (oriGIn), Third World Network Berhad (TWN) (10).

5. The list of participants is contained in Annex II of this document.

6. The Secretariat noted the interventions made and recorded them on tape. This report summarizes the discussions on the basis of all observations made.

AGENDA ITEM 1: OPENING OF THE SESSION

7. Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO) opened the twenty-ninth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) and welcomed the participants.

8. Mr. Marcus Höpferger (WIPO) acted as Secretary to the SCT.

AGENDA ITEM 2: ELECTION OF A CHAIR AND A VICE-CHAIR

9. Mr. Adil El Maliki (Morocco) was elected Chair and Mr. Imre Gonda (Hungary) was elected Vice-Chair of the Committee.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

10. The SCT adopted the revised draft Agenda (document SCT/29/1 Prov.2) with the addition of one item entitled "Contribution of the SCT to the implementation of the WIPO Development Agenda Recommendations".

AGENDA ITEM 4: ADOPTION OF THE REVISED DRAFT REPORT OF THE TWENTY-EIGHTH SESSION

11. The SCT adopted the revised draft report of the twenty-eighth session (document SCT/28/8 Prov.2) without modifications.

AGENDA ITEM 5: INDUSTRIAL DESIGNS

General Statements

12. The Delegation of Algeria, on behalf of the African Group, expressed its full support for, and commitment to, the success of this session. Recalling that the Committee was mandated to accelerate its work in order to advance the basic proposals for a treaty on industrial designs by providing appropriate provisions on technical assistance and capacity building for developing countries and least developing countries, so as to allow the General Assembly in 2013 to take stock of the progress made and decide on the convening of a diplomatic conference, the Delegation said that, for the African Group, that meant that by the end of this session, there should be an inclusive draft treaty reflecting the interests of all member States and taking into account the concerns of all delegations. Referring to the fact that all of WIPO's activities had to be guided by the Development Agenda Recommendations, the Delegation recalled that the work of the SCT had to be comprehensive, take into account different levels of development and strike a balance between costs and benefits. The Delegation said that, at this stage, the Group believed that it was difficult to assess whether the benefits of harmonized procedures for registration of industrial designs outweighed the price to be paid for the implementation of the Treaty, in terms of changing national laws, setting up infrastructure and technologies for handling applications, etc. While stressing the importance of the law and practice in industrial designs, the African Group sought to strengthen its national capacity in this area in order to obtain benefits and increase the number of design applications. Therefore, the Group emphasized the need to establish a balance between costs and benefits, particularly in light of the impact study conducted by WIPO, which clearly showed that in low and middle income countries, there was a need for administrative assistance, legal skills and training, while this need was much less pronounced in high income countries. In addition, and according to statistics, 40 per cent of applications in developing countries were from non-residents, and there were huge disparities between developed and developing countries in terms of registration of industrial designs, which had to be taken into account in the proceedings of this Committee. The Delegation further said that the Group had demonstrated a spirit of collaboration by tabling at the previous session a proposal for Articles that focused on technical assistance and capacity building, as well as on the reduction of fees, exchange of information and financial assistance. The Group believed that the inclusion of these items would enable the development of an international instrument that responded to the realities and priorities of all member States. Welcoming the proposal submitted by the Delegations of the Republic of Korea and the European Union with regard to technical assistance and capacity building, the Delegation indicated that these proposals would balance the debate on the draft treaty and create a climate of dialogue, understanding and mutual concessions. Considering the fact that delegations had shown flexibility to include provisions on technical assistance and capacity building in the draft treaty, the African Group took note of this progress and would continue to work in order to achieve an agreed drafting of those provisions on the basis of the three current proposals from the Delegation of the European Union, the African Group and the Delegation of the Republic of Korea. However, the Group underscored the importance of the provisions proposed on the reduction of fees for applicants representing developing countries and LDCs, as well as the exchange of information on registered designs. The Group requested that sufficient time be allocated to the discussion of these items in order to achieve a better understanding and acceptable drafting for all member States.

13. The Delegation of the Dominican Republic, on behalf of GRULAC, expressed the readiness of that regional group to continue working in a constructive manner. The Delegation considered that document SCT/28/4 Rev. represented a good basis for the discussions on technical assistance and capacity building, which would enable the Committee to achieve a balanced text on industrial designs, allowing consensus with respect to the mandate of the General Assembly. With respect to geographical indications, the Delegation stated that GRULAC attached great importance to a balanced treatment of this matter. The Delegation

considered that the best way to make use of this concept was to benefit from the international market for products that needed to differentiate themselves from others in order to be more competitive. The recent recognition of *Café de Colombia* as a protected geographical indication, granted by the Government of Switzerland, was a good example of this.

14. The Delegation of Belgium, on behalf of Group B, urged the Committee to further expedite its work on the articles and regulations for a Design Law Treaty (DLT), in line with the decision of the WIPO General Assembly, and expressed the hope to reach a consensus for the adoption of a treaty during this session. The Delegation declared that it stood ready to discuss and reflect on the work in relation to the protection of country names.

15. The Delegation of the European Union, on behalf of its member states, reiterated the great importance of aligning and simplifying design formalities and procedures. The Delegation stated that it would be a further accomplishment of this Committee to build on the promising work of the last six years and add another achievement to its record. Whilst not committing delegations to the provision of a treaty until they were ready and able, such a step would send a positive sign to all users of the design registration system. The Delegation of the European Union and its member states expressed their support for documents SCT/29/2 and 3, which, in their view, represented a further promising step in the right direction. The draft provisions, not only adequately responded to the ultimate goal of approximating and simplifying industrial design formalities and procedures, but were also appropriate to establishing a dynamic and flexible framework for the subsequent development of design law to keep up with future technological socioeconomic and cultural changes. The Delegation of the European Union and its member states looked forward to finalizing discussions on the draft articles and draft regulations in the constructive spirit that characterized the preceding sessions of this Committee and were hopeful that this Committee would be able to reach consensus on recommending to the 2013 General Assembly that a diplomatic conference for adoption of a treaty be called. The Delegation of the European Union and its member states recommended that a further SCT session be held in the autumn, followed by a diplomatic conference in 2014.

16. The Delegation of Brazil, on behalf of the Development Agenda Group (DAG), referring to the discussions on industrial designs, said that members should focus first on overcoming the major differences between positions, before evaluating a recommendation of a diplomatic conference. While this might be achieved during this session, the Delegation considered that flexibility by members would be necessary when evaluating proposals by other delegations. The Delegation recalled that the 2012 General Assembly agreed that the SCT should give consideration to including appropriate provisions regarding technical assistance and capacity building for developing countries and LDCs, as the results of the Study on the Potential Impact of the work of the SCT showed that the cost of adopting a treaty would be higher for developing countries. The Delegation recalled that Cluster B of the DA Recommendations provided a valuable and useful set of principles to guide WIPO's norm-setting activities. In particular, Recommendation 15 stated that such activities shall be inclusive and member-driven, take into account different levels of development, take into consideration a balance between costs and benefits, be a participatory process, take into consideration the interests of all WIPO Member States and the viewpoints of other stakeholders, and be in line with the principles of neutrality of the WIPO Secretariat. The Delegation underlined that the DAG came with a cooperative spirit to participate in the text-based discussions and debate issues pertaining to all members, which reflected a commitment to the multilateral system.

17. The Delegation of Poland, on behalf of the Regional Group of Central European and Baltic States (CEBS), commending the work accomplished so far, expressed the view that significant improvement of the draft articles and rules had been achieved and that the work on the harmonization of industrial design law had entered in a final phase. The Delegation considered that, although there were still some issues to be resolved, the remaining differences, especially those related to technical assistance and capacity building for developing and least developed

countries (LDCs) in the implementation of the future DTL, would be successfully settled in the course of this week's discussions. Expressing CEBS' commitment to meaningfully address the issue and discuss it in an open and constructive manner, in line with the decision of the General Assembly, the Delegation declared that, in its view, the text of the treaty was mature enough. The Delegation further hoped to reach consensus at the end of the week for recommending to the Assembly the convening of a Diplomatic conference for the adoption of the treaty in 2014. On country names, the Delegation declared that its group was open to continued discussions, with the view to building a consensus in achieving an acceptable result for all.

18. The Delegation of India, on behalf of the Asian Group, said that the improved study contained in document SCT/27/4 Add. could be a basis for further discussion at this session to decide on the way forward for the SCT. Furthermore, the examples of financial assistance reflected in document SCT/28/4/ Rev. would be important to guide the appropriate provisions on capacity building for developing countries and LDCs for the implementation of the future DLT. Regarding the two major documents, SCT/29/2 and SCT/29/3, the Delegation declared that the Group would participate constructively in the negotiations, with the view to make progress in the text. The Group supported the view that any norm-setting process should be inclusive and member-driven, as defined in the DA Recommendations and that the aim should be to lay down minimal, and not maximalist, standards, as well as to ensure national flexibilities in the implementation of the treaty. While mindful of best practices, the Group had also to ensure the best interest of the membership of WIPO. The Delegation declared that the Group would participate actively in the discussions on all the proposals on technical assistance and capacity building, and that it supported the inclusion of an article on technical assistance in the main text of the treaty.

19. The Delegation of India, in its national capacity, expressed the wish that the proposals it had made in the last session of the SCT with respect to the draft Articles and Rules would be duly taken care of in the present session and reflected in the main body of the treaty.

20. The Delegation of China, declaring that it supported the work on the international harmonization of industrial designs and trademarks, expressed the wish that an international agreement on industrial designs would be achieved. The Delegation urged the SCT to speed up the work, improve the drafts, strengthen the flexibility of the drafts, remove the legal and technical obstacles, and consider the needs of different parties, including on technical assistance and capacity building. The Delegation also hoped that communication among member States would be enhanced.

21. The Delegation of the Republic of Korea expressed the view that the discussions on the draft articles and rules had progressed well and that the SCT was close to reaching an agreement. The Delegation recalled that the industrial design treaty aimed to simplify the system worldwide and to provide applicants with a quicker and more efficient way to acquire rights. This would make the system more predictable and would help spur economic development and innovation. While the industrial design law treaty was likely to result in changes in national law, the Delegation believed that such changes would not be too difficult to implement because there would be some flexibilities for member States in adopting the treaty. In addition, as revealed by the results of the additional Study on the Potential Impact of the Work of the SCT on Industrial Design Law and Practice, harmonizing industrial design procedures would have a positive impact in terms of efficiency, which would result in the improvement of the industrial design system. The Delegation stated that, most of all, it was in agreement with the basic premise that the adoption of the treaty should benefit countries at each stage of economic development. In this regard, the Delegation believed that technical and other forms of assistance should be provided for developing countries and LDCs. While acknowledging that there were disagreements on technical assistance among the member States, the Delegation looked forward to reaching a consensus on this matter in an open and constructive manner. The Delegation of the Republic of Korea was ready to participate constructively by putting

forward a proposal on technical assistance, which found a compromise between the position of the Delegation of the European Union and the African Group. The Delegation expressed the hope that the result of this meeting would be a consensus to convene a diplomatic conference for the conclusion of the DLT. Even if this meeting did not reach a conclusion on all issues, including technical assistance, the Delegation was optimistic that an agreement on the treaty would nonetheless be achieved during the preparation period for the conference or at the conference itself. The Delegation was convinced that the draft provisions could contribute to simplify industrial design laws and practice and to establish a practical and flexible framework for the law. The Delegation declared that the Republic of Korea was giving positive consideration to hosting the diplomatic conference in Korea, for a successful conclusion of the DLT.

22. The Delegation of Iran (Islamic Republic of) associated itself with the statements made by the Delegations of Brazil, on behalf of the DAG, and India, on behalf of the Asian Group. The Delegation expressed the hope that the content of the revised study would meet the concerns of member States, particularly as regards the impact of the draft articles and rules on developing countries, the needs for capacity building, investment in infrastructure and technical assistance, fostering creativity, innovation and economic development and efficiency in developing countries. The Delegation concurred with the Delegation of Brazil that negotiations in the SCT should be guided by Cluster B of the Development Agenda, particularly Recommendation 15. Taking into consideration the different levels of development among countries, it would be important that developing countries and LDCs could receive appropriate technical assistance in order to advance their capacity, before engaging in a norm-setting process. The Delegation invited the Secretariat to engage in technical assistance activities and to invest in infrastructures, so as to effectively promote innovation and creativity in the area of industrial designs and help developing countries and LDCs to utilize the system properly before committing to a costly procedure that did not match their level of development.

23. With reference to the holding of a diplomatic conference, the Delegation considered that it was imperative to take into account the particular needs and requirements of developing countries and to clarify several important issues. Finally, the Delegation expressed its commitment to constructively engage in the discussion, with a view to coming up with a balanced text on industrial designs for the benefit of all countries.

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24. Discussion was based on documents SCT/29/2 and 3.

Article 1: Abbreviated Expressions

25. Considering that the abbreviated expressions contained in Article 1 were dependent on the result of the discussions on the remaining articles, the Chair suggested not to discuss Article 1 in detail. If the work on the other draft articles as such necessitated consequential amendments in Article 1, such amendments could be made during the course of the week.

