

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

**Thirtieth Session
Geneva, November 4 to 8, 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 thirtieth session, in Geneva, from November 4 to 8, 2013.

2. The following Member States of WIPO and/or the Paris Union for the Protection of Industrial Property were represented at the meeting: Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Benin, Bhutan, Botswana, Brazil, Canada, Chile, China, Colombia, Costa Rica, Côte d’Ivoire, Czech Republic, Denmark, El Salvador, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Haiti, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Latvia, Lebanon, Lithuania, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Morocco, Namibia, Nepal, Netherlands, Nigeria, Norway, Panama, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Singapore,

* This Report was adopted at the thirty-first session of the SCT.

South Africa, Spain, Sri Lanka, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Zimbabwe (95). 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 Intellectual Property Organization (OAPI), Benelux Organization for Intellectual Property (BOIP), South Centre (SC), World Trade Organization (WTO) (4).

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), China Trademark Association (CTA), European Communities Trade Mark Association (ECTA), Inter-American Association of Industrial Property (ASIPI), 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), MARQUES (European Association of Trade Mark Owners), Organization for an International Geographical Indications Network (oriGIn) (11).

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. The Chair, Mr. Adil El Maliki (Morocco), opened the thirtieth session of the SCT, welcomed the participants and invited Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO), to deliver an opening address.

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

AGENDA ITEM 2: ADOPTION OF THE AGENDA

9. The SCT adopted the revised draft Agenda (document SCT/30/1 Prov.2).

AGENDA ITEM 3: ACCREDITATION OF A NON-GOVERNMENTAL ORGANIZATION

10. Discussion was based on document SCT/30/6.

11. The SCT approved the representation of the Institute for Trade, Standards and Sustainable Development (ITSSD) in sessions of the Committee.

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

12. The SCT adopted the draft report of the twenty-ninth session (document SCT/29/10 Prov.) with the comments made by the Delegation of China and the Representative of CEIPI.

AGENDA ITEM 5: INDUSTRIAL DESIGNS

General Statements

13. The Delegation of Poland, on behalf of the Regional Group of Central European and Baltic States (CEBS), reaffirmed its strong support for the normative work of the SCT on converging design formalities, which was of great importance to the Group. The Delegation believed that harmonized formalities would serve as a useful tool for promoting innovation and creativity. The Delegation expressed the CEBS Group disappointment that during the last Assemblies, despite the constructive engagement and the spirit of compromise shown by some of the regional Groups, including CEBS, it had been impossible to agree on a decision to convene a diplomatic conference for the adoption of a Design Law Treaty (DLT) in 2014. The Delegation, reaffirming that CEBS remained a strong advocate of the earliest possible conclusion of the Design Law Treaty, said that it was convinced that the draft treaty text was mature enough to recommend to the General Assemblies that it took a decision to that end. The Group reaffirmed its support for the inclusion of a specific article on technical assistance and capacity building for the implementation of the future treaty in the text of the treaty, and believed that any outstanding differences could be settled at the thirtieth session of the SCT and then at the Preparatory Meeting, which could be held in the first quarter of 2014. The Delegation concluded that CEBS hoped that at the extraordinary session of the Assembly, all regional Groups would show flexibility, and a consensus on this issue would be reached.

14. The Delegation of Japan, on behalf of Group B, reiterated the importance it attached to the activities of the SCT. The Delegation recalled that, at the last session of the General Assembly, Member States were very close to a decision to convene a diplomatic conference in 2014 for the adoption of a Design Law Treaty, thanks to the facilitation of Mr. Marcelo Della Nina of Brazil and the constructive engagement of Member States participating in the informal consultations during the General Assemblies. In that regard, Group B expected that the momentum that emerged in that informal consultation would be maintained through the thirtieth session of the SCT, and members would be able to give the finishing touch to the work in a constructive spirit. Group B strongly believed that members should agree on the recommendation to the extraordinary session of the General Assembly to convene a diplomatic conference. In order to achieve that objective, adequate time should be devoted to the relevant discussion during the thirtieth session of the SCT. The Delegation believed that the text of the Design Law Treaty, contained in documents SCT/30/2 and SCT/30/3, had already reached sufficient maturity to be brought to the diplomatic conference. Although some brackets remained in the text and some further clarification on the interpretation of the text might be necessary, such fine-tuning could be done at the thirtieth session of the SCT and even during the period of the diplomatic conference, without delaying the decision to convene a diplomatic conference. With regard to technical assistance and capacity building, Group B recognized their important role in the implementation of the treaty and was ready to engage in the discussion on this matter. Technical assistance and capacity building should correspond to the nature of the Design Law Treaty and the needs of members in implementing the treaty. The further streamlining of design registration formalities and procedures benefited users of the IP system, whatever their status of development. Therefore, Member States of WIPO had the responsibility to improve IP systems responding to users' demands by adopting the Design Law Treaty in a timely manner. In conclusion, Group B supported the working method for the thirtieth session proposed by the Chair.

15. The Delegation of the European Union, on behalf of its member states, reiterated the great importance and added value of harmonizing and simplifying design registration formalities and procedures. The Delegation stated that the SCT, over the last six years, had made great and substantial progress towards addressing these issues. The draft articles and regulations represented another step towards the ultimate goal of approximating and simplifying industrial design formalities and procedures for users. The draft articles and regulations were also

appropriate to establishing a dynamic and flexible framework for the subsequent development of design law, able to keep up with future technological, socioeconomic and cultural changes. The Delegation stated that documents SCT/30/2 and SCT/30/3 were technically mature, having been discussed for several sessions of this Committee. The Delegation believed that the longer the SCT discussed them without a clear end point in time, the more dilute they would become to the detriment of the whole exercise. The Delegation expressed great disappointment that the 2013 General Assembly had not been able to take a decision on convening a diplomatic conference to establish a Design Law Treaty as a matter of priority. 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. This included the important issue of technical assistance and capacity building for implementation of the treaty, an area where the European Union and its member states had shown great flexibility, in particular by tabling a proposal for a draft article. The Delegation of the European Union called on all delegations to show good faith in characterizing the work of this Committee as mature in its recommendation to the extraordinary session of the General Assembly in December. The Delegation was hopeful that this Committee would conclude its work on the Design Law Treaty by calling for a diplomatic conference with the adoption of a treaty. In this regard, the Delegation proposed also to recommend to the General Assembly to convene a preparatory committee as soon as possible to capitalize on the generous offer by the Russian Federation to host the diplomatic conference in the summer of 2014.

16. The Delegation of Morocco, on behalf of the African Group, expressed its full support for, and commitment to, the success of this session. The Delegation reiterated that the Group favored a treaty that would not only facilitate the registration of industrial designs, but would also enable African countries to develop this sector, where they have a great deal to gain from their own designs. The Group supported the development of a Design Law Treaty and emphasized that the Treaty should take into account the different levels of development of WIPO Member States to enable them to get benefits in an equitable manner. The Delegation noted the treaty was beneficial to countries that already had a high demand and high capacity for registering industrial designs, which was not necessarily the case of African countries. The Delegation believed there was a need for support in terms of information technology, administration, legal expertise and training. In the same vein, it was important that WIPO committed to contribute to technical assistance and capacity building in the African countries and LDCs to effectively promote innovation and creativity in the area of industrial design. The African Group believed that the Organization should assist these countries to implement the treaty and that there should be sufficient flexibility for the benefit of developing countries. The Group was of the view 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. The Group underscored the importance of the provisions on the reduction of fees for applicants from developing countries and LDCs, as well as the exchange of information on registered designs. The Delegation was looking forward to incorporating Article 21 on technical assistance and capacity building in the text of the treaty, this being a determinant factor for a favorable outcome of the discussions. Finally, the African Group favored the convening of a diplomatic conference for the adoption of a Design Law Treaty, provided that African Group's legitimate concerns in matters of development were properly reflected in the processes through an article on technical assistance and capacity building, to enable these countries to take full advantage of the benefits of the Treaty.

17. The Delegation of Bangladesh, on behalf of the Asia-Pacific Group, reiterated the sincere engagement of the Group to move forward the work of the SCT, one of the most important committees of WIPO. The Asia-Pacific Group acknowledged the textual work done so far in the Committee for the proposed Design Law Treaty. The Delegation recalled that the Committee had been asked 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 the developing countries and the least developed countries. The Delegation urged the SCT to work out an inclusive draft treaty reflecting the interests of all Member States, taking

into account the different levels of development of WIPO members. The Asia-Pacific Group also believed that the implementation of the proposed treaty would entail, in all likelihood, some modifications of the national laws and practices. Consequently, setting up new infrastructure to deal with more applications, building national capacity to manage increased number of demands and developing legal skills and training would require substantial technical assistance. The Delegation recalled the proposals presented by the Delegation of the European Union, the African Group and the Delegation of the Republic of Korea, which manifested the significance of the issue of technical assistance in implementing the proposed treaty. The Delegation expressed the wish for a clear article on technical assistance and believed that all concerned would show flexibility to reach a consensus on the issue so that a definitive decision could be taken in the forthcoming Session of the General Assembly in December. The Delegation was of the view that appropriate national level flexibilities were essential and should be allowed in the Design Law Treaty. Further, the Delegation thanked the Russian Federation for proposing to host the diplomatic conference, as well as the Republic of Korea for their earlier offer to host the Conference. In conclusion, the Delegation said that the members of the Asia-Pacific Group would engage actively in the discussions.

18. The Delegation of Trinidad and Tobago, on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC), expressed the readiness of that regional Group to continue working in a constructive manner, aiming at contributing to the discussions regarding the proposed Design Law Treaty. While GRULAC was not the main proponent of the DLT, it did recognize the potential benefits that this treaty would have not only to developed countries, but also to developing countries within the region and throughout the world. The Delegation believed that, in order for the treaty to work effectively, mandatory provisions regarding technical assistance and capacity building in the form of an article should be included in the DLT to ensure an inclusive treaty, which would take into account not only demands from developed countries, but also requests from developing countries and LDCs. The Delegation recalled that there were many national IP offices within GRULAC which were underresourced. GRULAC, therefore, maintained the view expressed at the General Assemblies that, in order to make progress with the negotiations and move towards a diplomatic conference in 2014, there must be an agreement on a provision for technical assistance and capacity building in the treaty. GRULAC therefore urged all delegations to constructively engage in discussions in the committee on the substance of the article on technical assistance and capacity building. Despite not reaching an agreement at the General Assemblies with respect to the convening of a diplomatic conference on the DLT, the Group wished to thank the Facilitator, for his tireless efforts to shape a consensus document. At this juncture, GRULAC wished to state that, if called upon to continue these informal discussions during the margins of this SCT, the GRULAC would support this process. Nevertheless, the Delegation preferred to devote the majority of the time of this week to streamlining and making progress on the draft articles and regulations and the other substantive issues on the agenda. Turning to document SCT/30/4, GRULAC considered that country names can provide a valuable opportunity for nation branding schemes that bring value through the use of trademarks, especially in the case of developing countries. In this sense, GRULAC wished to express its support for the discussions and the continuation of work on the protection of country names. In concluding, the Delegation reiterated that GRULAC stood ready to contribute constructively at the thirtieth session of the SCT and looked forward to arriving at an amicable resolution of the documents that were before the committee.