Article 2: Applications and Industrial Designs to Which This Treaty Applies

26. The Delegation of India, referring to footnote 1, said that the words “where allowed by the applicable law” should be inserted after the words “as defined in Article 8(1)”.

27. The Representative of AIPPI, noting that the definition of industrial design was not covered by the draft Articles and Rules, said that another committee should be established, with a view to harmonizing such definition.

28. The Delegation of Iran (Islamic Republic of) said that it could support the proposal by the Delegation of India, but that the words “where allowed by the applicable law” should be placed after “Contracting Parties”.
29. The Delegation of the European Union, on behalf of the European Union and its member states, expressed the view that the proposal by the Delegations of India and Iran (Islamic Republic of) would leave open the question of the subject matter of the treaty, as well as bring into consideration substantive issues not relating solely to formalities.
30. The Delegation of Hungary, concurring with the Delegation of the European Union, said that the proposals by the Delegations of India and Iran (Islamic Republic of) did not contribute to the aim of harmonization of design formalities.
31. The Delegation of Poland, on behalf of CEBS, declared that it did not support the proposal by the Delegations of India and Iran (Islamic Republic of).
32. The Delegation of India said that, since the draft Articles and Rules did not provide for the manner in which an application had to be divided, this was a matter of substantive law, which should be left to the national law. The Delegation was therefore of the view that its proposal could be considered.
33. The Delegation of the United States of America, concurring with the views expressed by the Delegation of the European Union, said that the proposal by the Delegation of India would, in essence, make the treaty subject to national law and, as such, would seem to undermine the intent of the treaty.
34. The Delegation of Singapore, noting that the proposal made by the Delegation of India was to qualify Article 8(1), suggested leaving Article 2(1) untouched and moving the qualification to Article 8(1), so that it was clear that “subject to national law” related to the divisional issue.
35. The Representative of CEIPI suggested that, should the words “subject to national law” be added to Article 2(1), they should be inserted between “and” and “to divisional applications”, in order to avoid any misinterpretation. Alternatively, the problem could be solved in the manner suggested by the Delegation of Singapore.
36. The Delegation of India proposed that taking into account that divisional applications were defined in Article 8(1) and not in Article 2, Article 2(1) end after the words “the Office of a Contracting Party”.
37. The Delegation of Hungary said that it could support the proposal by the Delegation of India, provided that it would be made clear in a note that the two types of application that are covered by Article 2(1) are national and regional applications, including divisional applications of national or regional applications.
38. The Delegation of Singapore said that, provided that it was made clear that a divisional application could result from a national or regional application, then it could support the proposal by the Delegation of India.
39. The Chair concluded that Article 2(1) would end after the words “the Office of a Contracting Party” and that it would be made clear in a note that divisional applications could result from national or regional applications.

*Article 3: Application**Rule 2: Details Concerning the Application**Rule 3: Details Concerning the Representation of the Industrial Design*

40. The Delegation of the Republic of Korea maintained the proposal highlighted in footnote 1 to Rule 2(1), concerning the inclusion of two new items to this Rule, namely “an indication of partial design” and “a request for earlier publication”.
41. The Delegation of Japan expressed support for the proposal by the Delegation of the Republic of Korea.
42. The Delegation of India, referring to Article 3(3), proposed to replace the words “two or more industrial designs” by “one or more industrial designs”.
43. The Delegation of Morocco supported the inclusion, in Article 3, of item (vi), “an indication of the product or products which incorporate the industrial design or in relation to which the industrial design is to be used”, in Article 3 (1). The Delegation further indicated that it did not support the proposal of the Delegation of China to transfer “a description” from Rule 2 to Article 3, or the proposal of the Delegation of India to replace three copies by four copies in Rule 3 (4).
44. The Delegation of Trinidad and Tobago requested confirmation that Contracting Parties would be able to set the structure of their fees.
45. The Representative of JPAA supported the proposal by the Delegation of the Republic of Korea regarding the inclusion of two new items in Rule 2(1).
46. The Delegation of Hungary, regarding the proposal by the Delegation of India to insert “one or more industrial designs”, wondered whether the word “one” would be appropriate, considering that a single industrial design could not be divided.
47. The Delegation of China declared that it withdrew the proposal highlighted in footnote 6 of Article 3 as well as the proposal concerning Rule 3(3), provided that a note clarifying this issue was included.
48. In reply to a request for clarification by the Representative of CEIPI, the Delegation of the Republic of Korea explained that in some jurisdictions, an applicant could claim what he or she considered to be the heart and soul of a design, by representing the claimed portion in solid lines and requesting a partial design.
49. The Delegation of Japan said that, while in its view Article 3(1)(b) allowed a Contracting Party to require that an application contain an indication of the amount of the fees, this was not explicitly provided for in the Articles or Regulations. Such indication was necessary for the effective and efficient management of fee transactions during the processing of national applications. Therefore, the Delegation considered that an explicit provision allowing Contracting Parties to require such indication would be preferable. Express provision allowing a Contracting Party to require an indication of the fee paid should also be made in Article 11(1) with respect to renewal fees.
50. The Representative of FICPI, referring to the proposal by the Delegation of the Republic of Korea, suggested to insert the words “where applicable” in relation to each of the new items proposed, should the inclusion of those items be retained, so that it would be clear that this was not a requirement for every application.

51. The Chair suggested replacing the words “two or more industrial designs” by “more than one industrial design” in Article 3(3).

52. The Delegation of Hungary declared that it supported the suggestion by the Chair.

53. The Chair concluded that, as regards Article 3, the words “two or more industrial designs” would be replaced by “more than one industrial design” in Article 3(3). In addition, the Chair noted that the proposal by the Delegation of China to transfer “a description” from Rule 2 to Article 3, highlighted in a footnote, was withdrawn. As regards Rule 2, two new items would be included, namely “an indication of partial design” and “a request for earlier publication”, qualified by the words “where applicable”. As regards Rule 3, the footnote highlighting the proposal by the Delegation of China to add a subparagraph (c) to Rule 3(3) would be deleted. Instead, a note to Rule 3 would be added to clarify that Rule 3 concerns only the representation of the industrial design, but does not determine what may be protected as an industrial design.

Article 4: Representatives; Address for Service or Address for Correspondence
Rule 4: Details Concerning Representatives, Address for Service or Address for Correspondence

54. The Delegation of India reiterated its preference for Option 2.

55. The Delegation of the European Union, on behalf of its member states, declared that it preferred Option 1.

56. The Delegation of Poland, on behalf of the Group of Central European and Baltic States (CEBS), expressed its preference for Option 1.

57. The Delegations of Brazil and the Russian Federation declared that they preferred Option 1.

58. The Delegation of China, considering that it should be up to each Party to decide whether or not to require representation, said that it preferred Option 2, especially in the interest of foreign applicants.

59. The Delegation of the United States of America said that it preferred Option 1, for the sake of simplifying the procedure and easing formality burdens on applicants. The Delegation further considered that the Patent Law Treaty (PLT) approach seemed to be most conducive towards designs and believed that Option 1 was very supportive and of benefit for Small and Medium Enterprises (SMEs) and individual designers.

60. The Delegation of Canada, concurring with the arguments put forward by the Delegation of the United States of America, expressed its preference for Option 1.

61. The Chair concluded Option 1 would be retained and that a footnote would be added, indicating that Option 2 received support from the Delegations of India and China.

Article 5: Filing Date

Rule 5: Details Concerning Filing Date

62. The Delegation of El Salvador expressed its support for Article 5 as it stood.
63. The Delegation of the United States of America confirmed that it maintained its proposal to add “a claim” to the list of filing-date requirements.
64. The Delegation of the European Union and its member states stressed that the filing date was a key point of the future DLT. The Delegation, considering that the conditions as set out in the current text of Article 5(1)(a)(i) to (iv), expressed its preference for transferring to the Rules the requirement under item (v) and other additional requirements. Finally, the Delegation stated that the aim of the Article was to be user-friendly, so that only the minimum necessary requirements should be required to grant a filing date.
65. The Delegation of India confirmed that it maintained its proposal, highlighted in footnote 8, to add, in Article 5(1), a subparagraph providing for “any further indication or element as prescribed under the applicable law”.
66. The Delegation of Morocco expressed its support for the current language of Article 5.
67. The Representative of MARQUES expressed its support for the proposal made by the Delegation of the European Union concerning the minimum requirements for filing date, and endorsed the proposal to move the requirement under Article 5(1)(a)(v) and other additional requirements to the Rules.
68. The Representative of CEIPI proposed to include “a claim” under permitted additional requirements in paragraph (2) of Article 5, following the approach taken by the Geneva Act of the Hague Agreement.
69. The Delegation of Japan confirmed that it maintained its proposal to add “an indication of the product or products which incorporate the industrial design, or in relation to which the industrial design is to be used” to the list of filing-date requirements in paragraph (1). The Delegation pointed out that, in some jurisdictions, this indication constituted an essential factor for determining the scope of protection or judging similarity with other designs. The Delegation further said that it was arguable that the products may be depicted only from the representation of the design. For instance, in a case of an application representing a car with four wheels, submitted without the indication of products, it would be difficult to decide whether the design constituted an automobile or a toy car. The Delegation also reminded that according to document SCT/19/6, approximately 60 per cent of the countries responded that their national laws required “a sufficiently clear indication of the product(s) which constitute the industrial design” for the purpose of a filing date.
70. The Delegation of the United States of America, observing that in the United States of America there were only two requirements for obtaining a filing date, namely the representation of the design and the claim, observed that this had been taken into account in previous treaties. The Delegation also noted that it preferred to keep the list of paragraph (1) as short as possible.
71. The Delegation of Canada expressed its support for keeping the indication of the product as a filing-date requirement in Article 5(1)(a), for the reasons mentioned by the Delegation of Japan.
72. The Delegation of India, supporting the statement made by the Delegation of Japan, said that, according to national legislation, not only the indication of product had to be mentioned, but also the class to which the product belonged.

73. The Delegation of Norway declared that, while it preferred keeping the text of Article 5 as it stood, it could be flexible and accept the proposal by the Delegation of Japan concerning Article 5(1)(a)(v).

74. The Delegation of China recalled that it had proposed to add “a brief description “and “where the appointment of a representative is mandatory, such appointment” to the list of filing-date requirements in paragraph (1). The Delegation further declared that it withdrew its proposal with regard to Article 5(4), as highlighted in footnote 9.

75. The Delegation of Spain, observing that the purpose of a formalities treaty was the harmonization of procedural rules so as to ease the filing by applicants in different jurisdictions, urged member States to work on harmonization and not on the adaptation of the draft provisions to their national legislations. The Delegation expressed its support for the text of Article 5(1) as originally proposed, without item (v).

76. The Representative of MARQUES observed that individual designers, unrepresented designers and SMEs were often faced with difficult situations when filing a design in foreign countries and could easily lose their filing date and their rights. While formalities that did not require additional language skills, such as the representation of the design and the indication allowing the identity of the applicant to be established, could be easily meet, concerns could arise in cases where an indication of the product or of the class was required. If the indication of the product was provided in a language other than that used by the Office, or if the product was misclassified, the application would fail and, as a result, the design protection would be lost forever. Therefore, on behalf of users, the Representative expressed strong support for keeping Article 5 as limited as possible.

77. The Representative of FICPI expressed its full support for the statement made by the Representative of MARQUES, and opposed any extension of the list of filing-date requirements under Article 5(1)(a).

78. The Delegation of the Republic of Moldova expressed its support for the statements made by the Delegation of Spain and the Representatives of MARQUES and FICPI. The Delegation pointed out that other elements could be obtained at a later stage through a process of communication between the Office and the applicant. In its view, the filing date requirements should be no more than those necessary to establish the scope of protection sought.

79. The Delegation of Kazakhstan expressed its support for the statement made by the Delegation of Spain.

80. The Delegation of China, in reply to a request for clarification by the Delegation of Hungary concerning the content of the “brief description”, observed that according to Chinese legislation, a “brief description” was requested in order to establish the scope of protection sought. The “brief description” should indicate the title and use of the product incorporating the design and the essential feature of the design, as well as designate a drawing or photograph which best showed the essential feature of the design. Where the view of the product incorporating the design was omitted or where concurrent protection of colors was sought, it should be indicated in the brief explanation. Where an application was filed for two or more similar designs incorporated in the same product, one of those designs should be indicated as the main design in the brief description. The brief description should not contain any

commercial advertising and should not be used to indicate functions of the product. The elements contained in the brief description were important for examiners and judges to evaluate the novelty of an industrial design.

81. The Chair proposed to discuss an alternative solution, namely to consider the provision contained in Article 5(1)(a)(v) and the indications contained in footnote 8 under a new paragraph (2), entitled *Permitted Additional Requirements*.

82. The Delegation of the United Kingdom, recalling that Article 5 was a key article that should remain clear and simple, said that it was not in favor of any extension of the list contained therein. Expressing its preference for the current text of Article 5, the Delegation said that it was ready to examine the proposal by the Chair if it was submitted in writing.

83. The Delegation of Hungary, supported by the Delegations of Japan and the the European Union, requested that the proposal put forward by the Chair be presented in writing.

84. A new draft of Article 5 (2) was presented to the Committee by the Chair in a non-paper. The new draft read as follows:

**“Article 5
Filing Date**

[...]

(2) [Permitted Additional Requirement] (a) Any Contracting Party whose law, at the time it becomes party to this Treaty, requires that an application comply with any of the requirements specified in subparagraph (b) in order for that application to be accorded a filing date may, in a declaration, notify the Director General of those requirements.

(b) The requirements that may be notified pursuant to subparagraph (b) are the following:

(i) an indication of the product or products which incorporate the industrial design, or in relation to which the industrial design is to be used;

(ii) a brief description of the reproduction or of the characteristic features of the industrial design;

(iii) a claim;

(iv) the payment of the required fees”.

85. The Representative of INTA proposed to add a new subparagraph (c) to indicate that the declaration referred to in subparagraph (a) could be withdrawn at any time.

86. The Delegation of Hungary observed that, in its understanding, the proposed paragraph (2) would introduce a phasing out period for those procedures that had already been initiated before the accession of the country to the DLT.

87. The Delegation of Japan pointed out that, in its understanding, the proposed paragraph (2) would not be a transitional provision and did therefore not anticipate that a Contracting Party would have to change its national law.

88. The Chair observed that paragraph (2) merely provided for permitted additional requirements to obtain a filing date.

89. The Delegation of Hungary, noting that the proposed provision would limit harmonization, declared that it favoured more harmonization with a limited list of filing-date requirements.
90. The Delegation of the United Kingdom, reiterating its reservations, said that having optional requirements which could be imposed by States depending on an uncertain factor would be an onerous task for designers. This would imply that the applicant would have to check the national legislation to verify whether the provision was in force at the time of accession, as well as see if the State had made any reservations at the time of acceding to the treaty. The Delegation observed that a significant number of designers did not use professional representatives and would also have to face a language issue when getting those information.
91. The Delegation of Belgium expressed doubts as regards the benefit of having an optional list of additional requirements.
92. The Delegation of El Salvador supported the proposed new paragraph (2).
93. The Delegation of Singapore, endorsing the statement made by the Delegation of the United Kingdom, said that it was useful for applicants to have only one, certain, list.
94. The Delegation of Spain said that, although it did not feel very comfortable with the proposed new paragraph, it would be ready to support it as a compromise solution, provided that the list of additional requirements would not be further expanded.
95. The Delegation of Morocco expressed its support for the proposed new paragraph (2).
96. The Representative of FICPI, endorsing the statement made by the Delegation of the United Kingdom, pointed out that having a variety of different filing-date requirements was a practical problem for users. The Representative wondered whether it would be possible to transfer the list of optional requirements in the proposed paragraph (2) to the Rules.
97. The Delegation of the Russian Federation said that it would be in favor of the additional optional requirements.
98. The Delegation of Denmark, concurring with the concerns expressed by the Delegation of the United Kingdom, said that more time was needed to consider the proposal by the Chair. The Delegation therefore proposed that two options be submitted to the next session of the SCT for further discussion, namely an option one, which would keep paragraphs (1) and (2) as contained in document SCT/29/2, and an option two with the new paragraph (2) proposed by the Chair.
99. The Representative of CEIPI suggested to replace in the proposed new paragraph (2)(a) “at the time it becomes party to this treaty” by “at the date of adoption of this Treaty”, which was the approach followed in Article 29(2) of the STLT.
100. The Chair concluded that two options would be presented to the next session of the SCT. Option one would present Article 5(1) and (2) as it stood in document SCT/29/2, while option two would present Article 5(1) without item (v) and the new paragraph (2) proposed in his non-paper. Moreover, the footnote highlighting the proposal by the Delegation of China with regard to Article 5(4) would be deleted. Finally, the proposal by the Delegation of India to add in Article 5(1) a new subparagraph providing for “any further indication or element as prescribed under the applicable law” would be maintained in a footnote.

Article 6: Grace Period for Filing in Case of Disclosure

101. The Delegation of South Africa, indicating that integrated circuits were protected as industrial designs under national legislation and a special grace period was provided for them, requested to add an exception for designs related to integrated circuits, which would benefit from a grace period of two years.

102. The Delegation of India, expressing the view that Article 6 concerned a substantive issue, expressed its support for the proposal made by the Delegation of China, highlighted in footnote 11.

103. The Delegation of China, confirming that it maintained its proposal, highlighted in footnote 11, to add after “a disclosure of the industrial design” the words “in accordance with the domestic legislation of the Party”, expressed the view that a too long grace period could increase uncertainty, the number of conflicts and costs.

104. The Delegation of Trinidad and Tobago expressed its preference for a grace period of 12 months.

105. The Delegation of the European Union expressed its support for Article 6 as it stood.

106. The Delegation of Nepal concurred with the statement made by the Delegation of India.

107. The Delegation of Brazil requested confirmation that the footnote relating to the calculation of time limits expressed in months would be part of the basic text.

108. The Delegation of Hungary, recalling that this Article had already been discussed extensively during previous sessions of the SCT and was as such acceptable for almost all delegations, expressed its preference for Article 6 as it stood. Pointing out that Article 6 was an important achievement, the Delegation expressed the view that the proposal made by the Delegation of China would undermine the value of harmonization in the field of grace period.

109. The Delegation of the Republic of Moldova expressed the wish that a single grace period would be retained in the treaty, as opposed to a period of six or 12 months.

110. The Delegation of Morocco expressed its support for Article 6 as it stood.

111. The Chair concluded that the proposal made by the Delegation of China, highlighted in footnote 11, would be limited to the acts of disclosure that gave rise to the grace period. In addition, the reservation made by the Delegation of South Africa and highlighted in footnote 12 would be restricted to the case of layout design of integrated circuits.

Article 7: Requirement to File the Application in the Name of the Creator

112. The Chair concluded that no comments had been made on this provision and that its text would remain unchanged.

Article 8: Division of Application

113. The Delegation of the Russian Federation, pointing out that the total sum of the fees in case of division would be slightly higher than the sum of fees for individual applications, declared that it did not support the option provided by Article 8(3)(b).

114. The Delegations of Australia and the Republic of Korea expressed their support for the statement by the Delegation of the Russian Federation and suggested the deletion of paragraph (b).

115. The Secretariat, in reply to a request for clarification by the Delegation of India, recalled that the term “those conditions” appearing in Article 8(1)(ii) related to the conditions mentioned in paragraph (1) of Article 8, namely the conditions prescribed by a Contracting Party in accordance with Article 3(3). The Secretariat stressed that Article 3(3) did not specify the conditions, but referred to national law.

116. The Delegation of India requested that the previous explanation be inserted in the notes.

117. The Representative of CEIPI suggested replacing the expression “prescribed by a Contracting Party” by “prescribed by the Contracting Party concerned” in Article 8(1).

118. The Representative of FICPI, recalling that the purpose of Article 8(3)(b) was to prevent an applicant from unfairly being burdened with fees in case of division of the application, expressed its support for that Article.

119. The Representative of TWN stated that it would be in favor of deleting subparagraph (b) in Article 8(3), so as to avoid that users might abuse the filing of multiple applications.

120. The Representative of MARQUES, observing that Article 8(3)(b) provided an appropriate structure of fees regarding divisional applications, requested that option (b) be maintained in the Article. The Representative said that, should it be possible for States to charge a penalty fee in case of division, then there would be no use in dividing.

121. The Chair concluded that paragraph (b) of Article 8(3) would be deleted and that a note would be added to clarify the term “those conditions” in Article 8(1)(ii).

Article 9: Publication of the Industrial Design

Rule 6: Details Concerning Publication

122. The Delegation of Australia said that, although Australian legislation did not explicitly provide for secrecy or deferment, it could substantially support and comply with Article 9 due to the thoughtful and broad drafting of this provision. The Delegation further indicated that it would however have trouble to apply Article 9 in respect of divisional applications because national legislation required that divisional applications be accompanied with a request for registration or publication at the time of filing. The Delegation wondered whether replacing the words “industrial design” by “initial application” in Article 9(1) would solve their problem.

123. The Chair explained that, since divisional applications kept the filing date of the initial application and the minimum period to maintain a design unpublished under Rule 6 was six months from the filing date, there would most likely be no problem.

124. The Delegation of Australia said that, while it acknowledged the Chair’s explanation, it preferred to reserve its position for the time being.

125. The Delegation of Poland expressed its preference for an optional provision.

126. The Delegation of Spain, highlighting the need for harmonization, expressed its preference for a mandatory provision. As regards the proposal by the Delegation of Australia, the Delegation expressed the view that it would be problematic to replace “industrial “design” by “initial application”, as this would re-open the issue of definitions.

127. The Delegation of Japan, expressing its strong support for the mandatory option, raised concern about the fact that a six-month deferment period counted from the priority date could prevent an applicant from benefiting from the mechanism set forth in Article 9. The Delegation suggested that the minimum six-month period provided in Rule 6 be counted from the filing date, not the priority date.

128. The Delegation of Denmark, expressing its support for a mandatory provision, declared that it did not favor replacing the words “industrial design” by “initial application”.

129. The Delegations of Canada, El Salvador, Guatemala, Hungary, Morocco, the Republic of Korea and Romania expressed their preference for a mandatory provision.

130. The Delegation of Belarus expressed its preference for an optional provision.

131. The Delegation of China, after obtaining clarification about the terms “postponing publication” and “postponing the granting of rights”, proposed to expand Note 9.04 to explain that Article 9 could be complied with through a system giving the possibility to effectively postpone publication by postponing the granting of rights.

132. The Delegation of the Russian Federation, observing that national legislation did not expressly provide for deferment of publication, said that publication for patents took place after the examination period, which lasted normally six months from the filing date. For this reason, the Delegation could support a mandatory provision, provided that the wording of Article 9(1) would be amended in order not to refer to the applicant.

133. The Delegation of the United States of America, noting that deferment of publication was not envisaged specifically in its law, but that the applicant could use various mechanisms to maintain the design unpublished, supported the modification of paragraph (1) proposed by the Delegation of the Russian Federation and proposed to replace the words “an applicant to maintain” by “the industrial design to be maintained”. In addition, the Delegation proposed to delete paragraph (3), since an earlier request for publication was not available in examination systems.

134. The Representative of TWN, observing that it was important that the industrial design be disclosed to the public as soon as possible, expressed the view that the option should be left to each country. Moreover, the Representative said that disclosing the design did not create any damage to right holders because, once the right was obtained, remedies could be claimed as from the date of filing.

135. The Representative of FICPI, underlining the desirability of this provision across all Contracting Parties, said that it shared the concerns raised by the Delegation of Japan regarding the fact that the six-month period could start from the priority date, which could mean effectively that there was no possibility of deferring publication at the time the application was filed in a subsequent country.

136. The Delegation of Denmark, referring to the proposal by the Delegation of the United States of America to delete paragraph (3), observed that Article 9(2) and (3) related only to those systems in which deferment of publication could be expressly requested. Thus, paragraphs (2) and (3) would not apply to Contracting Parties with a patent system. Therefore, the Delegation concluded that there was no need to delete paragraph (3).

137. The Chair, noting that the majority of delegations were in favor of a mandatory provision, concluded that the mandatory option would be retained and that a footnote would highlight the preference of the Delegations of Belarus and Poland for an optional provision. In addition, the text of Article 9(1) would be redrafted according to the proposal by the Delegations of the Russian Federation and the United States of America. Finally, Note 9.04 would be expanded to include the clarification requested by the Delegation of China.

Article 10: Communications

Rule 7: Details Concerning Communications

138. The Delegation of El Salvador expressed its satisfaction with Article 10 and requested more time to reflect on Rule 7(6).

139. The Delegation of Japan observed that it resulted from Article 10(3), read in conjunction with Article 10(7) and Rule 7(1), that the indications which an Office could require in a communication were limited to six, irrespective of the type of communication. The Delegation believed, however, that additional indications could be needed in certain documents. For instance, Rules 14 and 15 provided for additional indications in the request for recording of a change in name or address, or a request for correction of a mistake, despite the prohibition of other requirements under Article 10(7). The Delegation therefore considered that the SCT might need to discuss a possible revision of Article 10(7), in particular, with regard to the reference to paragraphs (1) to (6).

140. The Delegation of India declared that it maintained the proposal to replace the time limit of “at least one month” by “at least 15 days”, highlighted in footnote 5 to Rule 7.

141. The Secretariat, in response to the concern raised by the Delegation of Japan, suggested moving paragraph (3) of Article 10 after paragraph (7), so that the prohibition of other requirements would not comprise the indications that could be required in communications.

142. The Delegation of Japan explained that the Japan Patent Office received documents and requests on behalf of judicial or *quasi* judicial authorities, in the context of non-registration procedures for which the office was competent. Those documents and procedures abided by stricter requirements than industrial design registration procedures. Taking these circumstances into account, the PLT, the TLT and the Singapore Treaty expressly excluded judicial and *quasi* judicial procedures. The Delegation considered that the DLT should also exclude court-related judicial procedures and documents in an explicit manner.