19. The Delegation of Egypt, on behalf of the Development Agenda Group (DAG), attached great importance to the SCT work on industrial design law and practice and welcomed the current negotiations on the draft articles and draft regulations as contained in documents SCT/30/2 and SCT/30/3. The DAG believed that developing industrial design sectors in developing and least-developed countries was vital to economic development and also necessary to allow these countries to effectively participate in, and benefit from, the proposed draft articles and regulations. At the heart of the negotiations were the proposals of the African Group, the Delegation of the European Union and the Republic of Korea for an article on

Technical Assistance and Capacity Building enshrined in any future agreement or treaty on industrial design law and practice. The Delegation was of the view that the article was necessary to ensure certainty, predictability and balance between the obligations assumed in the draft agreement or treaty and the strong need to develop national capacities in developing countries in the area of industrial designs, so as to be able to implement the obligations and to be empowered to effectively participate and benefit from the proposed treaty. The DAG recalled the WIPO Study on the potential impact of SCT work on industrial design law and practice (document SCT/27/4), which emphasized that in middle and low-income countries there was a need for support in information technology infrastructure, administration, legal expertise and training. In contrast, high-income countries perceived a much lower need for support. The DAG also recalled Development Agenda Recommendation 15, which stated that WIPO norm-setting activities should be inclusive and member-driven, take into account different levels of development, take into consideration a balance between costs and benefits, and be a participatory process, which takes into consideration the interests and priorities of all WIPO Member States. In addition, the Delegation said that it would be crucial that any future agreement or treaty on Industrial Design law and practice provide sufficient flexibilities for implementation at the national level. This would be in accordance with the principle that there was no one size that would fit all, as well as in full respect and compliance with Development Agenda Recommendation 22. The Delegation further recalled that during the twenty-ninth session of the SCT, WIPO Member States had different views on whether the legal text on industrial design law and practice had sufficiently matured to convene a diplomatic conference. The DAG believed that Member States had a strong opportunity at the thirtieth session of the SCT to advance the legal text with a meaningful and effective Article 21 on technical assistance and capacity building, comprising the areas of financial and technical support, training, infrastructure, fee reductions, exchange of information, and monitoring. The DAG welcomed with appreciation the offer by the Russian Federation to host the diplomatic conference, and called upon all delegations to finalize negotiations on Article 21, as well as on all other pending articles and matters, thus paving the way to convene the diplomatic conference in the nearest possible time and once the legal text has been matured. In conclusion, the Delegation assured that the DAG stood ready to work constructively with all delegations and regional groups for a successful outcome that would reflect the interest and priorities of all WIPO Member States.

20. The Delegation of the Russian Federation recalled that at the last General Assemblies, it communicated its Government's decision to propose holding a diplomatic conference for the adoption of the Design Law Treaty in 2014 in the Russian Federation. The official note had been sent by the Russian Federation to the Director General. The Delegation assured the Committee that if a decision was adopted to hold a diplomatic conference, the Government of the Russian Federation would make every effort to ensure it was successful and achieved the results. Bearing in mind the very high maturity of the documents at the current stage and recalling the joint efforts over the last few years, the Delegation was of the view that the SCT was able to make the final step and recommend to the next session of the General Assemblies of the Member States to adopt a decision on the convening of a diplomatic conference. The Delegation was pleased to hear the statements by the representatives of the regional groups that the treaty was important for all countries, and expressed the hope that it would be possible to achieve a consensus on how to reflect in the document the provisions on technical assistance. The Delegation hoped that the SCT would be able to send a recommendation to the General Assembly to adopt a decision on the convening of a diplomatic conference for the adoption of the Design Law Treaty.

21. The Delegation of India supported the statement by the Delegation of Bangladesh, on behalf of the Asia-Pacific Group, and the statement by the Delegation by Egypt, on behalf of the DAG. The Delegation noted the progress made and recalled that during the last session of the SCT, the Committee was not able to reach an agreement to make a recommendation to the 2013 WIPO General Assembly for convening a diplomatic conference for adoption of the Design Law Treaty. The 2013 WIPO General Assembly was requested to take stock of the progress

made in the text and decide whether to convene the diplomatic conference. The Delegation believed that specific insertions proposed by the Delegation of India during the previous sessions of the SCT, which were still placed as footnotes, should be included in the main text of the Design Law Treaty. During the 2013 WIPO General Assembly, the Facilitator conducted very useful consultations on all the outstanding issues and on the convening of a diplomatic conference for the adoption of the Design Law Treaty. The Delegation was pleased to note that the proposal on an article on technical assistance for LDCs in the text of the treaty received approval from the Member States during the informal consultations. However, the informal consultations could not be concluded during the General Assembly and no decision was adopted. The Delegation felt that the progress made during the General Assembly should be incorporated into the text and formally adopted by the thirtieth session of the SCT. The Delegation emphasized that the proposed design law treaty was a procedural treaty, which aimed at simplifying and harmonizing industrial design laws, procedures and formalities set by national and regional offices. Therefore, the Delegation was of the view that the treaty should be minimalist and not maximalist. The Delegation noted a great diversity in the Member States' systems of protection and that developing countries were not the key beneficiaries of existing international agreements on industrial design law protection. Given the existing diversity among national design systems and that countries would be required to make substantial changes to their national laws in order to harmonize the procedures, it was necessary to have an article on technical assistance and capacity building within the text of the treaty. The Delegation engaged delegations to participate actively in the discussions on all proposals, including those by the Representative of the African Group, the Delegations of the European Union and the Representative of the Republic of Korea. The Delegation hoped that the SCT would be able to make a recommendation to the WIPO General Assembly in December on convening a diplomatic conference for the adoption of the Design Law Treaty. The Delegation also thanked the Russian Federation for offering to host the diplomatic conference on a Design Law Treaty in 2014.

22. The Delegation of Iran (Islamic Republic of) associated itself with the statements made by the Delegations of Bangladesh, on behalf of the Asia-Pacific Group, and of Egypt, on behalf of the DAG. The Delegation recalled that the mandate given by the General Assembly to the Committee in 2012 had explicitly referred to the importance of including appropriate provisions on technical assistance and capacity building for developing countries and LDCs in the Design Law Treaty. The Delegation strongly agreed that a balance should be established between costs and benefits of the DLT, particularly in light of the study prepared by the Secretariat on the potential impact of the work of the SCT on industrial design law and practice, which clearly showed that in lower and middle income countries there was a need for legal skills, training and investments in infrastructure. Taking into consideration the different levels of development among countries, it was important that developing countries and LDCs could receive appropriate technical assistance and, in particular, investments in infrastructure and information technology, in order to advance the capacity before joining a binding process. The Delegation believed there were still some outstanding issues on the DLT to be resolved before going to the diplomatic conference. The remaining differences, especially those related to technical assistance and capacity building for developing countries and LDCs in the implementation of the future DLT, should be successfully settled in the course of the thirtieth session. The Delegation said that the thirtieth session of the SCT was a unique opportunity for all Member States to meaningfully address the issues and discuss them in an open and constructive manner before the upcoming extraordinary session of the General Assembly in December. The Delegation also thanked the Russian Federation for proposing to host the diplomatic conference and hoped that consensus would be reached at the end of the week for recommending to the General Assembly the convening of the diplomatic conference for adoption of the treaty in 2014, in Moscow. Finally, the Delegation assured the SCT of the constructive engagement of Iran (the Islamic Republic of) in the work of the SCT.

23. The Delegation of Indonesia associated itself with the statements by the DAG and the Asia-Pacific Group, and believed that the Development Agenda Recommendations should be taken into account when establishing any international legal instrument, including the Design Law Treaty. Further, the Delegation believed that the DLT should be inclusive, acknowledging States' needs to adapt to future technology, socioeconomic and cultural changes and take into account different levels of development. The Delegation was of the opinion that provisions on capacity building and technical assistance should be part of the Treaty. In conclusion, the Delegation remained committed to the discussion on this matter and believed that the maturity of the text would adjust at the diplomatic conference.

24. The Delegation of Trinidad and Tobago reiterated that provisions regarding technical assistance and capacity building for developing countries and LDCs were important and should be addressed at the earliest possible opportunity. Noting that design applications were increasing both from local and international applicants, the Delegation believed that any change or development made with respect to the Design Law Treaty would have a definite effect on design filings in Trinidad and Tobago. The Delegation stressed the fact that the instrument should take into account the needs of all States and, in particular, of developing countries. The Delegation commended the SCT for its achievements and supported the proposals made to improve industrial design law and practice. The Delegation also thanked the Russian Federation for the offer to host the diplomatic conference.

25. The Representative of CEIPI welcomed the progress made with regard to the draft design law treaty and hoped that decisive progress would be achieved at the thirtieth session on pending issues. The Representative proposed to harmonize the way in which the expression "Contracting Parties" was qualified in the documents, noting that "a Contracting Party" was used in some cases and "any Contracting Party" in other cases.

26. The Representative of ECTA said that this exercise was an example of real and effective harmonization on the international level and that the time for a diplomatic conference had finally come. The Representative was pleased to see that all delegations were aligned with this idea and that all the documents were sufficiently mature. The Representative hoped that minor questions would be finally solved at the thirtieth session of the SCT and all the conditions would be met for the convening of a diplomatic conference for the adoption of the Design Law Treaty.

27. The Representative of FICPI reiterated its continuous support for the SCT work, recalling the input of organizations representing the users in identifying the key design issues, many of which had been discussed by the Standing Committee. The Representative further expressed its commitment to support the ongoing discussions and its readiness to assist Member States, if required, in identifying the needs of users.

Industrial Design Law and Practice - Draft Articles and Draft Regulations

28. Discussion was based on documents SCT/30/2 and 3.

29. The Chair proposed to discuss first the articles which contained options, then the articles containing footnotes, and afterwards the provisions on technical assistance and capacity building.

Article 5: Filing Date

30. The Delegation of the European Union, on behalf of its member states, expressed support for Option 1, subject to the deletion of item (v) of paragraph (i)(a). The Delegation stressed the fact that Article 5 was crucial, as it defined the requirements to secure a filing date. The

Delegation recalled that, since design applicants were typically small to medium-sized enterprises with little knowledge of the IP systems, it was important to ensure that they could easily secure a filing date when filing overseas. Once a filing date had been secured, the possibility to comply with other requirements could be given to the applicant, perhaps through a local representative. If, in order to receive a filing date, the applicant needed to resort to a different language, there would be a high chance of error. It would place a burden on the applicant to define what additional requirements must be fulfilled and in which jurisdictions. This would clearly be onerous for design applicants and should be avoided. Thus, the Delegation did not support Option 2.

31. The Delegation of China expressed support for Option 2 because it included a great deal of possibilities which provided for more flexibility. The Delegation was pleased to see that the requirement of a brief description was included, and wished to supplement the list of filing date requirements with the appointment of a representative. The Delegation noted that this requirement was very important in the applicants' interest and should be looked together with Article 4.

32. The Delegation of Japan expressed its preference for Option 1 including item (v) of paragraph (1)(a). Regarding Option 2, the Delegation was not sure that the Standing Committee would reach consensus on a "brief description" as a filing date requirement. The Delegation also struggled to see the aim of harmonization in paragraphs (1), [*Permitted Requirements*], and paragraph (2), [*Permitted Additional Requirements*], of Option 2. Further, the Delegation believed that paragraph (2) of Option 2 was restrictive for users.

33. The Delegation of Canada, supporting Option 1, expressed the view that the DLT should enable applicants to benefit from a business-friendly environment and provide clarity and legal certainty.

34. The Delegation of Hungary said that Option 1 reflected the goal of harmonization of design law formalities. The list of filing date requirements should be clear, relatively short and very transparent. Adopting a provision that would allow Member States to preserve the current situation for a longer time period was not in line with the basic goals of harmonization. The Delegation urged other delegations to follow best practices instead of maintaining divergence in this area.