143. The Delegation of Canada concurred with the proposal by the Secretariat to move paragraph (3) after paragraph (7) in Article 10 and the proposal by the Delegation of Japan to make an exception for quasi judicial proceedings in the future DLT, similar to that found in Article 8(4)(b) of the PLT.

144. The Chair concluded that paragraph (3) would be moved after paragraph (7) in Article 10 and that an exception for quasi judicial proceedings in the future DLT would be introduced. The Chair further noted that the Delegation of India maintained its proposal regarding Rule 7(8)(ii), as highlighted in footnote 5 to Rule 7.

Article 11: Renewal

Rule 9: Details Concerning Renewal

145. The Chair concluded that no comments had been made on these provisions and that their text would remain unchanged.

Article 12: Relief in Respect of Time Limits

Rule 10: Details Concerning Relief in Respect of Time Limits

146. The Delegation of India, supported by the Delegation of Iran (Islamic Republic of) proposed to replace, in Article 12(2), the words “the applicable law shall” by “the Contracting Party may, if permitted by the applicable law”.

147. The Secretariat, in reply to a question raised by the Delegation of El Salvador, said that the interpretation of the term “reasonable time limit” in Article 12(6) was left to national legislation.

148. The Delegation of Canada, supported by the Delegation of Hungary, underlined the importance of Article 12 for users, and expressed its preference for a mandatory provision. The Delegation further suggested adding the words “the request is filed, and” in the beginning of Article 12(2)(ii), in line with Article 11(2)(ii) of the PLT.

149. The Secretariat, in reply to a question by the Delegation of Latvia as to why Article 12 concerned only time limits fixed by the Office, explained that Article 12, which was modeled on the PLT, set a minimum obligation, but did not prevent Contracting Parties from applying relief in respect of other time limits.

150. The Chair concluded that the proposal made by the Delegation of India and supported by the Delegation of Iran (Islamic Republic of) would be highlighted in a footnote. The Chair also concluded that the proposed text by the Delegation of Canada would be inserted in Article 12(2)(ii).

Article 13: Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality
Rule 11: Details Concerning Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality Under Article 13

151. The Delegations of El Salvador and Iran (Islamic Republic of) expressed their preference for option two.

152. The Delegation of India, expressing its preference for option two, proposed to replace the word “shall” by “may” in the first paragraph of option two.

153. The Delegations of Canada, Guatemala, Japan, Morocco, Norway, Poland, on behalf of CEBS Group, Republic of Moldova, Spain and the United States of America strongly supported option one.

154. The Representative of FICPI, recalling that a provision on reinstatement could have a positive effect in the interests of small and medium enterprises, supported those delegations that had opted for option one.

155. The Chair, noting that nine delegations were in favor of option one and three delegations were in favor of option two, concluded that both options would be maintained. The Chair added that the proposal of the Delegation of India to replace “shall” by “may” in the first paragraph of option two would be highlighted in a footnote.

[Article 13bis: Correction or Addition of Priority Claim; Restoration of Priority Right]

[Rule 11bis: Details Concerning Correction or Addition of Priority Claim and Restoration of Priority Right Under Article 13bis]

156. The Delegation of Japan expressed its full support for Article 13bis and the willingness of Japan to provide for the correction or addition of a priority claim in its national legislation. The Delegation, explaining that a first action resulting from substantive examination would take place in Japan on average after six months from the filing date, observed that the time limit provided by Article 13bis might expire after the Office finished the substantive examination. The Delegation wished to clarify that the Office would not be obliged to receive a request for the correction or addition of a priority claim after that office had come to a conclusion on substantive examination. The Delegation pointed out that paragraph (1) referred to the “correction or addition of a priority claim with respect to an application” whereas other DLT provisions stipulated procedures “with respect to an application or a registration”. Therefore, the Delegation observed that in the case where an Office did not conduct a substantive examination, a design application would soon turn into a registration, to which Article 13bis would not apply.

157. The Delegation of India, expressing its support for paragraph (1), proposed that paragraph (2) be worded as follows: “[Delayed Filing of the Subsequent Application] Taking into consideration the Paris Convention, a Contracting Party, may provide that...”.

158. The Delegation of Canada, referring to the proposal by the Delegation of India, pointed out that under existing Canadian law it was not possible to obtain restoration of a priority right for an industrial design beyond the six-month priority period. However, the Delegation considered that paragraph (2) established the best practice, which fairly protected the rights of users, while including at the same time a number of safeguards that would help to avoid any possibility of abuse. The Delegation further mentioned minor amendments that would reflect provisions that currently existed under the PLT. In Rule 10(5), the Delegation proposed adding an additional exception, a new item (vii), that would read as follows: “relief in respect of a time limit referred to in Article 13bis(1) or (2)”. The Delegation also requested to replace the words “for the correction or addition of a priority claim” in item (v) of Rule 11(3)” by the words “referred to in Article 13bis (1) or (2)”.

159. The Delegation of the United States of America, supporting the proposals made by the Delegation of Canada, expressed the view that paragraph (2) of Article 13bis should be mandatory.

160. The Delegations of El Salvador and Japan expressed their support for the proposals made by the Delegation of Canada.

161. In reply to a request for clarification by the Delegation of China regarding the link between Articles 13 and 13bis, the Secretariat explained that Article 13 concerned all sorts of procedures, whereas Article 13bis just concerned a delayed filing or correction of a priority claim.

162. In reply to a question by the Delegation of the European Union, on behalf of its member states, the Secretariat said that it understood this provision as applying only to applications.

163. The Representative of FICPI expressed its strong support for this provision.

164. The Delegation of China proposed to replace the word “shall” by “may” in Article 13*bis*(1) and (2).

165. The Delegation of India sought clarification regarding the use of the terms “Taking into consideration the Paris Convention” in Article 13*bis* (2).

166. The Delegation of Canada, observing that this issue had been discussed at length in the Standing Committee on Patents during the development of the equivalent provisions under the PLT, explained that it was clearly understood by the delegations participating in the Standing Committee on Patents that, under the Paris Convention, the six-month priority period was a minimum requirement, but that Contracting Parties would have the ability to provide a longer period of priority. The Delegation further said that, in providing for a very limited extension of the priority rights in the limited circumstances covered under Article 13*bis*, there was no inconsistency in this provision with the Paris Convention.

167. The Delegation of India declared that it would like to have the words “Taking into consideration the Paris Convention” in Article 13*bis*(2) in brackets.

168. The Chair concluded that the proposal by the Delegation of China to replace “shall” by “may” in Article 13*bis*(1) would be highlighted in a footnote. In addition, the proposals by the Delegation of China and India to replace “shall” by “may” in Article 13*bis*(2) would also be highlighted in a footnote. The Chair further said that the words “Taking into consideration the Paris Convention” in 13*bis*(2) would be put in brackets, and that a note would be added to reflect the understanding that the six-month priority period under Article 4.C(1) of the Paris Convention would be subject to the application of re-instatement provisions in exceptional cases. Finally, the Chair said that Rules 10(5) and 11 (3)(v) would be complemented and amended, respectively, according to the proposal by the Delegation of Canada.

Article 14: Request for Recording of a License or a Security Interest

Rule 12: Details Concerning the Requirements Concerning the Request for Recording of a License or a Security Interest or for Amendment or Cancellation of the Recording of a License or a Security Interest

169. The Delegation of Brazil reiterated its proposal to add a phrase, at the end of Article 14(4)(b), to clarify that the prohibition of other requirements was not applicable to tax and monetary authorities.

170. The Delegation of Chile, observing that Article 14(2) used the Spanish words “*una tasa*”, while Articles 18(3) and 19(1)(c) used the Spanish word “*tasas*”, declared that it would be in a position to withdraw the proposal highlighted in footnote 16, if the words “*el pago de tasas*” were used in the Spanish version of Article 14(2).

171. The Delegation of Japan proposed a modification to Article 14(7) as regards the prohibition to indicate the financial terms of a “security interest” contract. The Delegation said that the provisions regulating a license agreement could not be applied “*mutatis mutandis*” to a security interest, since these two transactions were quite different in nature. While it was understandable to prohibit the office from requiring the financial terms of the license contract, such financial terms concerned the substance of the security interest agreement and could therefore be required at the time of recording the security interest. The Delegation further observed that the PLT had a *mutatis mutandis* provision as regards security interests, but did not expressly prohibit the indication of the financial terms in respect of the recording. The

Delegation further pointed out that the STLT did not have any provision in relation to security interests. Finally, the Delegation expressed the view that Article 14(1) was perhaps excessively detailed and that this problem concerned also Article 15(3).

172. The Secretariat said that a way to overcome the problem for the Delegation of Japan was to maintain the “*mutatis mutandis*” reference in paragraph (7) of Article 14, with the exception of paragraph (4)(a)(ii).

173. The Delegation of Japan said that its first impression was that it could go along with the proposal by the Secretariat, but that it would need further consideration of the matter.

174. The Delegation of the European Union, speaking on behalf of its member states, wondered whether using of the words “under the applicable law” instead of “under the law of a Contracting Party” in Article 14(4)(b) would resolve the concern of the Delegation of Brazil.

175. The Delegation of Brazil said that it preferred to maintain its proposal, highlighted in footnote 17.

176. The Chair concluded that the Delegation of Brazil maintained its proposal regarding Article 14(2)(b), highlighted in a footnote, and that Article 14(7) would be amended to read as follows: “With the exception of paragraph (4)(a)(ii), paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for the recording of a security interest in respect of an application or registration”.

Article 15: Request for Amendment or Cancellation of the Recording of a License or a Security Interest

177. The Chair noted that no comments had been made on this provision, except for those made by the Delegation of Japan during the discussion of Article 14.

Article 16: Effects of the Non-Recording of a License

178. The Delegation of India observed that, in India, the Court could order the recording of a non-recorded licence in the framework of infringement proceedings.

179. The Delegation of Belarus expressed its support for the proposal by the Delegation of Brazil at the twenty-eighth session to amend paragraph (2), highlighted in footnote 19. If the amendment did not take place, the Delegation said that it would like to include a reservation modelled on the one provided in the STLT.

180. The Delegation of Brazil declared that it maintained its proposal to amend paragraph (2), as highlighted in footnote 19.

181. The Delegations of El Salvador and Guatemala supported the proposal by the Delegation of Brazil.

182. The Delegation of India stated that it maintained its proposal, highlighted in footnote 18.

183. The Representative of TWN, expressing the view that Article 16 fell into the area of substantive law, requested the deletion of this Article.

184. The Delegation of Iran (Islamic Republic of) supported the proposal by the Delegation of India.

185. The Chair concluded that the proposal by the Delegation of Brazil, highlighted in footnote 19, would be transferred to Article 16(2) in brackets, as a second option. The Chair also noted that the proposal by the Delegation of India to turn Article 16(1) into an optional provision would be maintained in a footnote, indicating that it had the support of the Delegation of Iran (Islamic Republic of).

Article 17: Indication of the License

186. The Chair noted that there were no comments on this Article and concluded that its text would remain unchanged.

Article 18: Request for Recording of a Change in Ownership

Rule 13: Details Concerning the Request for Recording of a Change in Ownership

187. The Delegation of China withdrew its proposal contained in footnote 20.

188. The Delegation of Canada said that, in Rule 13(2), the words “resulting from a contract” should be added after the words “recording of a change in ownership” both in the heading and in the provision itself, as their omission was clearly due to an oversight.

189. The Chair concluded that footnote 20, containing a proposal by the Delegation of China, would be deleted, and that the words “resulting from a contract” would be added in Rule 13(2), according to the proposal made by the Delegation of Canada.

Article 19: Changes in Names or Addresses

Rule 14: Details Concerning the Request for Recording of a Change in Name or Address

190. The Delegation of China withdrew its proposals contained in footnotes 21 and 22.

191. The Delegation of the Republic of Korea supported the withdrawal of the proposal made by the Delegation of China in footnote 22.

192. The Delegation of India declared that it would prefer to have the word “may” instead of “shall” in Article 19(1)(d).

193. The Chair concluded that footnotes 21 and 22, containing proposals by the Delegation of China, would be deleted, and that the proposal made by the Delegation of India on Article 19(1)(d) would be highlighted in a footnote.

Article 20: Correction of a Mistake

Rule 15: Details Concerning the Request for Correction of a Mistake

194. The Delegation of El Salvador expressed its satisfaction with the fact that Article 20(1) allowed Offices to correct mistakes that were correctable under the applicable law.

195. The Chair noted that there were no further comments on these provisions and concluded that their text would remain unchanged.

Article 21: Regulations

196. The Delegation of India requested that a footnote be added, highlighting a proposal to replace “three-fourths” by “consensus” in paragraph (2).

197. The Delegation of Morocco proposed to include a provision for Model International Forms.

198. The Chair concluded that the proposals by the Delegations of India and Morocco would be highlighted in the footnotes.