35. The Delegation of India expressed its support for Option 2, which was in line with current national legislation. The Delegation maintained its proposal to add "any further indication or element as prescribed under the applicable law", subject to the advancement of the discussions.

36. The Delegation of the United States of America recognized the importance of Article 5 and supported those delegations that had indicated the importance of keeping this list to a minimum. However, the Delegation recalled that national legislation provided for a longstanding requirement of a claim. The Delegation sought accommodation for this requirement, even though, from a general perspective, it believed that applicants and the treaty as a whole would significantly benefit from a minimal and short list of requirements.

37. The Delegation of Switzerland, expressing its support for Option 1, said that the list of filing-date requirements should remain clear and concise.

38. The Delegation of the Republic of Moldova pointed out that the indication of the product was necessary to know "who" filed "what".

39. The Delegation of the United Kingdom associated itself with the statement made by the Delegation of the European Union. The Delegation believed that Article 5 was the cornerstone provision of the treaty. The Delegation recalled that users' organizations had explained why the requirements to achieve a filing date should consist of no more than what could reasonably be expected to be in the knowledge of the applicant and in the scope of protection being sought. That information was found in Option 1. The Delegation appreciated the position of Member States whose national laws provided for more requirements than those listed in Option 1. Nevertheless, the aim of the treaty was to be user friendly, so that only the minimum necessary should be required to grant a filing date. Looking at Option 2, the Delegation felt its complexity, as paragraph (1), [*Permitted Requirements*], was followed by optional provisions, paragraph (2), [*Permitted Additional Requirements*], which themselves had optional provisions. The Delegation further observed that, according to the "Analysis of the Returns to WIPO Questionnaires", 21 jurisdictions out of 70 which had replied to the questionnaires required the claim as filing date requirement. However, 14 jurisdictions limited the number of claims. The Delegation wondered whether a claim as a filing date requirement would potentially create two optional provisions there. The Delegation further wondered if there should be a link between the granting of a filing date and the payment of the fees. 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, the Delegation urged Member States to opt for Option 1.

40. The Delegation of Iran (Islamic Republic of) said that it preferred Option 2, for the reasons stated by the Delegation of India.

41. The Delegation of Trinidad and Tobago was of the view that the granting of a filing date should not be tied to the payment of the fees because failure to comply with this requirement could unfairly impact upon the applicant. The Delegation noted that most offices allowed the payment of fees and provision of supporting documents after the filing. The Delegation further said that according to national legislation, a filing date was given if the Office received at least an indication of the applicant's identity, an indication of filing and the industrial design itself. The Delegation declared that it remained flexible as, from the perspective of fees, both options of Article 5 responded to its concerns.

42. The Delegation of Morocco expressed its full support for Option 1 and opposed any extension of the list of filing-date requirements, in order to be in line with the spirit of simplification and rationalization of procedures.

43. The Delegation of the Czech Republic endorsed the positions expressed in support of Option 1, subject to the deletion of item (v) of paragraph (1)(a).

44. The Delegation of Norway, aligning itself with delegations which preferred Option 1, agreed that the list of requirements should be clear, short and transparent. The Delegation also supported the deletion of item (v) of paragraph (1)(a) from Option 1, and endorsed the position of the Delegation of the United Kingdom concerning the exclusion of fees as a filing-date requirement.

45. The Delegations of Denmark and Poland, associating themselves with the statement made by the Delegation of the European Union, expressed their preference for Option 1.

46. The Delegation of Colombia, expressing its preference for Option 1, said that it was useful for applicants to have a limited list of requirements. The Delegation noted that according to national legislation, the payment of the fees was a filing-date requirement, but not a ground for refusal of the application.

47. The Delegation of Saudi Arabia said it would be in favor of Option 1, which was fairly flexible, opting for the deletion of item (v) of paragraph (1)(a).

48. The Delegation of the United States of America endorsed the position of delegations that had indicated that the payment of fees should not be a filing-date requirement. The payment of a fee was a complicated thing and was fairly onerous for applicants rushing to establish a filing date. However, the Delegation considered that offices should be free not to proceed or take action until certain fees had been paid. The Delegation proposed to leave paragraph (2) in brackets as compromise solution, since there seemed to be disagreement on whether the payment of fees should be a filing-date requirement.

49. The Delegation of Senegal supported the statement by the Delegation of the United States of America and recalled that the purpose of the exercise was to promote the use by applicants of industrial designs systems in order to protect their rights. Therefore, the payment of fees should not be a determining factor in establishing the filing date of an industrial design application.

50. The Delegation of Guinea, underlining the fact that it was fundamental to establish a simple and flexible system of design protection, pointed out that the granting of a filing date should not be dependent on the payment of fees. For those reasons, the Delegation expressed its preference for Option 1.

51. The Delegation of Guatemala, expressing the view that it was important to bear in mind the purpose of the exercise, supported Option 1. However, the Delegation wished to have the flexibility to require the payment of fees prior to the granting of the filing date.

52. The Delegation of Brazil endorsed the statement made by the Delegation of Guatemala, stressing the fact that the payment of fees should be a filing-date requirement.

53. The Delegation of Jordan supported Option 1 and the proposal to delete item (v) of paragraph (1)(a). The Delegation considered that the payment of fees should not be a filing-date requirement.

54. The Delegation of the Russian Federation requested clarification as to whether paragraph (2) of Option 1 indicated that the filing date would depend on the date when the fees were paid *de facto*.

55. The Delegation of Japan, reiterating the importance of paragraph (1)(a)(v) of Option 1, pointed out that the indication of the product constituted an essential factor for determining the scope of protection of industrial designs. The Delegation also recalled 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.

56. The Delegation of South Africa, expressing its preference for Option 2, declared that the payment of fees was a filing-date requirement in the national law.

57. The Representative of OAPI declared that it supported Option 1 as it stood because it brought together all the conditions that were required in most intellectual property offices.

58. The Representative of MARQUES pointed out that Article 5 was one of the main cornerstones of a harmonization treaty. The Representative observed that users, many of them individual designers, unrepresented designers and SMEs, were often faced with difficult situations when filing a design in foreign countries and it was for their benefit to have harmonized requirements, which must be the minimum requirements. The Representative explained that in many cases users moved forward from the first filing country using the Paris Convention priority. While minimum formalities could be easily met, concerns could arise in cases where additional documents were required and the applicant was limited in the six month

period. If those additional requirements were not fulfilled, 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 Option 1.

59. The Representative of FICPI expressed its full support for the statement made by the Representative of MARQUES. With regard to the delegations who had expressed support for Option 2, the Representative wondered whether it was appropriate to look at Article 3, which defined the requirements for an application, and at Rule 2, which listed further requirements that can be made in respect of an application. The Representative recalled that they were not filing-date requirements, but a Member State could require them for an application to move forward. The Representative wondered whether the Member States supporting Option 2 would see a possibility of having the full list of requirements in Article 3, together with a short period to submit them, in case of non-compliance with the full list from the beginning. This could apply, for example, to the fees and the indication of the product. The Representative said that the possibility of getting that information quickly, but after the filing date had been accorded, would be crucial for the aim of harmonization.

60. The Delegation of Venezuela (Bolivarian Republic of), urged Member States to reach an agreement on Article 5.

61. The Representative of CEIPI said that Member States had the opportunity of adopting best practices consisting, in his view, of norms providing for fewer conditions in order to obtain a filing date, as set out in Option 1. The Representative wondered whether, in case it was impossible to reach consensus on the filing date requirements, the solution could be found in allowing Contracting Parties to express reservations under Article 28. The Representative said that the solution provided by paragraph (2)(a) of Option 2 of Article 5 was interesting from the point of view of transparency and information to the public. Furthermore, those reservations could be withdrawn at any time.

62. The Delegation of Nigeria expressed its preference for including the payment of fees in the list of filing-date requirements.

63. The Chair noted that a large number of delegations was in favor of Option 1, with different views regarding the payment of fees. Other delegations expressed support for Option 2. The Chair concluded that the Secretariat was requested to prepare a proposal for the next session, based on Option 1, but taking into account the points of view expressed by all delegations.

Article 13: Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality

64. The Delegation of the European Union, on behalf of its member states, stated that Article 13 was important to ensure the user-friendliness of the design system. The Delegation, recalling that Option 1 was modeled after the Patent Law Treaty (PLT), which found success among users, expressed its preference for that option.

65. The Delegation of El Salvador expressed its preference for Option 1.

66. The Delegation of India, expressing its preference for Option 2, stated that the optional nature of the provision was in line with current office practices.

67. The Delegation of the Republic of Korea, observing that the lack of reinstatement measures for missed time limits would lead to irreparable losses for right holders, expressed its preference for Option 1.

68. The Delegation of Nigeria expressed its preference for Option 1, noting that this provision was user friendly and attractive to applicants.
69. The Delegations of Spain and the United Kingdom pointed out that any optional provision in the treaty would interfere with the level of certainty. Therefore, the Delegations strongly supported Option 1.
70. The Delegations of Japan, Morocco and Switzerland, pointing out that this provision was essential for the interest of users, indicated their preference for Option 1.
71. The Delegations of Colombia, Czech Republic, Saudi Arabia, and the United States of America strongly supported Option 1.
72. The Representatives of APRAM, CEIPI, ECTA, FICPI and OAPI, recalling that a provision on reinstatement could have a positive effect in the interests of all users, supported those delegations that had opted for Option 1.
73. The Chair concluded that Option 1 would be retained and that a footnote would be added, indicating that Option 2 received support from the Delegation of India.

Article 16: Effects of the Non Recording of a License

74. The Delegations of Brazil and the Republic of Korea expressed their support for Option 2, indicating that, according to national legislation, the recording of a license was a requirement in order to produce effect for third parties, including judicial authorities.
75. The Delegation of El Salvador declared that it could be flexible and accept any of the options of paragraph (2).
76. The Delegations of Belarus, Iran (Islamic Republic of), India, and Nepal supported Option 2 of paragraph (2).
77. The Delegation of Japan declared that, in the spirit of harmonization and the user friendliness of industrial designs laws and practices, it supported Option 1. The Delegation emphasized that paperwork regarding license contracts in overseas territories was complicated and users were faced with many difficulties. The Delegation wondered if Article 16(2) did not interfere with judicial procedures, recalling that the DLT was not meant to address those issues. The Delegation noted that the Singapore Treaty had a similar provision, which was covered by a reservation clause.
78. The Delegation of Norway, stressing the fact that harmonization and user friendliness with regard to this issue was very important, expressed support for Option 1.
79. The Delegations of Colombia, Guatemala and Morocco supported Option 1.
80. The Secretariat, in reply to a request for clarification by the Delegation of China regarding the relationship between Option 2 and Note 16.03, said that a revision of the Chinese translation was needed. The Secretariat recalled that whether or not a licensee can join infringement procedures was not being stipulated by these provisions. The issue concerned the recording or non-recording of a license as a condition for obtaining damages resulting from an infringement of the licensed design, provided that the licensee has the right under the law of a contracting party to join such infringement proceedings.