Article 22: Assembly

199. The Chair noted that there were no comments, and concluded that the text of Article 22 would remain unchanged.

Article 23: International Bureau

200. The Chair noted that there were no comments, and concluded that the text of Article 23 would remain unchanged.

Article 24: Revision or Amendment

201. The Chair noted that there were no comments, and concluded that the text of Article 24 would remain unchanged.

Article 25: Becoming Party to the Treaty

202. The Chair noted that there were no comments, and concluded that the text of Article 25 would remain unchanged.

Article 26: Entry into Force; Effective Date of Ratifications and Accessions

203. The Delegation of Algeria, supported by the Delegations of India and Iran (Islamic Republic of), requested that “10 States or intergovernmental organizations” be replaced by “30 States or intergovernmental organizations” in paragraph (2).

204. The Chair concluded that the number “30” would be put in brackets in paragraph (2).

Article 27: Reservations

205. The Chair noted that there were no comments on Article 27 and that the text of this Article would be determined at the conclusion of the discussions.

Article 28: Denunciation of the Treaty

206. The Chair noted that there were no comments, and concluded that the text of Article 28 would remain unchanged.

Article 29: Languages of the Treaty; Signature

207. The Chair noted that there were no comments, and concluded that the text of Article 29 would remain unchanged.

Article 30: Depositary

208. The Chair noted that there were no comments, and concluded that the text of Article 30 would remain unchanged.

Relationship Between the Hague System for the International Registration of Industrial Designs and the Draft Design Law Treaty

Study on the Potential Impact of the Work of the SCT on Industrial Design Law and Practice

209. The discussion was based on documents SCT/29/4 and SCT/27/4 Add.

210. The Delegation of Belgium, on behalf of Group B, expressed its appreciation for documents SCT/27/4, SCT/27/4 ADD. and SCT/29/4, and observed that the further streamlining of formalities and procedures benefited all members and their users, whatever their status of development. The Delegation said that further assistance in the field of IT and legal expertise was however warranted, a conclusion that was also confirmed by the General Assembly decision. In addition, Group B stated that there was no formal or direct relationship between The Hague System for the International Registration of Designs (Hague system) and the Draft DLT. For these reasons, Group B, pointing out that further work on a study was currently not warranted, stated that the Committee should focus on the provision of technical assistance.

211. The Delegation of El Salvador pointed out that document SCT/29/4, "Relationship Between the Hague system and the Draft DLT", would be useful and would serve as a reference for the current and future discussions.

212. The Delegation of India, as regards the revised Study on the potential impact of the work of the SCT on Industrial Design Law and Practice (SCT/27/4 ADD), said that it would have liked to see a higher representation from developing countries and LDCs reflected, as only a few countries were able to participate in the questionnaire. This low response from developing countries and LDCs showed that there was not much capacity in this field for these countries and that, consequently, they were not a major beneficiary. The Delegation further observed that those countries should benefit from technical assistance and capacity building or financial assistance, in order to make the implementation of the Treaty operational in a maximum number of countries. This would create a substantial number of Contracting Parties, in particular developing countries and LDCs, rather than a few Contracting Parties, as was the case with the STLT or other treaties. As regards document SCT/29/4, "Relationship Between the system and the Draft DLT", the Delegation asked the Secretariat to prepare an analysis of the possible benefits for developing countries and LDCs of the respective provisions of the Draft DLT, mindful of the fact that developing countries had very few domestic firms that currently used the design registration system.

213. Referring to document SCT/29/4, the Delegation of Poland, on behalf of the Regional Group of Central European and Baltic States (CEBS), said that the document covered all theoretical areas of the possible relationship between both systems and that CEBS shared the findings and conclusions of the document. Therefore, the CEBS Group was of the opinion that further discussion on this point of the agenda had no impact on the main goal of this Committee, which was the preparation of DLT articles and regulations

214. In relation to SCT/29/4, the Delegation of the European Union, on behalf of its member states, said that the European Union and its member states highlighted the fact that The Hague system and the proposed DLT would have no formal or direct link and would be fully autonomous and independent of each other in pursuing their different goals. As regards document SCT/27/4 Add., the Representative noted that the eight additional responses from trademark offices and 11 additional responses from applicants and users had not change of the conclusion of the Study, but rather had consolidated the previous conclusion. The Delegation observed that applicants in all countries considered that almost all of the proposed changes would bring benefits in terms of ease of registration, time for registration, and cost of registering. IP offices in all countries, but particularly those in middle and low income countries, expected a Design Law Formalities Treaty to bring improvements in terms of level of innovation and use of IP. Furthermore, the Delegation said that the Study continued to suggest that a Design Law Formalities Treaty would be in everyone's interest and was an area where we could work together quickly to agree. The study also showed that there were considerable flexibilities to parties when implementing the Treaty. The Delegation finally expressed the view that this extended Study provided adequate reassurance of the value of the normative work of this Committee. The Delegation did not believe that keeping the Study open for an additional period of time would be likely to change its conclusions, and therefore did not support extension of its terms of reference.

215. The Delegation of Hungary, supporting the statements made by the CEBS Group and the Delegation of the European Union, did not support the proposal made by the Delegation of India to request any further studies. It said that the Study provided answers on this issue, and the Committee should focus now on concluding the treaty in an expedited manner.

216. As regards document SCT/27/4 Add., the Delegation of El Salvador said that, although its office did not participate, it supported the work done by the Secretariat and the results contained in the document.

217. The Delegation of the Russian Federation, expressing the view that continuing the Study or adding more studies was not advisable, stated that the Committee should concentrate its efforts on the preparation of the document itself and could proceed at this stage to a diplomatic conference. The Delegation, referring to the statements made by the Delegation of the Republic of Korea and by its own delegation on the possibility of hosting a diplomatic conference in the Republic of Korea and in the Russian Federation, respectively, said that these interventions shared that there was a real opportunity of organizing and holding this conference. Finally, the Delegation urged all members of the SCT to make maximum efforts to complete the preparation of the documents.

218. The Chair noted that all comments would be reflected in the report.

Technical Assistance and Capacity Building

219. Discussion was based on document SCT/28/4 Rev., as well as on documents SCT/28/5, SCT/29/6 and SCT/29/8, containing proposals by the African Group, the Delegations of the Republic of Korea and the European Union, respectively.

220. The Delegation of Algeria, on behalf of the African Group, introduced a proposal, which had been submitted at the twenty-eighth session, for draft articles on technical assistance and capacity building to be integrated in the Industrial Design Law and Practice Treaty (document SCT/28/5). The first article proposed that applicants from developing countries and LDCs benefit from a fee reduction. The second dealt with technical, financial assistance and capacity building to be provided by the WIPO Secretariat to developing countries and LDCs, in order to

assist them in the implementation of the treaty. The third aimed to facilitate the participation of these countries in the Assembly. Finally, Article E would allow offices of developing countries and LDCs to be better informed as to what was happening in other offices as regards the registration of industrial designs. The Delegation, indicating that the African Group represented more than 50 countries, reiterated that it would like these proposals to be in the body of the treaty.

221. The Delegation of the Republic of Korea presented a proposal on technical and financial assistance in the implementation of the DLT (document SCT/29/6), which aimed of funding a common ground on this matter. The Delegation, acknowledging that technical assistance for developing countries and LDCs was an essential tool to implement the DLT effectively and efficiently, declared that it highly valued the substantial discussions carried out on this issue since the previous SCT meeting, but expressed some concerns arising from differences in the proposals from the Delegation of the European Union and the African Group. Hoping that discussions on this issue would result in a consensus through positive and productive communication, the Delegation said that the basic premise of its proposal was grounded in the belief that technical assistance should be established on the basis of feasibility, equity with previous Treaties and the context of the Treaty. The Delegation, observing that its proposal tried to find convergent areas between the European Union's proposal and the African Group's proposal, explained that the Korean proposal contained five paragraphs. The first aimed at facilitating the implementation of the Treaty in developing countries and LDCs. This was based on the reference to section 4 of the Resolution by the Diplomatic Conference Supplementary to the STLT, items 1 and 2 of the European Union's proposal (SCT/28/6) and Article B (1) and (2) of the African Group's Proposal (SCT/28/5). It recognized that developing and LDCs were important Contracting Parties, and expressed the principle that the Contracting Parties and WIPO shall seek to provide adequate technical and financial assistance including technological, legal and other forms of support to strengthen the institutional capacities of those countries. The financial assistance in this article was intended to enable participation in relevant assemblies and gatherings, rather than for other activities. The second paragraph enumerated specific examples of technical assistance, taking into consideration the level of technological and economic development in the beneficiary countries, and it premised on providing such assistance at the request of the recipient States. Even though it was not stipulated, "development-oriented, demand-driven and needs-based assistance," stated in Article B paragraph (2) of the African Group's proposal, was understood to encompass those meanings. In addition, the Delegation said that Article B paragraphs (3) and (4) in the African Group proposal, which stated that "WIPO and Developed Member States should provide full financial support for all activities and measures for certain period" appeared to overburden WIPO and Developed Member States and was less equitable in comparison to other treaties. Notwithstanding this, the Delegation believed that the requests and circumstances of developing countries, including LDCs, should be given top priority. Specific examples of assistance in paragraph (2) were based on Section 7 of the Resolution by the Diplomatic Conference Supplementary to the STLT. The third paragraph dealt with the role and function of the Assembly, in monitoring, evaluating and ensuring the implementation of technical assistance. This was based on the reference to section 8 of the Resolution by the Diplomatic Conference Supplementary to the STLT, item 4 of the European Union's first proposal (SCT/28/6) and Article B (6) of the African Group's Proposal (SCT/28/5). The fourth paragraph addressed the issue of financial assistance for developing countries to participate in the meetings on the implementation of the Treaty, including the ordinary sessions of the Assembly, based on similar provisions in other treaties. The aim of the fifth paragraph was to address the efforts of the International Bureau in the financing of technical assistance for recipient countries, and was based on Article 51(4) of the PCT and item 5 of the European Union's proposal (SCT/28/6). Finally, the Delegation declared that it agreed that the above mentioned articles should be introduced in the Draft Treaty.

222. The Delegation of the European Union, on behalf of its member states, recalled that it had tabled a draft resolution at the 28th session of this Committee (document SCT/28/6), but that consensus had not been found further to that proposal and to the proposal tabled by the African Group at the aforementioned session (document SCT/28/5). The Delegation of the European Union and its member states continued to believe that a resolution would fully address and safeguard the interests of developing and LDCs with regard to technical assistance and capacity building. However, in the spirit of cooperation, flexibility, and as a public statement of its ongoing support and contribution to the Development Agenda, the Delegation of the European Union and its member states withdrew their proposal on a resolution, and made a new proposal (document SCT/29/8), which included a draft article. In real terms, this proposed draft article provided for the same technical assistance and capacity building in the implementation of a design formalities treaty as would be possible under the African Group's proposal. The Delegation, pointing out that the omission to refer to least developed countries in paragraph 1 of the proposal by the Delegation of the European Union was typographic and entirely unintentional, stated that paragraph 1 should also refer to least developed countries. The Delegation explained that the first paragraph of the article aimed to limit the potential for technical assistance and capacity building to States being part of the Treaty. The second paragraph recognized the need for technical assistance and capacity building to be targeted and demand driven, and aimed to support both recipients and providers in deciding where to target their resources. Paragraph three allowed for the same technical assistance as under the PCT Article 51 (3)(b). The training of specialists, loaning of experts, and the supply of equipment were given as examples, and did not limit the scope of the technical assistance available. The fourth paragraph gave the Assembly the responsibility and power to review the technical assistance and capacity building. This avoided the uncertainty and duplication created by Article 51 of the PCT, which required the creation of a working group for this purpose. The Delegation said that this paragraph fulfilled the General Assembly requirement for WIPO bodies to provide the Assemblies with a description of their contribution to the implementation of the respective DA Recommendations. Finally, the fifth paragraph allowed for the same financial provisions as that under Article 51(4) of the PCT, which would help to ensure the financial stability of technical assistance provided under this Treaty. In sum, the Delegation hoped that this proposal could prove satisfactory to all.

223. The Delegation of El Salvador said that, while it recognized the merits of the proposals by the Delegations of the Republic of Korea and the European Union, it was more comfortable with the proposal by the African Group, as it agreed with the goals expressed therein.

224. The Delegation of Brazil, on behalf of the DAG, welcomed the advance, since all three proposals included technical assistance as an article of the Treaty, which underlined the importance of technical assistance and the increasing awareness by members of its relevance. Recalling the importance of Recommendations one, three, eight, nine, ten and 11 of the Development Agenda, and underlining in particular Recommendation 12, the Delegation expressed its support for the proposal by the African Group.

225. The Delegation of Venezuela (Bolivarian Republic of), concurring with the statements by the Delegations of Brazil and El Salvador, expressed its support for all the efforts made to address the issue of technical assistance and capacity building.