81. The Delegation of Spain said that, while it supported Option 1, it also had concerns regarding a possible incoherence between the language of Option 2 and of Note 16.03.
82. The Delegation of Venezuela (Bolivarian Republic of) noted that a problem could be in the translation into Spanish of Note 16.03, referring to the word "personarse".
83. The Representative of MARQUES supported Option 1.
84. The Representative of OAPI raised a concern of interpretation of Option 2 with regard to Note 16.03.
85. The Representative of CEIPI, expressing support for Option 1, wondered whether Option 2 would mean deleting paragraph (2), that is leaving the regulation of this issue to national law. The Representative endorsed the statement by the Delegation of Japan concerning the fact that the possibility to make a reservation could be a solution.
86. The Delegation of the European Union, on behalf of its member states, declared that due to interpretation concerns regarding Option 2, it would not indicate any preference, but it stated that the licensee should be able to exercise the right to join infringement proceedings independently of whether the license was recorded.
87. The Delegation of the United Kingdom, supporting the statement by the Delegation of the European Union, proposed, for clarity reason, to delete the word "not" in the second line of Option 2, so that it would read "*A Contracting Party may provide that the recording of a license shall be a condition.*" The Delegation further expressed support for Option 1.
88. The Delegations of Belarus, Brazil, Chile, Ecuador, Jordan, Morocco, Senegal and Spain, along with the Representative of OAPI, proposed to redraft Option 2 in order to give it more clarity.
89. The Representative of FICPI endorsed the statement made by the Representative of CEIPI and recalled that Option 1 was modeled on Article 19(2) of the Singapore Treaty. The Representative believed that the motivation of that Article referred to occasional delays in the recording of a license that could happen in certain IP offices. If the law of a Contracting Party allowed a licensee to participate in infringement proceedings, that should not be avoided by a delay in getting the license recorded.
90. The Chair noted that a number of delegations were in favor of Option 1. Other delegations expressed their support for Option 2, but proposed its redrafting in a corresponding manner to Note 16.03. The Chair noted that it emerged from the discussion that Option 2 left to the national legislation of each country to require or not that a license be recorded as a condition for the licensee to join the licensor in infringement proceedings. The Chair proposed, instead of keeping two options, to put paragraph (2) in square brackets and to explain in additional square brackets that other delegations did not support the inclusion of paragraph (2) in the treaty.
91. The Delegation of the United States of America noted that the proposal by the Chair basically consisted in whether or not the language under Option 1 and 2 should exist. The Delegation said that in its understanding, the existence of paragraph (2) would create the effect of Option 1, whereas its lack of existence would create the effect of Option 2. The Delegation said that, in essence, the proposal by the Chair did not change the meaning of the text, but simplified the language. From this perspective, the Delegation supported the proposal.
92. The Delegation of Norway, in order to keep the text as simple as possible, supported the proposal by the Chair and the statement made by the Delegation of the United States.

93. The Delegation of Singapore, referring to the explanations provided in the notes to Article 16, proposed to replace Options 1 and 2 with a provision similar to the objective statement contained in Note 16.02 and, in case some flexibility was needed, to simply allow to make reservations on the applicability of this article. The Delegation further suggested for consideration the following wording "*Where the licensee has the right under the law of a Contracting Party to join infringement proceedings initiated by the holder and to obtain damages resulting from an infringement of the industrial design, the Contracting Party shall not require the recording of the license as a condition to the exercise of that right*". The Delegation explained that if a licensee did not have any right to join infringement proceedings, this provision simply would not apply. To the contrary, where he/she had the right under existing law to join the licensor in the infringement proceedings, it simply meant that the existing law applied. He/she shouldn't be required to record the license before he/she joined in the proceedings.

94. The Representative of CEIPI believed that the proposal by the Delegation of Singapore did not cover Option 2. The Representative also believed that the Delegation of the United States of America had correctly interpreted the proposal by the Chair. The Representative noted however, that many delegations insisted on having a new draft for paragraph (2). In conclusion, the Representative proposed to bring the two Options together and, in order to see more clearly the difference, to put within brackets the word "not".

95. The Chair concluded that paragraph (2) would stay in brackets. Furthermore, the Secretariat should revise the provision on the basis of the discussion and present it to the SCT for consideration at its next session. The provision would contain the word "not" within brackets.

Article 27: Entry into Force; Effective Date of Ratifications and Accessions

96. The Chair, noting that there were no comments on this Article, suggested that the decision on the options proposed take place at a later stage in the discussion towards a treaty.

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

97. The Delegation of the United States, said that, although Note 2.03 said that the treaty was intended to apply to applications as defined in Article 1(iv), including divisional applications of national or regional applications, it feared that the deletion of "*and two divisional applications thereof*" in Article 2(1) would result in the text not accurately reflecting that the Treaty was to apply to divisional applications as well.

98. The Secretariat, in reply to the concern raised by the Delegation of the United States of America, said that the proposed drafting was the compromise solution of a discussion held at the previous session of the SCT, which had felt that the fact that there was an explicit article dealing with division of applications was sufficient to acknowledge that the Treaty would apply to divisional applications.

99. The Delegation of Japan, referring to Note 2.04 of the Singapore Treaty, requested a similar note indicating that the DLT would not apply to international applications filed under the Hague System.

100. The Delegation of the United States proposed to leave the text "*and to divisional applications thereof*" in the text of Article 2(1), for clarity reasons.

101. The Chair concluded that a note as proposed by the Delegation of Japan would be added as well as a footnote reflecting the proposal by the United States.

Article 4: Representatives; Address for Service or Address for Correspondence

102. The Delegation of China, noting that, according to national legislation, foreign applicants and non-residents had to act through a representative in order to obtain a filing date, explained that if the application did not comply with such requirement, the office would reject the application and the applicant would lose his/her rights. The Delegation considered that mandatory representation for foreign applicants worked in their interest, since they might not be aware of local regulatory framework and language. The Delegation said that it would appreciate hearing the experiences of other countries on this, and that it reserved its position on this issue.

103. The Delegation of India supported the statement by the Delegation of China, indicating that there was mandatory representation under national law where an application was filed by a foreign applicant. This was justified in order to safeguard the applicant's rights and to avoid delays in communication, since a foreign applicant did not have an address for correspondence within the country where the protection was sought.

104. The Delegation of Hungary reiterated its preference for the text of Article 4(2)(a) and (b), as it stood. The Delegation noted that this Article should be considered together with Article 5. As an effect of Article 5, there should be a harmonization of filing date requirements in all Contracting Parties. As a consequence of such harmonization, there would be no need to have special knowledge of filing-date requirements overseas, since the same set of filing-date requirements would apply in all Contracting Parties.

105. The Delegation of the United States of America endorsed the arguments put forward by the Delegation of Hungary. In response to the question by the Delegation of China, the Delegation said that national law did not require the appointment of an attorney or a local representative for filing. The law did not require such appointment for continued prosecution or continued interaction. The Delegation believed that this fostered small and medium-sized entities in pursuit of their rights. The Delegation did recognize that in complex cases, representation could be of benefit to understand local requirements, but it was up to the applicant to pursue the procedure at his/her own risk.

106. The Delegation of Japan, concurring with the arguments put forward by the Delegations of Hungary and the United States of America, expressed its preference for the text as it stood. The Delegation, referring to Note 4.07, sought clarification as to the reason why the exception of mandatory representation relating to the payment of fees was limited only to applicants. The Delegation recalled that Article 7(2) of the PLT provided for this exception also concerning an owner or other interested person.

107. The Representative of OAPI declared that it would support the text, subject to a slight amendment of subparagraph (b), which should follow the drafting manner of subparagraph (a). The Representative believed that the office should be given the possibility of accepting or not a filing from an applicant who had neither a domicile nor a real and effective industrial or commercial establishment in the territory of a concerned Contracting Party.

108. The Delegation of the Republic of Moldova declared that an applicant should be given the possibility to apply without appointing a representative in order to receive a filing date. The Delegation recalled that many jurisdictions offered a time limit to comply with the mandatory requirement of representation in case of foreign applicants.

109. The Delegation of the United States of America endorsed the statement made by the Delegation of Japan concerning the extension of the exception of mandatory representation to “*an applicant, holder, or other interested person*” in Article 4(2)(b).

110. The Delegation of Japan believed that a similar note to Note 4.01 of the Singapore Treaty would be useful.

111. The Delegation of Indonesia supported paragraph (2) as presented in footnote 6 of document SCT/30/2. The Delegation added that according to national law, the representative should have its legal domicile in Indonesia.

112. The Chair pointed out that the concern raised by the Delegation of Indonesia was taken into account in item (ii) of Article 4(1)(a).

113. The Chair concluded that Article 4(2)(b) would take into account the proposals by the Delegations of Japan and the United States of America, within brackets. Moreover, a note similar to Note 4.01 of the STLT would be added. Finally, the reservation expressed by the Delegations of China and India would be reflected in a footnote.

Article 6: Grace Period for Filing in Case of Disclosure

114. The Delegation of China explained that, according to national law, the acts of disclosure giving rise to the grace period were limited to national or international exhibitions, academic or technological conferences, and disclosure by any person without the authorization of the creator. The Delegation observed that this created balance between the public interest and the interest of applicants. In this regards, the Delegation requested the SCT to examine the possibility of limiting the cases of disclosure.

115. The Representative of CEIPI asked clarification from the Delegation of South Africa regarding the footnote and a grace period in the case of layout designs of integrated circuits.

116. The Delegation of South Africa explained that the reservation was for a grace period of 24 months for integrated circuits. The Delegation was of the view that specifying that the grace period of two years applied only to integrated circuits would not cause harm to any other country and would allow inventors from each country to apply in South Africa for layout designs of integrated circuits. The other possibility would be to specifically indicate that the treaty would not apply to layout designs of integrated circuits. The Delegation wished to maintain its reservation, for the time being, with the clarification that the grace period for layout designs of integrated circuits was two years.

117. The Delegation of the European Union, on behalf of its member states, observed that the reservation made by the Delegation of China, limiting the grace period to industrial designs disclosed only at certain exhibitions, would defeat the effect of a harmonized grace period and would thus weaken this provision.

118. In response to a question raised by the Delegation of the Russian Federation, concerning Note 6.03 and a mechanism allowing the Assembly to review the duration of the grace period, the Secretariat referred to the historic development of this provision and said that a possible solution would be to delete or amend the Note.

119. The Delegation of the Russian Federation, supported by the Delegation of Hungary, proposed to delete Note 6.03.

120. The Delegation of India pointed out the difficulty of knowing when a third party had disclosed the industrial design without the consent of the creator.

121. The Chair concluded that Note 6.03 would be deleted.

Article 12: Relief in Respect of Time Limits

122. The Delegation of India agreed to this article going ahead as a mandatory provision, but maintained its reservation.

123. The Delegation of Iran (Islamic Republic of) stated that it could be flexible.

124. The Delegation of Australia, supported by the Delegation of the United States of America, proposed to replace, in paragraph (2), the words “the applicable law shall” by “the Contracting Party shall”.

125. The Chair concluded that footnote 12 would be suppressed and that a footnote would reflect the reservation by the Delegation of India. Moreover the words “the applicable law” would be replaced by “the Contracting Party” in paragraph (2).

Article 9: Publication of the Industrial Design

126. The Delegations of Belarus and Poland withdrew their proposal and accepted the Article as it stood.

127. The Delegation of Japan requested that the deferment of publication be computed from the filing date, not the priority date.

128. The Delegation of Australia explained that its domestic law provided that a divisional application must be accompanied by a request for publication in order to prevent applicants from circumventing time limits.

129. The Delegation of Indonesia, observing that its national legislation permitted to maintain an industrial design unpublished when requested by the applicant and when there was a legal process before the court, asked whether the requirements for maintaining the industrial design unpublished depended on the national law.

130. The Representative of FICPI, concurring with the proposal made by the Delegation of Japan, wondered whether it would be possible to reopen the discussion on Rule 6, concerning the starting point of the calculation of the six-month period during which the industrial design would remain unpublished.