226. The Delegation of Senegal, expressing its support for the proposal by the African Group, stated that such proposal addressed the needs of developing countries and LDCs as regards technical assistance and other practical provisions, which would lead to a better implementation of the future DLT. Underscoring the importance of the differentiated treatment for developing countries in the DLT, the Delegation expressed the wish that the proposal by the African Group would be included in the DLT.

227. The Delegation of Japan, stating that it understood the importance of technical assistance in general and in the specific context of the implementation of the DLT, expressed the view that a resolution would be a better place to accommodate provisions related to this topic than the text of the DLT. The Delegation recognized that it was very important to expedite the discussion on this issue in line with the General Assembly decision to hold the consensus on convening a diplomatic conference. The Delegation stated that it was ready to show flexibility on the place to insert technical assistance provisions, provided that consensus would be formed on convening a diplomatic conference. The Delegation further reiterated the importance of focusing on technical assistance directly linked with the implementation of the DLT.

228. The Delegation of Nigeria, reiterating its commitment to ensure that the DLT was effective, expressed its support for the proposal by the African Group.

229. The Delegation of Poland, on behalf of CEBS, expressed some reservations on the proposal by the African Group, particularly as regards special and differentiated fees to be charged to applicants from developing and least developed countries. The Delegation said that technical assistance should be directly linked to the implementation of the DLT. The issue of fee reduction did not relate to technical assistance or capacity building and it would establish a discriminatory practice, which could raise questions on its conformity with the TRIPS Agreement. The Delegation expressed the view that the proposals by both the Delegations of the Republic of Korea and the Delegation of the European Union were worth further consideration since they sought to accommodate the concerns of developing countries and LDCs about the capabilities to implement the DLT. As to the concrete proposals, CEBS shared the view of the Delegation of the European Union that financial assistance to enable delegations from developing countries and LDCs to attend meetings and the fee reduction were not a matter of technical assistance or capacity building within the context of the implementation of the DLT. The Delegation, considering that the proposal by the Delegation of the European Union was a more adequate and balanced solution, expressed the hope that consensus would be reached on the basis of this proposal.

230. The Delegation of the United States of America, acknowledging that technical assistance was necessary to allow members to implement and benefit from the DLT, expressed the view that a resolution similar to the one found in the PLT and the STLT was more appropriate to achieve that end, as it would provide more flexibility if changes were needed in the future.

231. The Delegation of Iran (Islamic Republic of), thanking the Delegation of the European Union and its member states for proposing to include an article about technical assistance and capacity building and for its public statement on its ongoing contribution to the Development Agenda, expressed its preference for the proposal by the African Group. The Delegation further expressed its concern about limiting the technical assistance and capacity building to the Contracting Parties of the DLT. The Delegation said that it would be important that developing countries and LDCs could receive appropriate technical assistance in order to advance their capacity before joining the treaty. Technical assistance activities and investment infrastructure, in particular on information technology, would pave the way for developing countries and LDCs to join the treaty. The Delegation suggested to include a paragraph in the article providing for technical assistance and capacity building for developing countries and LDCs which intended to become a party to the DLT.

232. The Delegation of Switzerland, stating its commitment to technical assistance and capacity building for developing countries and LDCs, expressed the view that a resolution of the diplomatic conference would be a better framework for the provisions on this issue. The delegation further declared that it was important that the technical assistance should correspond to the contents of the DLT.

233. The Delegation of Spain, expressing its support for the proposal by the Delegation of the European Union, underlined the great effort made by the European Union and its member states to come to this session of the Committee with a proposal that gave technical assistance the importance it deserved and paid attention to the interests expressed in the other proposals, particularly the one by the African Group. The Delegation, recalling that the General Assembly had clearly mandated the SCT to make substantive progress at this session, declared that it had come with the firm intention of reaching an agreement.

234. The Delegation of Canada, stating that it supported considering the appropriate provisions regarding technical assistance and capacity building in line with the mandate of the General Assembly, expressed its support for a resolution by the diplomatic conference. Regarding delegate funding for participation in relevant assemblies, the Delegation supported the language found in the Beijing Treaty and in the two WIPO Internet Treaties.

235. The Delegation of Chile, acknowledging that technical assistance was extremely important in this discussion and that it should be dealt with in the greatest detail, associated itself with those delegations that proposed that technical assistance be part of the DLT, as this would reflect the importance of these provisions. The Delegation believed that the most important thing was that the provisions should have real substantive content so that they would help developing countries to make effective use of the future DLT. The Delegation further highlighted that the future DLT was different from the PLT or the STLT, as it was going to be concluded after the Development Agenda process. This should be borne in mind when defining the contents and place of the provisions on technical assistance.

236. The Delegation of Norway said that, although it considered more appropriate to include these articles in a resolution, it was willing to consider including them in the DLT, taking into account the mandate of the General Assembly. However, the Delegation stated that the result should be balanced and that all articles on technical assistance and capacity building should have a direct connection with the implementation of the DLT. Hence, any article on fee reductions or financial support for delegates should not be included.

237. The Delegation of Nepal, expressing its support for the proposal by the African Group, requested the SCT to accommodate the positive provisions of other proposals, with a view to reaching a consensus.

238. The session was suspended to hold informal discussions as regards technical assistance and capacity building. Delegates from 27 member States and intergovernmental organizations, including all Group coordinators and the proponents of the three proposals contained in documents SCT/28/5, SCT/29/6 and SCT/29/8, participated in the informal discussions.

239. At the issue of the informal discussions, the Chair presented a non-paper combining elements from the proposals by the African Group, the Delegations of the European Union and the Republic of Korea, contained in documents SCT/28/5, SCT/29/6 and SCT/29/8, respectively.

240. The Delegation of Algeria, on behalf of the African Group, thanked the Chair for the accomplished work and for its tireless efforts to attempt to create a consensus climate on the very important subject of technical assistance. The Delegation further thanked those delegations which took part in the negotiations and showed a certain degree of commitment during the discussions. The Delegation was pleased to see that during this informal meeting, positions were clarified, and that for all delegations it was clear that technical assistance and capacity building was a need that would have to be responded to in the treaty. The Delegation further welcomed the six points presented by the Chair in its Non-Paper, which reflected faithfully all the principles to which the African Group was attached. However, the Delegation considered that at this stage the position was still not quite clear about whether technical

assistance and capacity building would be enshrined or not in the Treaty. At this stage, the Delegation would have hoped that the Committee would have had a clearer position. Noting that the situation was regrettable, the African Group called on the other delegations to show more flexibility in having these important provisions for the African Group in the Treaty.

241. The Delegation of the United States of America said that, in its understanding, the Chair's non-paper would be an annex to the draft articles and regulations, and should thus be labeled as such.

242. The Chair recalled that the Chair's non-paper would be incorporated to the body of the provisions, but making it clear that this text was a proposal by the Chair on the basis of the proposals made by the African Group, the Delegations of the European Union and the Republic of Korea, and also specifying in a footnote that there were a number of delegations that did not want the text in the Treaty, but rather in the form of a resolution.

243. The Delegation of Spain welcomed the significant progress made in particular in the pre-identification of possible points for agreement. The Delegation therefore believed that this progress gave reasons to be optimistic about fulfilling the mandate that was given to the Committee by the General Assembly last year.

244. The Delegation of Brazil, on behalf of the DAG, said that it aligned itself with the statement made by the African Group, and added that as regards the importance of technical assistance and capacity building for its members, the inclusion of these provisions in the Treaty itself would underline its relevance. Since there was a full cluster in the Development Agenda and the Committee had a mandate from the General Assembly to give due consideration to these matters, the Delegation asked all delegations to consider the positions and include this as an article of the Treaty.

245. The Delegation of Canada expressed its support for the statement made by the Delegation of the United States of America about ensuring that this document was separated from the articles. Noting that the Committee did not have absolute consensus on whether this text would be an article or a resolution, the Delegation would like this text to be treated separately.

246. The Delegation of Algeria, on behalf of the African Group, expressed its support for the proposal made by the Chair. The Delegation explained that since the General Assembly should take stock of the work of the Committee, the Committee should send to the General Assembly a document that reflected all the positions and all the interests expressed. The Delegation, stating that a differentiation between substantive issues and technical assistance would not reflect properly the discussions, requested the inclusion of this text.

247. The Delegation of Hungary, echoing the statement made by the Delegation of Spain, expressed the view that the SCT had made major progress in the area of further harmonizing design law formalities, as illustrated by the development of the text of the draft articles and rules, the flexibility shown by a number of delegations and the fact that substantive discussion had started on technical assistance.

248. The Delegation of Belgium pointed out that Group B agreed that progress was made. Speaking in its national capacity, the Delegation proposed to recommend to the General Assembly to convene a diplomatic conference in 2014.

249. The Delegation of the of the European Union supported the interventions of the Delegations of Belgium, Hungary and Spain. The Delegation thanked the Chair and the other delegations who worked on the technical assistance issue in such a positive manner. The Delegation believed that positive and considerable progress had been made on this issue and that the design law formalities treaty was ready for a diplomatic conference.

250. The Delegation of South Africa, supporting the statement made by the African Group, said that the SCT did not achieve an agreement on the provisions on technical assistance. The Delegation further said that the SCT must continue its work and that it was of the competence of the General Assembly to do an assessment of progress made, and then to decide on convening a diplomatic conference.

251. The Delegation of the United Kingdom stated that a considerable step forward had been done by discussing an article on technical assistance and capacity building.

252. The Delegation of Italy echoed the interventions made by the Delegation of the United Kingdom and other delegations on the same line and expressed its appreciation for the engagement, the commitment and the quality of the discussions in the past days. The Delegation was of the view that the SCT had made considerable progress and had identified areas of consensus on technical assistance.

253. The Delegation of Nigeria aligned itself with the statement made by the Delegation of Algeria on behalf of the African Group. The Delegation considered that the SCT was yet to reach an agreement, particularly on technical assistance.

254. The Delegation of the Republic of Korea recognized that the SCT had made great progress, notwithstanding some disagreements among some of the member States. The Delegation considered that an agreement could be reached during the preparation period for the diplomatic conference and within the diplomatic conference itself. Therefore, the Delegation proposed to recommend to the General Assembly the convening of a diplomatic conference.

255. The Delegation of Iran (Islamic Republic of) supported the statement made by the Delegation of Algeria on behalf of the African Group and the statement made by the Delegation of South Africa. The Delegation believed that the progress on technical assistance and capacity building was not enough, and that the General Assembly had the mandate for assessment and for deciding on convening a diplomatic conference.

256. The Delegation of Poland, on behalf of CEBS, said that, in its opinion, a substantive discussion had taken place and the SCT had made a very important step forward on technical assistance. Therefore, the Delegation suggested recommending to the General Assembly that a diplomatic conference be convened in 2014.

257. The Delegation of Spain expressed the view that it was unfair to make a recommendation to convene a diplomatic conference subject to obtaining previously a full agreement on the substance. The Delegation referred to the diplomatic conference concerning a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities, which was convened without having a complete text of that Treaty in place.

258. The Delegation of Algeria, on behalf of the African Group, said that it was not within the SCT's mandate to recommend the convening of a diplomatic conference to the General Assembly. The Delegation further said that the African Group had no clarity on whether an article on technical assistance would be included in the treaty, or on the substance of such an article. The Delegation finally observed that the urgency of responding to the needs of visually impaired persons was far stronger than the issue of industrial designs, and considered that it was not appropriate to compare the two issues.

259. The Delegation of South Africa, supporting the statement by the Delegation of Algeria, said that the General Assembly did not ask the Committee to pronounce on a diplomatic conference, but only to work on the draft articles and to include provisions on technical assistance. The Delegation further said that the General Assembly would decide itself on the issue of holding a diplomatic conference. The Delegation said that this was also the manner in which the work was carried out in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

260. The Delegation of Belgium, speaking in its national capacity, said that it was up to each member State to come up or not with a recommendation.

261. The Delegation of Switzerland declared that it was part of the mandate of the Committee to make recommendations. The Delegation said that the SCT was asked to work on the substance, but such mandate did not exclude expressing a view as to the value of the work of the SCT. The Delegation acknowledged that it was up to the Assembly to decide whether or not to convene a diplomatic conference, but the Assembly should be informed that the SCT was ready for it. Referring to the IGC, the Delegation reminded that the IGC was not retained from making recommendations. The Delegation pointed out that substantive committees were always able to recommend to the General Assembly anything they saw fit.

262. The Delegation of Iran (Islamic Republic of) reiterated the view that the Committee should only send the text to the General Assembly, without recommending anything or prejudging the results of the Committee's work. The General Assembly would assess and evaluate the progress made by the Committee, and decide on convening a diplomatic conference.

263. The Delegation of China noted that, with the positive and constructive work by all the Delegations at this session, differences concerning the draft design law treaty were becoming less and less, laying a foundation for the convening of a diplomatic conference in the near future. As to the remaining few differences, the Delegation hoped the SCT would, in the spirit prevailing at this session, continue to step up its work, in order to make progress as soon as possible, with a view to creating favorable conditions for the convening of a diplomatic conference in the near future and an early accomplishment of our mission.