131. The Delegation of the United Republic of Tanzania wondered what would be the purpose for an applicant to maintain its industrial design unpublished.

132. The Delegation of the United States of America proposed to replace the phrase “by its applicable law” by “by the Contracting Party”, considering that this would address the concerns expressed by the Delegations of Australia and Indonesia.

133. The Chair concluded that the proposals by the Delegations of Belarus and Poland, as expressed in footnote 11, would be withdrawn and that the proposal by the Delegation of the United States of America to replace “by its applicable law” by “by the Contracting Party” in paragraph (1) would be reflected in a footnote.

Article 13: Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality

134. The Delegation of India stated that it withdrew its proposal, as reflected in footnote 12, but declared that it wished to maintain a reservation.

135. The Chair concluded that a footnote would reflect the reservation by the Delegation of India.

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

136. The Delegation of China said that it could be flexible as regards a withdrawal of footnote 15, since this paragraph was user friendly. As regards footnote 16, it wished to maintain a reservation.

137. The Delegation of India stated that it was not comfortable with the reference to the Paris Convention in paragraph (2). The Delegation further indicated that it would like to maintain its position with regard to paragraph (2).

138. The Representative of CEIPI proposed to renumber this Article as Article 14 and the corresponding Rule as Rule 12, considering that they were accepted in principle by all delegations. The Representative called the Committee to have a discussion on the reference made to the Paris Convention in order to clarify this expression, or to delete it.

139. The Delegation of Japan, wondering what would happen if a priority claim was added under Article 13*bis* after the expiration of the time limit for the submission of the priority document set by the applicable law, said that it would be advisable that Contracting Parties accommodate this issue in a practical way. In addition, the Delegation reiterated the view that a Contracting Party was not obliged to receive a request for correction or addition of a priority claim once the application became a registration.

140. The Delegations of Canada and the United States of America lent their support to the intervention made by the Representative of CEIPI with respect to renumbering the text and deleting the words “[Taking into consideration the Paris Convention]” in paragraph (2).

141. The Chair concluded that the words “taking into consideration the Paris Convention” would be deleted and that the Article would be renumbered. Moreover, footnote 15 would be deleted. Finally, the proposal by the Delegation of India to replace “shall” by “may” in paragraph (2) would be maintained in a footnote, and the reservation by the Delegation of China regarding paragraph (2) would be reflected in another footnote.

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

142. The Delegation of Brazil proposed to add new text at the end of paragraph (4)(b), which would read: “including any requirements by the tax authority or the monetary authority”. The Delegation further specified that it would like to see this proposal in the text itself and not in a footnote. In case there was no support for this proposal, the Delegation suggested keeping its proposal in the footnote. Another option would be to establish the proposal as an agreed statement.

143. The Delegation of Indonesia said that it supported the proposal of the Delegation of Brazil as regards Article 14(4)(b), footnote 17. In this context, it would appreciate to see this proposal transferred into the main text with the addition of the word “economic” after the words “by tax authorities”. As regards Note 14.05, the Delegation requested that the words “or anti-monopoly and some competition authoritative body,” be inserted after “or authorities establishing statistics”.

144. The Representative of OAPI suggested that the proposed text be inserted in the main text only if it had been endorsed by the majority.

145. The Delegation of Saudi Arabia, welcoming the great improvement in the Arabic text, observed however that the second line of Article 14(4) in the Arabic text should be reworded.

146. The Chair concluded that comments would be reflected in the following form: provisions for which alternative options existed would be redrafted in accordance with the decision taken by the Committee; individual proposals presented in footnotes for which there was support by other delegations would be elevated into the text and presented in square brackets with an indication of the delegations having supported the proposal; individual proposals for which there was no support would remain in footnotes; reservations to provisions would be recorded in the form of footnotes.

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

147. The Delegation of Iran (Islamic Republic of) said that it would like to keep its proposal as it stood in footnote 18.

148. The Delegation of India said that it withdrew its proposal, as reflected in footnote 18, but reserved its position with regard to paragraph (1).

149. As regards paragraph (1), the Representative of OAPI said that the discussion should be focused on the validity of the license contract, rather than on the validity of the Industrial design registration.

150. The Delegation of El Salvador stated that it would prefer to keep the text as it stood.

151. The Chair concluded that the proposal by the Delegation of Iran (Islamic Republic of) would be maintained in a footnote, and that the reservation by the Delegation of India would be reflected in another footnote.

Article 19: Changes in Names or Addresses

152. The Delegation of India expressed its reservation to this Article.

153. The Chair concluded that the reservation by the Delegation of India would be reflected in a footnote.

Article 22: Regulations

154. The Delegation of Morocco reiterated its proposal to include Model International Forms in the Regulations, as it was done in other treaties.

155. The Delegations of Colombia, El Salvador, Senegal and Spain expressed their support for the proposal made by the Delegation of Morocco.

156. As regards footnote 23, proposing to replace in paragraph (2) the words “three-fourths” by “consensus”, the Delegation of India asked what was the practice in other treaties. If the current wording was in accordance with other WIPO-administrated treaties, the Delegation would withdraw its proposal.

157. The Delegation of the United States of America concurred with the view that the Model International Forms issue was not clear as regards the types of forms or even as to whether these forms were needed. The Delegation recalled that the DLT was an industrial design formalities instrument, different from mechanisms like the Hague or the Madrid systems, where rights were pursued.

158. The Delegation of Morocco clarified that it would like to add a subparagraph (b) in paragraph (1) providing for model international forms. The Delegation pointed out that this issue fitted within the spirit of harmonization of procedures as covered by this treaty. Concerning the amendment of these forms, the Delegation highlighted that Article 23(2) provided that the Assembly was responsible for any amendments to the regulations, and thus, implicitly, for any changes to the model international forms contained in the regulation.

159. The Chair concluded that the revised working document would contain text taking into account the proposal by the Delegation of Morocco and supported by the Delegations of Colombia, El Salvador, Senegal and Spain. Moreover, footnote 23, containing a proposal by the Delegation of India, would be deleted as the current wording was in accordance with other WIPO-administered treaties.

[Article 21][Resolution] Technical Assistance and Capacity Building

160. The Delegation of El Salvador expressed the hope that this important issue would be resolved during this session, since technical assistance and capacity building were very important for the implementation of this treaty in national legislations. Although there was still much work to be done in order to reach a consensus, the Delegation thanked the developed countries for understanding the feelings expressed by developing countries. The Delegation expressed its satisfaction with a provision concerning a fee reduction, although it was aware that this issue would require additional consultations, in which the Delegation of El Salvador would be happy to participate.

161. The Delegation of Algeria, on behalf of the African Group, pointed out that an article on technical assistance and capacity building was extremely important for the African Group. The Delegation recalled that the African Group’s request was based on the study submitted to the twenty-seventh session of the SCT, which stated that there was a need in middle and low-income countries for support in IT, administrative, legal competence and training areas. In high income countries, the need for assistance was much lower and thus high-income Offices were clearly better positioned to implement these changes, which would have a negligible effect on existing resources. Furthermore, the study clearly showed that there was a much greater demand for registration in high-income countries than in middle-income countries. For example, it was said in that study that the total share of registrations from middle-income countries, without China, was 4.6 per cent, whereas for high-income countries, it was 33.9 per cent. While stressing that the share of applications from non-residents was much higher in developing countries than in middle-income countries, the African Group further stated that developing countries would have to adapt their legislation and would pay the price for harmonizing their national procedures so as to achieve a treaty which would be far more useful to the high-income countries than to them. Notwithstanding this, the Delegation indicated that the African Group

was in favor of this treaty, which would also benefit the Group in the future. However, the African Group requested the Committee to take into account the reality of the economic differences that exist, and consequently the strong demand on technical assistance and capacity building of this Group. The Delegation believed that consideration should also be given to reduced fees and the exchange of information, in order for young companies and young designers to also benefit from this treaty. The Delegation considered its request as legitimate, and asked the SCT to respond in the form of an article, which creates obligations, not a resolution, which does not create any real obligations. In addition, the Group recalled that the Development Agenda said quite clearly that any technical assistance activity should take into account the requests from all Member States.

162. The Delegation of Egypt, on behalf of the DAG, thanked the Delegation of the European Union, the African Group, the Delegation of the Republic of Korea and the GRULAC for supporting an article on capacity building in this draft Treaty. The Delegation considered that this was important to ensure balance between commitments and obligations assumed in the treaty, and the need to develop assistance and capacity building in the area of industrial designs to implement the obligations of the treaty and be empowered to effectively participate and benefit from the proposed provisions. The Delegation recalled the impact study that had been conducted by the Secretariat in this regard, which highlighted the different categories of assistance that would be required to implement the treaty in medium-income countries. Regarding the beneficiaries of the technical assistance and capacity building, the Delegation noted that the draft provision used the term "Contracting Parties". The Delegation wished to clarify whether the assistance would be confined to countries that signed the treaty, to countries that signed and ratified it, or also to countries that declared that they would like to sign the treaty. As regards the modalities of assistance, the Delegation pointed out that it was not clear how assistance would be provided, whether through a forum that made requests to the Secretariat, on a bilateral basis, or on a case-by-case basis. The DAG was of the view that clarification was needed on the modality of providing assistance, also as part of this article. The Delegation expressed the hope that discussions would be constructive to finalize this important article, so as to advance the text and render it more mature and ready for conclusion.

163. The Delegation of the European Union, on behalf of its member states, declared that it continued to believe that a resolution would fully address and safeguard the interests of developing countries with regard to technical assistance and capacity building in the implementation of the treaty. However, in a spirit of cooperation and 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 said that it was prepared to accept an article on technical assistance, provided that the article was effective and limited to parties to the treaty. A proposal for such article was made in document SCT/29/8.

164. The Delegation of Trinidad and Tobago, stating that it was in favor of moving this treaty forward, declared that it was quite happy with the draft of Article 21 as it stood and that an article on technical assistance could benefit Trinidad and Tobago in the implementation of this Treaty. The Delegation further observed that it could work with subparagraph (c), which listed a non-exhaustive list of technical assistance forms. The Delegation declared that during these negotiations it was prepared to work constructively with other delegations to tighten up language, but as a developing country with a small office, the Delegation highlighted the necessity to have such an article for capacity building.

165. The Delegation of Iran (Islamic Republic of), thanking the African Group, and the Delegations of the European Union and the Republic of Korea for their proposals for the article on technical assistance and capacity building within the Design Law Treaty, expressed its support for the statement made by the Delegation of Egypt on behalf of the DAG. The Delegation reiterated that technical assistance should be part of the Treaty in the framework of a binding legal provision to pave the way for developing countries and LDCs to make use of the

DLT. The Delegation strongly believed that the wording of this article should be finalized before going to a diplomatic conference. The Delegation raised its concern on limiting technical assistance and capacity building to Contracting Parties to the Treaty, considering that it was important to provide technical assistance to countries in view of an accession to the DLT. The Delegation suggested that technical assistance and capacity building be provided to developing countries and LDCs which were intending to accede to the DLT. This should be included in Article 21. In this context, those countries would have to submit a declaration to the Director General of WIPO expressing their intention to accede to the DLT and to receive technical assistance before acceding to the DLT.

166. The Delegation of Poland, on behalf of the Regional Group of CEBS, understood the importance of technical assistance and capacity building to developing countries and LDCs, and appreciated the fact that support was needed to implement the articles of the Treaty. The Group of CEBS said that it remained a strong advocate of the earliest possible conclusion of the Design Law Treaty and was convinced that the draft treaty text was mature. The Delegation reaffirmed its support for the inclusion of a specific article on technical assistance and capacity building to the text of the Treaty. The Group of CEBS further stressed that this treaty was to the benefit of all parties, not only to one or another specific group of countries, and required a constructive dialogue on all sides.

167. The Delegation of Belarus stated that, although it preferred a resolution, in the spirit of compromise, it could be flexible and agreed to have an article. However, the Delegation felt that the provisions of this article must apply to the Contracting Parties of the treaty. Looking at the current language of this article, the Delegation pointed out that there were some provisions which would need to be looked at very carefully since not all of them would be acceptable to it.

168. The Delegation of Japan said that it understood that technical assistance and capacity building should play an important role in the effective implementation of this treaty, taking into account the different level of development of Member States. The Delegation was of the view that technical assistance, in the context of the DLT, should focus on legal and IT support to Member States having a view to implementing the treaty so that Member States, having the intention of acceding to this treaty could benefit from technical assistance in the most effective manner. The Delegation highlighted the fact that this treaty aimed at harmonizing industrial design procedures and practice, but not at promoting the capacity of building itself. Finally, the Delegation expressed its willingness to contribute to the discussions in a faithful and constructive manner.

169. The Delegation of Chile expressed its preference for an article, which would reflect the importance of technical assistance and capacity building. As to the content of this provision, which was of great importance for its own country, the Delegation declared its wish to have an effective and useful provision which would allow citizens to have access to the industrial design system as well as allow offices to improve their tools. The Delegation expressed its availability to discuss and resolve these two issues in order to reach a consensus to convene a diplomatic conference.

170. The Delegation of Costa Rica supported the inclusion of an article in the treaty.

171. The Delegation of the United Republic of Tanzania, supporting the statement made by the African Group, observed that the qualification of this technical assistance could lead to a checklist and become complex to deal with. The Delegation observed that this list should not be exhaustive, as this may limit the situations in which technical assistance may be required. Consideration should perhaps be given to not draw any list.

172. The Delegation of Nigeria, endorsing the statement made by the African Group and underlining the great importance of Article 21 for Nigeria, underlined the considerable difference between small and medium sized enterprises in developing countries and developed countries. The Delegation, observing that presently Africa did not need such treaty, appreciated that each country could enjoy the benefits of this treaty. The Delegation reiterated its preference for an article in the treaty.

173. The Delegation of Indonesia, observing that this issue was a question of promoting economic development, stated that the text should be realistic.

174. The Delegation of Senegal, sharing the views expressed by the Delegation of Algeria on behalf of the African Group, stated that developing countries need technical assistance both at the legal level as well as at the technical and other areas. Underscoring the importance of these provisions, which should be a binding article, the Delegation said that it would submit its own proposal.

175. The Delegation of China considered that an article on technical assistance and capacity building was very important, especially for developing countries and LDCs. The Delegation pointed out that if the article was drafted properly, it would facilitate the implementation of the DLT for all countries and would take into account the concerns of developing countries and LDCs.

176. The Delegation of Panama supported the statement made by the Delegation of Trinidad and Tobago as to the importance of developing technical assistance and including it in this treaty. Observing that resolutions were international legal instruments of minor rank, the Delegation expressed the wish to continue to develop an article on technical assistance.

177. The Representative of OAPI shared the views expressed by the Delegations of China and the African Group, as well as the positive observations regarding such an article. The Delegation observed that the establishment of technical assistance was not a question of self-interest, but rather of globalization of the economy.

178. The Delegation of Jamaica aligned itself with the statements made by delegations that had expressed support for an article on technical assistance and capacity building.

179. The Delegation of South Africa, endorsing the intervention on behalf of the African Group and DAG, suggested that it be now concluded that there was no opposition to an article.

180. The Delegation of the United States of America observed that, with regard to the study on the impact of this Draft Treaty and formalities treaty, it was understood that a formalities treaty would be of benefit to applicants in all countries, although it recognized that certain countries may need more technical assistance than others. Indicating that it looked forward to discussing the specific provisions, the Delegation recalled that, despite the flexibility mentioned by a number of delegations, there was no agreement at this point whether there would be an article or a resolution.

181. The Delegation of Egypt, supported by the Delegation of South Africa, suggested to amend footnote 21 to indicate that only one delegation would like to have a resolution.

182. The Delegation of Norway stated that it was in favor of a resolution.

183. The Delegation of Australia expressed its preference for a resolution at this stage, observing that the clarity of the content would determine whether this provision should be an article or a resolution.

184. The Delegation of Canada, recognizing the importance of technical assistance, stated that it would prefer that this issue be addressed through a resolution.

185. The Delegation of Japan, conceding that national administration and practice should be taken into account although this treaty did not aim to promote capacity building itself, expressed the view that a resolution would be preferable to accommodate the provisions related to this issue, as observed in the past treaties.

186. The Delegation of Switzerland, observing that the use of a resolution had worked well with previous procedural treaties, said that at this stage it was in favor of a resolution rather than an article.

187. The Chair proposed to study this provision paragraph by paragraph.

Paragraph (1)

188. The Delegation of Egypt, on behalf of the DAG, said that since paragraph (1) was written in preamble language, it should be featured in the preamble.

189. The Delegation of Senegal proposed to add two items that would follow item (iv). Those items would read as follows: (v) "Organization and financing activities through meetings between the Contracting Parties which are LDCs, developing countries and developed countries in order to promote the exchange of experiences and good practices"; (vi) "Development and dissemination of documents on the successes in the implementation of the treaty to serve as examples on case studies."

190. The Delegation of the European Union, on behalf of its member states, requested that the phrase "[that are party to the Treaty]" remain in the text as it believed that the provision of technical assistance and capacity building was an important incentive for becoming party to the treaty.

Paragraph (2)

191. The Delegation of Algeria, on behalf of the African Group, expressed the view that it would be useful to be more specific about the scope of the financial support requested from WIPO.

192. The Delegation of the European Union, on behalf of its member states, expressed the view that requiring WIPO to provide full financial support for all activities and measures that have to be taken by those countries to implement the treaty was imprudent and created an unknown and possibly onerous burden on the Organization. The Delegation therefore requested to delete paragraph (2)(a).

193. The Delegation of the Republic of Korea said that this provision, especially the wording "all activities and measures", appeared too broad in comparison to other treaties.

194. The Delegation of Nigeria echoed the proposal made by the Delegation of Senegal concerning new items (v) and (vi) in paragraph (1)(c).

195. The Delegation of Spain supported the statement made by the Delegation of the European Union concerning a full financial support. It explained that it might be in conflict with the powers of the Program and Budget Committee and that it might be problematic that a treaty to which not all States would be party might impose obligations on all other member States.

Paragraph (3)

196. The Delegation of Egypt, on behalf of the DAG, expressed its support for subparagraph (b).

197. The Delegation of the European Union, on behalf of its member states, observed that WIPO already financed the participation to Delegates in relation to the PCT and Madrid systems and that it was not a customary WIPO practice to finance delegations attending the assemblies in relation to formalities treaties. Therefore, the Delegation believed that this provision should be deleted.

198. The Delegation of Nepal expressed its support for the statement made by the Delegation of Algeria, on behalf of the African Group.

199. The Delegation of the Republic of Korea expressed its support for subparagraph (a), and suggested to delete subparagraph (b).

Paragraph (4)

200. The Delegation of Belarus, expressing the view that this approach would conflict with current international approaches to the subject, requested the deletion of this paragraph.

201. The Delegation of El Salvador expressed the wish to keep this paragraph and to continue exploring the contents of this proposal.

202. The Delegation of Algeria, on behalf of the African Group, stated that it attached great importance to this provision since it aimed at providing to their applicants a more favorable market access to high-income countries.

203. The Delegation of Hungary, recalling that the question of fee reduction was not related to the scope of the DLT, added that the DLT originally was not aiming to create harmonization on the level and structure of the fees. The Delegation also expressed some concerns as regards the feasibility of this paragraph, and the possibility that such provision would lead to discriminatory practice and could be in collision with other international commitments. The Delegation therefore concluded that it did not support this provision.

204. The Delegation of the United Republic of Tanzania expressed its full support for the statement made by the Delegation of Algeria, on behalf of the African Group.

205. The Delegation of the European Union, on behalf of its member states, supported the statement made by the Delegation of Hungary. It added that fee reductions had nothing to do with the targeted needs-based assistance to implement the treaty, and believed that the fees were a matter for contracting parties to determine and should not be prescribed by the Committee. The Delegation also wondered about the compatibility of this provision with the "most favored nation" principle in WTO trade rules. Nevertheless, the Delegation declared that the European Union and its member states were ready to participate in further discussions on this subject.

206. The Delegations of Bangladesh and Trinidad and Tobago expressed their support for the inclusion of a provision on fee reduction.

207. The Delegation of Spain concurred with the Delegation of the European Union and the Delegation of Hungary, stating that this paragraph should not come under the chapter on technical assistance. The Delegation also said that a system of fee reduction would not only raise some operational difficulties concerning the implementation of financial systems, but also the question of compatibility with the principle of the “most favored nation” provided in Article 4 of the TRIPS Agreement.

208. The Delegations of Canada and Poland echoed the statements made in support of deleting paragraph (4).

209. The Delegation of Egypt, on behalf of the DAG, stated that the objective of this proposal was to encourage SMEs to use the system that the treaty prescribed. As regards the principle of “the most favored nation”, the Delegation observed that an exception to this principle was provided under Article 5 of the TRIPS Agreement. While stressing the importance of this paragraph for SMEs, the Delegation declared that its group was open to continued discussions, with the view to find other ideas intended to give incentives to SMEs to use the harmonized system of registrations.

210. The Delegation of Japan said that technical assistance should be limited to the implementation of the DLT. Therefore, the Delegation endorsed the statements made by the Delegations of Belarus, the European Union, Hungary, Poland and Spain.

211. The Delegation of the United States of America lent its support to that list of countries just reiterated by the Delegation of Japan. The Delegation further mentioned that while such decision was outside the scope of this formalities treaty, the United States of America provided a discount of 50 per cent to small entities and 75 percent to micro entities, a practice that could be considered by other countries on their own volition.

212. The Delegation of Iran (Islamic Republic of) supported the statements made by the Delegations of Egypt on behalf of the DAG, and Algeria, on behalf of the African Group.

213. The Delegation of Chile, considering that the fee reduction was an important issue, expressed its doubt as to its compatibility with WTO rules and wondered whether LDCs and developing countries would have to reduce their fees for applicants from other developing countries or LDCs. The Delegation expressed its willingness to discuss this important issue and hoped that an acceptable solution for everyone would be found.

214. The Delegation of Singapore, echoing the views stated by some delegations regarding the possible issue of incompatibility with WTO obligations, suggested to clarify whether the current language was incompatible with WTO rules, before carrying on with the discussion on this paragraph. In addition, whilst understanding the need to assist developing countries and LDCs in their efforts to help their companies to expand, the Delegation said that the DLT might not be the appropriate vehicle for it. Other vehicles like the Hague and the PCT systems could be considered on this point.

215. The Delegation of Romania, supporting the views expressed by the Delegation of the European Union and those delegations in favor of deleting this paragraph on fee reduction, also believed that this paragraph was not compatible with Article 4 of the TRIPS Agreement.

216. The Delegation of the Republic of Korea recalled that in practice there were no precedents as regards fee reductions when seeking to harmonize formalities and procedures, neither in the PLT, the TLT nor the STLT.