264. The Delegation of Japan echoed the sentiment expressed by the Delegations of Belgium and Switzerland on the point that the SCT had a capability to make some recommendations to the General Assembly within the scope of the General Assembly's decision. The Delegation reiterated the view that the SCT had made significant progress, both in the field of substantive issues and on technical assistance. The Delegation believed that the DLT was very close to the final phase from the substantive perspective.

265. The Delegation of Canada supported the interventions made by the Delegations of Belgium, Japan and Switzerland. Despite some differences in the positions, the Delegation believed that the SCT was close to a final agreement. The Delegation also believed that it was within the prerogative of the SCT to make a recommendation if so chosen, although the final decision was left up to the General Assembly.

266. The Delegation of the United Kingdom agreed with the statement made by the Delegation of Canada. The Delegation pointed out that the SCT had the ability to recommend to the General Assembly the convening of a diplomatic conference, and reminded that in the past it had recommended the convening of the diplomatic conference for the revision of the TLT. The Delegation considered that the statements that the SCT did not have the power, the authority, and the mandate to do that were not accurate.

267. The Delegation of the United States of America supported the interventions made by the Delegations of Canada, China, Japan and the United Kingdom. The Delegation believed that there had been some good work done and that substantive progress had been made on the substantive provisions. The Delegation also supported the view that it was fully within the Committee's power to make a recommendation as to how to move forward.

268. The Delegation of Brazil noted that it would feel more comfortable with a neutral statement by the SCT, asking the General Assembly to take stock of and consider the progress made, and to decide on the basis of that progress.

269. The Delegation of the Russian Federation declared that the SCT was ready to submit the draft treaty to a diplomatic conference that it had moved forward on technical assistance. Consequently, the Delegation supported the proposal that the SCT present a recommendation to the General Assembly to consider a date for a diplomatic conference in the year 2014.

270. The Chair requested the Secretariat to prepare revised working documents for consideration of the SCT at its thirtieth session, which should reflect all comments made at the present session and highlight the different proposals put forward by delegations by using square brackets, strikethrough, underlining or footnotes, including a draft Article or Resolution in square brackets on technical assistance and capacity building, based on the Chair's non-paper. Footnotes will indicate that this draft Article is proposed by the Chair, and that some delegations preferred the subject matter of this draft Article to be covered by a resolution.

271. The Chair concluded that the SCT had made good progress on the draft Articles and draft Rules included in documents SCT/29/2 and 3 and that the work on technical assistance and capacity building had advanced. A number of delegations stated that sufficient progress had been made by the SCT to recommend to the WIPO General Assembly the convening of a diplomatic conference in 2014. Other delegations, expressing the view that there was a need for more progress on technical assistance and capacity building in order to reach a concrete outcome, were of the opinion that the General Assembly would take stock of and consider the text, progress made, and decide on convening a diplomatic conference.

AGENDA ITEM 6: TRADEMARKS

Study on the Protection of Country Names

272. Discussion was based on document SCT/29/5.

273. The Delegation of Jamaica recalled that during the resumed twenty-sixth session of the SCT in February 2012, the Delegations of Barbados and Jamaica had made a proposal contained in document SCT/27/6, which outlined a three-phased work plan presenting a number of specific objectives that those Delegations felt would advance the work of the Committee on the very important issue of the Protection of Names of States Against Registration and Use as Trademarks. At the twenty-seventh session, the SCT requested the Secretariat to prepare a study in accordance with the terms of reference as contained in the Annex to document SCT/27/10. Within that context, the Delegation thanked the Secretariat for the work undertaken in preparing document SCT/29/5, and also thanked the member States that had replied to the questionnaire, as well as other countries which subsequently made submissions on the topic, all of which greatly informed the study. While the study showed that protection was available for country names through several alternative means, it also clearly showed that such protection was often limited to particular circumstances. This left ample opportunity for persons and entities to nevertheless abuse and unfairly free-ride on the goodwill and reputation of a country's name. In fact, the study showed that the protection which currently existed for country names at

the international level was not comprehensive and as such inadequate. Nearly all of the responding countries indicated that under the applicable legislation, names of States were excluded from registration as a trademark for goods only if they were considered descriptive of the origin of the goods in respect of which the registration was sought. This was the most commonly used ground against which registration of country names as trademarks was checked. Differentiation was made between marks which “consist exclusively” of a country name and those which include additional words and/or figurative elements. The effect was that if the country name was combined with elements which were found distinctive, the trademark would be accepted for registration. In looking at the issue of opposition procedures and other proceedings, the Delegation was of the view that reliance on opposition and observations for the protection of country names was insufficient and inadequate. Though many countries broadly interpreted national laws to protect country names, such protection was not uniform and allowed for many exceptions. Therefore, opposition procedures did not offer any greater protection than the limited protection offered by the substantive trade mark law. In fact, oppositions presented a further hurdle to country name protection, for it would require substantial resources for States, especially developing countries and small island developing States, to police the trade mark offices and registries of the world, and to commence opposition proceedings and perhaps even court litigation in foreign jurisdictions. An additional hurdle would be the time limits to file such oppositions, as in most jurisdictions opposition may only be raised within two or three months. The Delegation believed that observations, much more than oppositions, were inadequate and ineffective to protect country names. Observations are not required to be considered or acted upon by the IP Office or by the applicant. Most IP Offices are not bound to even respond to observations and in fact, most do not. In the vast majority of jurisdictions, trademark applications are very rarely refused on the basis of observations. In relation to nation branding schemes, not only did the study confirm that the country name is an essential element of any nation branding campaign, but it also confirmed that the country name was the strongest association with a country. However the study did not go far enough, in assessing the real and/or potential impact of weak country name protection on nation branding schemes. The study confirmed the need for stronger, more comprehensive and internationally consistent protection for country names. As mentioned before, alternative procedures of protection such as oppositions and observations could prove to be burdensome on countries like Jamaica with already limited resources. The Delegation continued to be of the view that in order for names of States to be adequately protected, they ought to be protected within national laws, policies and procedures, through a manual and/or a Joint Recommendation of the WIPO General Assembly, as it had been done in relation to other trademark areas of common importance and convergence. The Delegation requested the Secretariat to use the study to update the original Reference document (SCT/25/4) for circulation to member States ahead of the next SCT, and said that it required time to continue reviewing and analyzing the study in detail, with the intention of presenting a proposal to the next session of the SCT on the way to move forward on this matter.

274. The Delegation of Belgium, on behalf of Group B, said that the information provided by the Study on Country Names was very useful to inform discussions on the topic, and that discussions might be further refined with that useful input.

275. The Delegation of Switzerland stressed the particular importance of the protection of country names and expressed its satisfaction on the fact that the Standing Committee continued its work on the issue, given the increasing importance of this question for countries engaging in nation branding. It was therefore essential for the SCT to support the approach taken with effective measures in this context. The Delegation associated itself with the statement made by the Delegation of Jamaica and indicated that the experience of Switzerland in protecting its name(s) fully corresponded to the difficulties and the experience indicated of Jamaica. The Delegation therefore expressed interest in updating the reference document in order to have a more comprehensive overview of the situation and be able to assess what could be developed thereupon.

276. The Delegation of El Salvador, underlining the usefulness of the Study on the Protection of Country Names, said that it was convinced of the value of the information contained therein for national Offices and considered that continuing the work in this area would provide legal certainty and facilitate the protection of rights. The Delegation fully supported the statement made by the Delegation of Jamaica and the proposal to update the study.

277. The Delegation of Trinidad and Tobago shared the views expressed by the Delegation of Jamaica and noted that the protection of country names was critical, not only for Jamaica but also for other islands in the Caribbean region, including Trinidad and Tobago. The Delegation called for the development of a manual on the subject and also a Joint Recommendation to be approved by the WIPO Assemblies and as a first step, to update document SCT/25/4.

278. The Delegation of Turkey pointed out that nation branding was important for many countries, including developing countries, and expressed the hope to keep the item on the agenda of the SCT, in order to continue working on this subject.

279. The Delegation of the European Union, on behalf of its member states, noted that there were several opportunities available to third parties, before, during and after the trademark registration process, where the protection of country names could be invoked. National legislation might also provide the opportunity to prevent signs consisting of or containing a country name from being registered. The Delegation further observed that the Study concluded that awareness-raising activities should be undertaken, so as to publicize the available mechanisms for the refusal or invalidation of trademarks containing country names. The suggested awareness raising mechanism being the emphasis on the country names protection portion of trademark examination manuals. This protection could also consist on the application of the general grounds for refusing signs that lack any distinctiveness, are descriptive, contrary to public policy, misleading, deceptive or false. The Delegation of the European Union and its member states believed that awareness raising activities were a laudable aim and noted that the Standing Committee had tackled the issue of the protection of country names since 2009. Nevertheless, the revision of trademark examination manuals would not only involve administrative changes but also training of staff at considerable cost. Subsequently, the Delegation believed that it would be more appropriate to leave to the discretion of each member State the mechanisms by which awareness raising took place. Regarding the production of a guide book or a manual on country names, more time would be needed to reflect on this issue. Finally the Delegation recalled that the European Union and its member states believed that the Committee should focus its efforts on finalizing the work on industrial designs so as to recommend to the 2013 General Assembly that a diplomatic conference be called for.

280. The Delegation of Ethiopia stressed the importance of protecting country names and wondered whether the names of well-known or historical cities or places could also be covered by the protection of country names, and what the scope of that protection would be.

281. In response to the question raised by the Delegation of Ethiopia, the Secretariat referred to paragraph 9 of document SCT/29/5 which set out how the term “country names” or “names of States” was understood for the purposes of the Study.

282. The Delegation of Morocco believed that the work on country names should continue in the SCT and associated itself with the position expressed by the Delegation of Jamaica in relation to updating the Study.

283. The Delegation of Venezuela (Bolivarian Republic of) supported the statement made by the Delegation of Jamaica. In the opinion of the Delegation, it was surprising to read on the document that State names could be used as trademarks without the authorization of the country in question. Since the country name reflected a culture and identity, using the name of

a country as a trademark ought to be completely prohibited. Article 33(5) of the Industrial Property Law of Venezuela (Bolivarian Republic of) prohibited the registration of country names as trademarks. The Delegation supported the proposal to enlarge and update the Study.

284. The Delegation of Norway supported the statement made by the Delegation of the European Union. In the view of the Delegation, document SCT/29/5 contained a broad overview of current legislative provisions and practices in national or regional laws relating to the protection of country names, as well as best practices in that regard. The request formulated by the SCT at its twenty-seventh session had been seriously dealt with, both by member States and the Secretariat. The resulting study had revealed that there were several opportunities at various stages, before and after the registration of a trademark, where the protection of country names might be invoked. Along with what had been done by the Committee to map out the status of protection of country names, the Delegation considered that the Study represented a natural conclusion to the work on this topic and that the information provided would constitute a useful reference for member States when dealing with questions related to the protection of country names.

285. The delegations of Guatemala and Nepal supported the views expressed by the Delegation of Jamaica concerning the need to update the study.

286. The Delegation of Canada supported the comments made by the Delegation of Norway, suggesting that the study represented a natural conclusion of the topic and that it could also be used as a guide for IP offices around the world.

287. The Delegation of Chile was of the view that the protection of country names was a very important topic. Consequently, the Delegation had replied to the initial questionnaire and submitted information about the national legislation and practice on the subject. In the event that the Committee requested the Secretariat to revise the study, the Delegation wished to learn about the practice of different countries in respect of the use of a country name by companies from the country in question in foreign markets. It indicated that the national Office of Chile had received applications from foreign parties seeking to register a trademark containing the name of their country of nationality. It would thus be important to know whether the countries themselves applied measures allowing companies owned by their nationals to apply for the registration of a trademark using their country name abroad.

288. The Delegation of Monaco indicated that Monaco was also very interested in this subject and thus favoured the continuation of work on the subject in the SCT.

289. The Representative of JPAA intervened both on behalf of the JPAA and on his own behalf as a practitioner who had faced a situation regarding the protection of country names in practice. He mentioned that in a recent case that he handled, concerning a trademark application containing a country name, the result of the dispute had showed that the meaning of country names could be further clarified. Hence, the Representative believed that the matter should be further discussed and that country names could be defined in a manual for practitioners in order to avoid misuse.

290. The Delegation of Uruguay supported the views expressed by the Delegation of Jamaica to request the Secretariat to update document SCT/25/4, as well as for the SCT to continue the work on this matter at its next session.

291. In reply to a question raised by the Delegation of Venezuela (Bolivarian Republic of), the Secretariat clarified that the full study was available in English and summarized versions were provided in the other working languages of the SCT, in compliance with the WIPO

languages policy which - for budgetary reasons - restricted the translation of documents beyond a certain size. Therefore, some discrepancies could appear in the numbering of the paragraphs and the references in the different language versions.

292. The Delegation of Jamaica requested that document SCT/29/5 in its entirety be translated into all the working languages of the SCT, so that all members could have access to the same information.

293. The Delegation of Australia indicated that it would submit to the Secretariat a clarification regarding one of the examples contained in Annex II of document SCT/29/5, which it had provided in its submission, for the preparation of the document.