217. The Delegation of Norway supported the statements made by delegations in favor of deleting paragraph (4). Underlining the fact that the registration of an industrial design was not the most important cost of the process, the Delegation said that the Committee should focus on making registration easy and accessible for all, by creating a clear, short list of minimum requirements for registration and making the registration without the use of representatives possible.

Paragraph (5)

218. The Delegation of Japan, indicating that there was no direct relationship between this provision and formality treaties, stated that this issue should be dealt with outside the context of a DLT. The Delegation explained that it was not against information sharing. For example, information concerning registered industrial designs in Japan was available through Internet.

219. The Delegations of Canada and Switzerland expressed their support for the comment made by the Delegation of Japan.

220. The session was suspended to hold informal discussions as regards technical assistance and capacity building. Delegates from 22 Member States and intergovernmental organizations, including all Group coordinators, participated in the informal discussions.

221. At the issue of the informal discussions, the chair noted that important progress had been made on the different paragraphs, and a discussion on the views of the various participants had been initiated as regards having an article or a resolution providing for technical assistance and capacity building. The Chair presented a revised draft text for Article 21/Resolution, which was the outcome of the informal discussions. The provision was divided into 6 paragraphs which appeared to be clearer and more concise. The Chair pointed out that the preamble had not been discussed, which explained the various brackets in presence. The Chair requested the Secretariat to replace the draft text on technical assistance and capacity building contained in document SCT/30/2 by the draft new text “[Article 21][Resolution] Technical Assistance and Capacity Building”. The Chair proposed to discuss this new draft article/resolution paragraph by paragraph.

222. The Delegation of Indonesia wished to add, as a footnote, that it wished to replace the first sentence of paragraph (5) by: “The Organization shall establish a digital library system for registered designs”.

223. The Chair said that the proposal made by the Delegation of Indonesia would be highlighted in a footnote.

224. The Delegation of the European Union, on behalf of its member states, paid tribute to the Chair and its skills in delivering a very successful outcome of the informal consultations. The Delegation also thanked the flexibility of all delegations which permitted to reach agreement on a text on technical assistance as tasked by the General Assembly. The Delegation, pointing out that, as matters of substance had now been largely decided, matters of form would now take center stage in the discussions. In its view, decisions of this nature could only be possible at a higher level. The Delegation stated that the 2014 diplomatic conference would provide the appropriate forum for these weighty discussions. In conclusion, the Delegation of the European Union believed that the Standing Committee had fully reached the objectives of its mandate, and that the time was now ripe for it to transfer the responsibility for this draft to the next level, namely a diplomatic conference in 2014. In this connection, the Delegation looked forward to hearing from the future host of the diplomatic conference on details on organizational matters, in order to allow all delegations to prepare appropriately for the diplomatic conference in 2014.

225. The Delegations of Japan, speaking on behalf of Group B, thanked the Chair for its leadership and appreciated the constructive involvement of participating members. The Delegation considered that through the informal consultation exercise, the possible content of this draft had become clearer than before, and was sufficiently mature for a diplomatic conference. Furthermore, the Delegation strongly believed that all members having participated in the exercise could recognize the great importance that was attached to technical assistance and capacity building to implement the treaty and the strong commitment to that process. The Delegation stated that the Committee should agree, at this session, on a clear recommendation of a diplomatic conference to the extraordinary session of the General Assembly, in order not to impose an excessive burden on the General Assembly. The Delegation expressed its strong desire that the outcome of this exercise could form the basis upon which all Member States could agree to a clear way forward to the diplomatic conference in 2014. In conclusion, Group B thanked the Russian Federation for the kind offer to host the diplomatic conference in 2014, offer to which the Committee should respond with a constructive and positive outlook.

226. The Delegation of Bangladesh, on behalf of the Asia Pacific Group, expressed its preference for an article on the important issue of technical assistance and capacity building.

227. The Delegation of Trinidad and Tobago, on behalf of GRULAC, thanked the Chair for steering this Committee, and recognized the serious advancement done, especially with regards to Article 21/Resolution. The Delegation recalled that GRULAC had always worked constructively, in particular in the last General Assemblies, where this Group had always supported the advancement of the work of the SCT, and the DLT in particular. GRULAC pointed out that it would be ready to go to a diplomatic conference on the condition that there would be an article on technical assistance and capacity building, in order for Member States, especially developing countries, to reap the benefits of this treaty. The Delegation further said that the Standing Committee moved in the right direction.

228. The Delegation of Algeria, on behalf of the African Group, thanked the Chair for the fantastic work he had accomplished. The Delegation further thanked all delegations for their constructive spirit as this task would not have been accomplished without flexibility on all sides. The Delegation recalled that the African Group, together with GRULAC and the Asian Group, requested that the technical assistance issue be included in an article, while other delegations such as the European Union, the CEBS Group and some others were flexible and could accept an article. However, a minority of delegations in this plenary remained reticent to this provision being an article. The African Group requested this minority of delegations to show flexibility and accept an article within this Draft Treaty, which would allow the Committee to move forward and finalize its work before the diplomatic conference.

229. The Delegation of Hungary, on behalf of the CEBS Group, welcomed the significant progress made regarding the technical assistance in relation to the Design Law Treaty, and thanked the Chair for its guidance and the delegations for their constructive participation. Regarding the issue of article versus resolution, the CEBS Group expressed its flexibility in order to work on the most practical approach that would achieve the best outcome on this important question of technical assistance. However, as already stated on several accounts, with the objective to move the discussions forward and in a sign of flexibility, the CEBS Group was ready to accept an article, subject to necessary drafting modifications.

230. The Delegation of South Africa aligned itself with the statement made by the African Group. The Delegation thanked the delegations that attended the informal consultations and acknowledged the progress that had been made in the content of the work on technical assistance. The Delegation recalled that during the session before the General Assembly in 2012, the Committee could not recommend the General Assembly to convene a diplomatic conference, although a proposal had been made at the General Assembly in this regard. The General Assembly in 2012 asked the Committee to expedite its work and come up with a

provision on technical assistance. Since then, the Committee had worked tirelessly in coming up with a provision on technical assistance, and the African Group had proposed a draft for an article on technical assistance. Before the 2013 General Assembly, the Committee did not recommend the General Assembly to convene a diplomatic conference and said that this decision would have to be taken by the General Assembly itself. At the 2013 General Assembly, the Delegation of South Africa showed flexibility and the delegations came close to a decision on convening a diplomatic conference and having an article on technical assistance. Almost the entire membership of the organization was willing to go with that decision. Nevertheless, this decision could not be taken because of one Delegation. The Delegation of South Africa, indicating that it had no problem to go to a diplomatic conference, stated that the issue of the diplomatic conference for its Delegation was linked, however, to having an article on technical assistance. These two decisions should be taken simultaneously. Therefore, the Delegation hoped that the General Assembly in December 2013 would be able to deliberate on this issue and take a decision, since the SCT had advanced on the content.

231. The Delegation of China, thanking the excellent leadership of the Chair in the informal consultations, as well as the constructive spirit of other delegations, hoped to achieve the DLT as quickly as possible. Mentioning the importance of technical assistance, especially with regard to an article, and the great improvements made on the content of this provision, the Delegation explained that opting for an article for technical assistance would make the DLT very different from other treaties, as it would have more support and appreciation from countries, especially Developing Countries and LDCs. Therefore, the Delegation called on the other delegations to adopt a cooperative and flexible spirit so that the Committee could reach a decision.

232. The Delegation of Senegal expressed its support for the statement made by the Delegation of Algeria, on behalf of the African Group, and thanked the Chair, the Secretariat and delegations who participated in the informal consultations, who were seemingly flexible and more than willing to make progress. The Delegation noted that important progress was made concerning the substantive issues of the treaty, and said that from an editorial language point of view, the Committee was getting closer to success. The Delegation, underlining the fact that technical assistance was extremely important for Developing Countries, particularly as to the question of whether this provision would be an article or a resolution, reiterated that it preferred that technical assistance be covered by an article.

233. The Delegation of Singapore thanked the Chair for his leadership which enabled the Committee to make such significant progress this week. The Delegation, observing that it had always focused on the content of the provision, stated that it was flexible on whether this text should be an article or a resolution.

234. The Delegation of Iran (Islamic Republic of) expressed its thanks to the Chair for his leadership throughout this session and in informal consultations. The Delegation supported the statement made by the Delegation of Bangladesh on behalf of the Asia Pacific Group. The Delegation stated that the issue of technical assistance should be resolved along with the decision regarding the convening of a diplomatic conference in 2014.

235. The Delegation of Venezuela (Bolivarian Republic of) recalled that the issue of technical assistance came up in the 2012 and 2013 General Assemblies. While supporting the DLT, the Delegation expressed its concerns as regards the brackets in paragraph (2) of Article 21/Resolution. The Delegation further added that a treaty without technical assistance would probably not be a successful treaty, hence the importance of certain flexibility. However, the Delegation underlined the fact that it was important that technical assistance was resolved in a simple way, without going into greater details, and that authorities in each country could choose how they wanted to receive that technical assistance.

236. The Delegation of El Salvador endorsed the statement made by the Delegation of Trinidad and Tobago, on behalf of GRULAC, and thanked the Chair, the Secretariat and all delegations who participated in the consultations. The Delegation declared its preference for an article on technical assistance and said that the document was sufficiently mature to allow a diplomatic conference in 2014.

237. The Delegation of Indonesia, on behalf of the DAG, thanked the Chair for his assistance in leading the Committee to the negotiation during the informal consultation meeting, and also other delegations for their flexibility in the discussion of technical assistance and capacity building. For the DAG, the provision on capacity building and technical assistance should be in an article. This was a condition for convening a diplomatic conference.

238. The Delegation of the United States of America thanked the Chair for its efforts through the week as well as the delegations that participated in the informal discussions and made constructive contributions. The Delegation lent its support in favor of moving to a diplomatic conference with the text as it had been revised. The Delegation, expressing its preference for a resolution, believed that this debate should be left for the diplomatic conference. The Delegation further explained the reasons for preferring a resolution for providing technical assistance and capacity building instead of an article. First, from a precedent perspective, the Delegation observed that the STLT, for these types of provisions, had a resolution, and the PLT an agreed statement. Observing that both of these treaties were formality treaties, the Delegation said that it was not aware of any issues or problems with respect to technical assistance or capacity building associated with those treaties. In contrast, the Delegation believed that articles relating to technical assistance and capacity building had in fact encountered difficulties in their operation. From a legal perspective, the Delegation thought that a resolution was an appropriate and preferred mechanism providing many benefits for these types of provisions. The Delegation pointed out that a resolution on technical assistance and capacity building could be applicable immediately, whereas an article would not be operationalized until the treaty came into force, through ratification of a requisite number of Contracting Parties. Additionally, the Delegation said that including proposals on broader subject matter was allowed with a resolution, but not with an article. Therefore, many proposals made this week would not be possible legally, operationally or from an acceptability standpoint in an article. Further, requiring an article on technical assistance and capacity building sent a clear message that this treaty had no value for Member States in its substantive provisions, a view that was untrue. In conclusion, while strongly supporting a resolution as the proper and most beneficial framework for provisions of this nature, the Delegation had extended flexibility in suggesting this matter be deferred for decision at a diplomatic conference, and hoped that others could extend that same flexibility.