294. The Chair concluded that the Secretariat was requested to make available complete translations of document SCT/29/5 in all working languages of WIPO other than English. Furthermore, the Secretariat should revise document SCT/25/4 on the basis of document SCT/29/5 and present it to the SCT for consideration at its next session. Some delegations announced that they would present proposals for consideration of the SCT at its next session.

Update on Trademark-Related Aspects of the Expansion of the Domain Name System

295. Discussion was based on document SCT/29/7.

296. The Delegation of El Salvador thanked the Secretariat for its report, and noted in particular that El Salvador is considering specific provisions in its legislation regarding Internet domain names. With a view also to El Salvador's participation in ICANN meetings, the Delegation requested that the Secretariat update the SCT concerning future developments.

297. The Delegation of Hungary noted that while some concerns from previous meetings regarding the protection of trademark rights in new gTLDs had been accommodated, there may still be some difficulties with the new dispute resolution procedures. The Delegation expressed appreciation of the WIPO Arbitration and Mediation Center's work in relation to ICANN and stated that it would appreciate future updates. The Delegation noted in particular that the contemplated Trademark Clearinghouse seems somewhat superfluous given the role of national trademark offices and ongoing work by WIPO on databases, and expressed concerns as to whether the fee-based Trademark Clearinghouse would contribute efficiently in that context. The Delegation also raised concerns with respect to ICANN's envisaged scope of protection for geographical terms and indicated its willingness to provide access to Hungary's databases on geographical indications if helpful to the discussion.

298. The Delegation of the European Union thanked the Secretariat for the preparation of document SCT/29/7 and for its update on trademark-related aspects of the DNS, and requested future updates.

299. The Delegation of Switzerland noted the importance of WIPO remaining active in ICANN and supported the comments of the Delegation from Hungary regarding geographical terms. The Delegation reiterated the need to continue monitoring developments.

300. The Chair concluded that the SCT had taken note of document SCT/29/7 and that the Secretariat was requested to keep member States informed on developments in the Domain Name System.

AGENDA ITEM 7: GEOGRAPHICAL INDICATIONS

301. The Chair noted that no intervention was made under that Agenda item, and that the item would remain on the Agenda for the next session.

AGENDA ITEM 7.1: CONTRIBUTION OF THE SCT TO THE IMPLEMENTATION OF THE RESPECTIVE WIPO DEVELOPMENT AGENDA RECOMMENDATIONS

302. The Delegation of Brazil, speaking on behalf of the DAG, observed that the current work of the SCT regarding industrial designs was under the scope of several DA Recommendations, considering that a full Cluster provided the principles to be followed during norm-setting activities. Such activities, as provided by Recommendation 15, should be inclusive and member-driven, take into account different levels of development, take into consideration a balance between costs and benefits, be a participatory process which considers the interests and priorities of all WIPO Member States and the viewpoints of other stakeholders, and be in line with the principle of neutrality of the WIPO Secretariat. The Delegation noted that those requirements had been applied by the Committee in the present session. Cluster A, relating to technical assistance and capacity building, was, to some extent, taken into consideration by delegations. The documents circulated by the African Group, the Delegations of the Republic of Korea and the European Union all put forward concrete suggestions of articles to be included in a possible DLT and the relevant DA Recommendations were numbered one, two, nine, ten, 11 and 12. The Delegation considered that the broad range of such recommendations underlined the importance and the potential benefits that technical assistance and capacity building had for developing countries, in particular LDCs. Additionally, the 2012 General-Assembly had urged the SCT to give consideration to appropriate provisions regarding technical assistance and capacity building for developing countries and LDCs in the implementation of the possible future DLT. For the DAG, this might only be reached by including such provisions as an article of that treaty. In light of that, the Delegation thanked the Delegations of the European Union, the Republic of Korea and the African Group for their proposals, and urged other member States to show flexibility in that matter.

303. The Delegation of Algeria, on behalf of the African Group, expressed its satisfaction that an item concerning the coordination mechanism had been included in the agenda of the SCT and hoped that this would become a standing item on the agenda. It recognized the importance of the Development Action Plan in the overall work of WIPO, and believed that it corresponded to what was required, in order to create a more balanced and inclusive intellectual property system, in particular for developing countries and LDCs. The Delegation noted that a coordination and evaluation mechanism, both efficient and effective, would constitute the best approach in evaluating the way WIPO implemented actions in favor of development. The Committee should report on its actions in the area of development and submit such report to the General Assembly. The Delegation expressed the view that the work of the SCT was covered by both categories A and B of the Development Action Plan, relating respectively to capacity building and norm setting. It considered that, as a regulatory Committee, the SCT should comply with those recommendations and implement the necessary measures concerning capacity building and development activities. The Delegation highlighted the fact that the mandate given by the Assembly to the Committee in 2012 referred explicitly to the importance of including in the treaty capacity building and technical assistance provisions, and said that the SCT should ensure that such articles were included in the treaty.

304. The Delegation of South Africa aligned itself with the statement made by the Delegation of Brazil on behalf of the DAG as well as the statement made by the Delegation of Algeria on behalf of the African Group. It stressed the importance of the implementation of the monitoring, assessing, discussing and reporting mechanism also known as coordination mechanism. The 2010 WIPO General Assembly had approved that mechanism so that all relevant WIPO

bodies report on their contribution towards the implementation of the DA Recommendations. The Delegation emphasized that over and above its proposal concerning the reporting to the General Assembly on the mainstreaming of the DA Recommendations, the coordination mechanism would, if properly applied, facilitate the coordination through the Organization of cross cutting issues and activities, in a complimentary manner so as to avoid duplication. The Delegation understood that norm-setting in WIPO should follow certain processes and principles outlined in Cluster B on norm-setting, flexibilities, public policy and public domain, of the DA Recommendations. It pointed out three principles outlined in Recommendation 15 of the Development Agenda: norm-setting activities should be inclusive and member-driven, take into account different levels of development and take into consideration the balance between costs and benefits. Hence, the Delegation requested a study on the impact of the activities currently undertaken by the Committee. In addition, the General Assembly decision in 2012 had clearly stated that the Committee should adopt provisions on technical assistance and capacity building, which would thus be in conformity with the relevant DA Recommendations. The Delegation believed that the above principles could be adhered to at all times, and proposed that the Secretariat undertake a thorough assessment and reporting of the contribution of the Committee to the implementation of the relevant DA Recommendations for submission to the General Assembly, which could go beyond a compilation of member State statements. Furthermore, the Delegation concurred with the Delegation of Algeria that this needed to be a standing agenda item of the Committee. In conclusion, the Delegation stated that it would continue to support the mainstreaming of the DA into all of WIPO's activities.

305. The Delegation of Belgium, speaking on behalf of Group B, recalled its previously expressed position on this point and said that inclusion of this agenda item should be requested at each session of the SCT.

306. The Chair noted that a number of delegations made declarations on the contribution of the SCT to the implementation of the respective WIPO DA Recommendations. He stated that all declarations would be recorded in the report for the twenty-ninth session of the SCT and that they would be transmitted to the WIPO General Assembly.

307. Some delegations were of the opinion that this item should become permanent on the Agenda for the SCT. Other delegations stated that, while they did not object to adding that item to the Agenda for this session, the addition of this item should be decided by the SCT on an *ad-hoc* basis.

AGENDA ITEM 8: ADOPTION OF THE SUMMARY BY THE CHAIR

308. The SCT approved- the Summary by the Chair as contained in the present document.

AGENDA ITEM 9: CLOSING OF THE SESSION

309. The Chair closed the session on May 31, 2013.

[Annexes follow]



SCT/29/9
ORIGINAL: ENGLISH
DATE: MAY 31, 2013

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Twenty-Ninth Session
Geneva, May 27 to 31, 2013**

SUMMARY BY THE CHAIR

adopted by the Committee

AGENDA ITEM 1: OPENING OF THE SESSION

1. Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO) opened the twenty-ninth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) and welcomed the participants.
2. Mr. Marcus Höpferger (WIPO) acted as Secretary to the SCT.

AGENDA ITEM 2: ELECTION OF A CHAIR AND A VICE-CHAIR

3. Mr. Adil El Maliki (Morocco) was elected Chair and Mr. Imre Gonda (Hungary) was elected Vice-Chair of the Committee.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

4. The SCT adopted the revised draft Agenda (document SCT/29/1 Prov.2) with the addition of one item entitled "Contribution of the SCT to the implementation of the WIPO Development Agenda Recommendations".

AGENDA ITEM 4: ADOPTION OF THE REVISED DRAFT REPORT OF THE TWENTY-EIGHTH SESSION

5. The SCT adopted the revised draft report of the twenty-eighth session (document SCT/28/8 Prov.2).

AGENDA ITEM 5: INDUSTRIAL DESIGNS

6. Discussion was based on documents SCT/29/2, SCT/29/3, SCT/29/4, SCT/28/5, SCT/29/6 and SCT/29/8, as well as on SCT/27/4 Add. and SCT/28/4 Rev.
7. The Committee reviewed in detail the draft Articles and Rules contained in documents SCT/29/2 and 3. The Chair stated that all statements made by delegations would be recorded in the report of the twenty-ninth session.
8. As regards technical assistance and capacity building, the Chair presented a non-paper combining elements from the proposals by the African Group, the European Union and its member states and the Republic of Korea, contained in documents SCT/28/5, SCT/29/6 and SCT/29/8, respectively.
9. The Chair requested the Secretariat to prepare revised working documents for consideration of the SCT at its thirtieth session, which should reflect all comments made at the present session and highlight the different proposals put forward by delegations by using square brackets, strikethrough, underlining or footnotes, including a draft Article or Resolution in square brackets on technical assistance and capacity building, based on the Chair's non-paper. Footnotes will indicate that this draft Article is proposed by the Chair, and that some delegations preferred the subject matter of this draft Article to be covered by a resolution.
10. The Chair concluded that the SCT had made good progress on the draft Articles and draft Rules included in documents SCT/29/2 and 3 and that the work on technical assistance and capacity building had advanced. A number of delegations stated that sufficient progress had been made by the SCT to recommend to the WIPO General Assembly the convening of a diplomatic conference in 2014. Other delegations, expressing the view that there was a need for more progress on technical assistance and capacity building in order to reach a concrete outcome, were of the opinion that the General Assembly would take stock of and consider the text, progress made, and decide on convening a diplomatic conference.

AGENDA ITEM 6: TRADEMARKS

Study on the Protection of Country Names

11. Discussion was based on document SCT/29/5.
12. The Chair concluded that the Secretariat was requested to make available complete translations of document SCT/29/5 in all working languages of WIPO other than English. Furthermore, the Secretariat should revise document SCT/25/4 on the basis of document SCT/29/5 and present it to the SCT for consideration at its next session. Some delegations announced that they would present proposals for consideration of the SCT at its next session.

Update on Trademark-Related Aspects of the Expansion of the Domain Name System

13. Discussion was based on document SCT/29/7.

14. The Chair concluded that the SCT had taken note of document SCT/29/7 and that the Secretariat was requested to keep Member States informed on developments in the Domain Name System.

AGENDA ITEM 7: GEOGRAPHICAL INDICATIONS

15. The Chair noted that no intervention was made under that Agenda item, and that the item would remain on the Agenda for the next session.

AGENDA ITEM 7.1: CONTRIBUTION OF THE SCT TO THE IMPLEMENTATION OF THE RESPECTIVE WIPO DEVELOPMENT AGENDA RECOMMENDATIONS

16. The Chair noted that a number of delegations made declarations on the contribution of the SCT to the implementation of the respective WIPO Development Agenda Recommendations. He stated that all declarations would be recorded in the report for the twenty-ninth session of the SCT and that they would be transmitted to the WIPO General Assembly.

17. Some delegations were of the opinion that this item should become permanent on the Agenda for the SCT. Other delegations stated that, while they did not object to adding that item to the Agenda for this session, the addition of this item should be decided by the SCT on an *ad-hoc* basis.

AGENDA ITEM 8: SUMMARY BY THE CHAIR

Thirtieth Session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT/30)

18. The Chair announced the week from November 4 to 8, 2013, as tentative dates for SCT/30.

19. The SCT approved the Summary by the Chair as contained in the present document.

AGENDA ITEM 9: CLOSING OF THE SESSION

20. The Chair closed the session on May 31, 2013.

[Annex II follows]



SCT/29/INF/1
ORIGINAL: FRANCAIS/ENGLISH
DATE: 31 MAI 2013 / MAY 31, 2013

Comité permanent du droit des marques, des dessins et modèles industriels et des indications géographiques

**Vingt-neuvième session
Genève, 27 – 31 mai 2013**

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Twenty-Ninth Session
Geneva, May 27 to 31, 2013**

**LISTE DES PARTICIPANTS
LIST OF PARTICIPANTS**

*établie par le Secrétariat
prepared by the Secretariat*

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* Sur une décision du Comité permanent, les Communautés européennes ont obtenu le statut de membre sans droit de vote.

* Based on a decision of the Standing Committee, the European Communities were accorded member status without a right to vote.

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