239. The Delegation of the Russian Federation expressed its gratitude to the Chair and to other delegations that participated in the informal consultations and helped to elaborate this revised text. The Delegation, observing that there were different views on the form of a provision on technical assistance and capacity building, pointed out that all delegations agreed to a provision on technical assistance and capacity building. Therefore, the Delegation asked the Committee to move forward on a diplomatic conference, specifying that the choice of the provision on technical assistance and capacity building should be left to the General Assembly, at the extraordinary session in December 2013. In sum, the Delegation called the SCT to present a recommendation to the General Assembly to convene a diplomatic conference in 2014.

240. The Delegation of Ghana thanked the Chair for its leadership throughout the informal sessions. The Delegation expressed its support for the declaration made by the Delegations of Algeria, on behalf of the African Group, and Senegal, on the need to have an article, and called other delegations for flexibility.

241. The Delegation of Canada shared the views expressed by the Delegations of Japan, the European Union, on behalf of its member states, and the United States of America. The Delegation added that it would be available to work appropriately in order to achieve a diplomatic conference.
242. The Delegations of Nepal and Nigeria endorsed the statements made by delegations that requested that technical assistance be covered by an article.
243. The Delegation of the United Kingdom firmly supported the position advanced by the Delegation of the European Union in saying that the Committee had made sufficient progress as regards the text, as well as regards the provision on technical assistance, which it believed was a significant part of the treaty itself. Thus, whilst the Delegation would prefer that this issue be covered by a resolution, it was fully prepared to meet the request of the delegations that believed that an article best suited their needs. Therefore, the Delegation firmly urged the Standing Committee to make a recommendation to the General Assembly to convene a diplomatic conference.
244. The Delegation of Australia urged the SCT to make a clear recommendation on convening a diplomatic conference to the General Assembly.
245. The Delegations of Côte d'Ivoire, Gabon, Malawi and the United Republic of Tanzania associated themselves with the declaration made by the Delegation of Algeria, on behalf of the African Group.
246. The Delegation of Switzerland believed that it was time for the Standing Committee of the SCT to call for the holding of a diplomatic conference since considerable progress had been made during this session, particularly on the technical assistance issue.
247. The Delegation of Trinidad and Tobago observed that instead of moving forward, the Standing Committee was actually going backwards with respect to this particular issue, recalling that during the informal consultations that took place in the course of the General Assemblies in September 2013, a consensus was very close to be reached on this issue.
248. The Delegation of Venezuela (Bolivarian Republic of), highlighting that technical assistance was important, said that if the principle of technical assistance was accepted, a diplomatic conference should be convened, and the form of the provision on technical assistance could be discussed at this later stage.
249. The Delegation of Morocco supported the statement made by the Delegation of Algeria, on behalf of the African Group, and called on those delegations that were still reticent to having an article on technical assistance, to show flexibility.
250. The Representative of OAPI, believing that the Standing Committee had made a great step forward in accepting a provision on technical assistance, said that a diplomatic conference could be held.
251. The Chair noted that all delegations were in favor of convening a diplomatic conference. A large number of delegations was of the view that an agreement to address technical assistance in the form of an article in the treaty had to be reached prior to convening such a diplomatic conference. Other delegations were of the view that the SCT could already recommend to the General Assembly the convening of a diplomatic conference. One delegation expressed the view that the decision as to whether there would be an article or resolution would have to be taken at the diplomatic conference.

252. The Delegation of the United States of America proposed an alternative characterization, namely that there were two camps of delegations, one being those who were willing to move forward taking this decision now, and those delegations that insisted upon a decision at this point.
253. The Delegation of Venezuela (Bolivarian Republic of) observed that there was an agreement on having a diplomatic conference, as well as on having a provision on technical assistance. The Delegation added that what remained to be resolved was whether an article or a resolution would cover the technical assistance issue.
254. The Delegation of Japan stated that it preferred that technical assistance be covered by a resolution, and shared the view of the Delegation of the United States of America regarding the reasons for this preference.
255. The Delegation of South Africa stated that it would like to make it clear that the decision to convene a diplomatic conference was linked to resolving the question of having an article or a resolution to cover technical assistance.
256. The Delegation of Israel supported the Delegation of the European Union and other delegations stating that the time had come to convene a diplomatic conference.
257. The Delegation of Australia proposed to the Standing Committee to make a recommendation to the General Assembly to convene a diplomatic conference, subject to final agreement on the nature of the technical assistance element.
258. The Delegation of Algeria, on behalf of the African Group, said that since, at this stage, there was no clarity on the technical assistance issue, it wished just to have a factual summary without going any further.
259. The Delegations of Hungary, Japan, Norway and Switzerland expressed their support for the motion put forward by the Delegation of Australia.
260. The Delegations of Iran (Islamic Republic of) and South Africa stated that they were not in favor of the proposal made by the Delegation of Australia.
261. The Delegation of El Salvador said that, since all delegations in this SCT were in favor of a technical assistance provision and were animated by a cooperative spirit, the Committee should recommend a decision to the General Assembly on convening a diplomatic conference.
262. The Delegation of Venezuela (Bolivarian Republic of) highlighted the conditional aspect used in the proposal made by the Delegation of Australia when stating that a diplomatic conference was subject to final agreement on the nature of the technical assistance element.
263. The Delegation of the European Union, on behalf of its member states, expressed its support for the proposal made by the Delegation of Australia.
264. The Delegation of Trinidad and Tobago reiterated its position whereby a diplomatic conference should be convened on condition that there would be an article covering the technical assistance issue.
265. With regard to technical assistance, the Chair noted that progress was made on the provisions in draft Article 21/Resolution and requested the Secretariat to reflect the new draft Article 21/Resolution in the revised working document. Concerning the convening of a diplomatic conference for the adoption of a Design Law Treaty, the Chair noted that all delegations that had taken the floor were in favor of convening such a diplomatic conference.

Among the latter, a number showed flexibility as to whether technical assistance should be addressed in a resolution or an article, whereas one delegation was of the view to defer this matter to the diplomatic conference itself.

266. The Delegation of the United States of America stated that, while it did not agree necessarily with the characterization of the flexibility concept in the conclusion made by the Chair, it acknowledged that this was the Chair's summary. The Delegation agreed with the conclusion that all delegations were in favor of moving to a diplomatic conference. The Delegation further stated that it would be more flexible to leave the text as it stood as the Delegation was not in a position to commit to an article for the legal reasons explained previously.

AGENDA ITEM 6: TRADEMARKS

Protection of Country Names

267. Discussion was based on documents SCT/29/5 Rev. and SCT/30/4.

268. The Delegation of Japan, on behalf of Group B, thanked the Secretariat for producing the revised Draft Reference document on the Protection of Country Names (SCT/30/4) and said that Group B stood ready to discuss this matter.

269. The Delegation of Bangladesh, on behalf of the Asia and Pacific Group, stated that the name of a country was probably its most important resource and a manifestation of its sovereignty. The Delegation took note of the important findings included in document SCT/30/4 and hoped that the discussion on this issue would continue.

270. The Delegation of Trinidad and Tobago, on behalf of GRULAC, also thanked the Secretariat for the preparation of document SCT/30/4. At the outset, GRULAC wished to underscore the importance of this particular agenda item, and expressed support for the work undertaken thus far. Following a request made at the twenty-seventh session of the SCT, the Secretariat had prepared a study to determine possible best practices for the protection of country names from registration and use as trademarks or elements of trademarks. The findings of the study were contained in document SCT/29/5. The Delegation noted that this document, as well as the answers to the Questionnaire on the Protection of Country Names, indicated a lack of internationally consistent protection for country names. In this respect, GRULAC was willing to explore the potential effects of a possible Joint Recommendation to be adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the WIPO General Assembly in relation to the protection of country names against registration and use as trademarks. Such a recommendation could guide Member States and be used in trademark examination manuals at the national and regional level to promote the consistent and comprehensive treatment of this very important issue. GRULAC considered that country names could provide a valuable opportunity for nation branding schemes that bring value through the use of trademarks, especially in the case of developing countries. In that sense, GRULAC supported the continuation of work relating to the protection of country names.

271. The Delegation of Jamaica associated itself with the statement made by the Delegation of Trinidad and Tobago on behalf of GRULAC. The Delegation recalled that following a request made by the Delegations of Barbados and Jamaica at the twenty-seventh session of the SCT, the Secretariat had prepared a study (document SCT/29/5) to determine possible best practices on the protection of country names from registration as trademarks or as elements of trademarks, as well as a Revised Draft Reference document on the Protection of Country Names Against Registration and Use as Trademarks. The Delegation expressed appreciation and support for the work achieved by the Committee in this area and thanked those Member

States that had contributed to the work. After a detailed analysis of the study, as reflected in document SCT/29/5, the Delegation was of the view that the results of the study confirmed that the practice of States in relation to the protection of country names was neither uniform, nor comprehensive. While the study reaffirmed that protection was available for country names through several alternative means, it also clearly showed that such protection was often limited to particular circumstances, such as where the country name is the sole element of the mark. Those alternative means could often be circumvented to render a mark acceptable. Thus, where the mark had additional words or figurative elements, it would be accepted for registration by most intellectual property offices around the world. Similarly, where the country name had a secondary non-geographical meaning attributed to it, the mark would be accepted. A mark which included a country name could be registered if the mark had acquired distinctiveness or if the applicant filed a disclaimer in respect of the country name. Therefore, when properly analyzed, the results revealed that there were many circumstances when trademarks including country names would be accepted for registration by intellectual property offices. Alternative means of protection, such as opposition, unfair competition and passing-off, although possible in theory, nearly always required engaging foreign legal representation and at times, also involved litigation which was costly, especially for developing countries and small-island developing States. In relation to nation branding schemes, the study showed that many countries had actually embarked on a nation branding strategy. Not only did the study establish that the country name was an essential element of any nation branding campaign, but it also confirmed that the country name provided the strongest association with a country. However, the Delegation thought that the study did not go far enough in assessing the real and/or potential impact of weak country name protection in nation branding schemes, and that this aspect still needed to be addressed. The delegation was therefore of the view that in order for the names of States to be adequately protected, they ought to be protected within national laws, policies, and procedures through a Joint Recommendation of the WIPO General Assembly, as it had been done in relation to other trademark areas of common importance. The Delegation thanked the Member States which continued to see the importance of this issue and the need for more work in this area, and expressed its willingness to work with Member States and with the Secretariat to explore the development of a draft text for a possible Joint Recommendation of the WIPO General Assembly in relation to the protection of country names against registration and use as trademarks. This instrument would serve as an essential guide to Member States and other stakeholders in crafting trademark examination manuals at the national and regional level in order to promote consistent and comprehensive treatment of this very important issue.

272. The Delegation of the European Union, on behalf of its member states, noted that the study highlighted several opportunities available to third parties before, during and after the trademark registration process, where the protection of country names might be invoked. National legislation could also provide for the opportunity to prevent signs consisting of or containing a country name from being registered. Furthermore, 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 had an emphasis on explaining in trademark examination manuals that it is possible to consider country names as falling under the general grounds for refusing signs that lack any distinctiveness, are descriptive, contrary to public policy, or are 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, and that had considerably raised the profile of the issue. The Delegation considered that documents SCT/30/4 and SCT/29/5 Rev. represented the culmination of the work and therefore suggested that they remain available on the WIPO web site for reference purposes.

273. The Delegation of Venezuela (Bolivarian Republic of) echoed the statement made by the Delegation of Trinidad and Tobago on behalf of GRULAC and said that the name of a country reflected its culture and history and should therefore not be registered as a trademark. The Delegation noted that the Industrial Property Law of Venezuela (Bolivarian Republic of) prohibited the registration of country names as trademarks, and supported the continuation of the work on this important topic. The Delegation believed that, as stated by the Delegation of the European Union, it was important to keep the documents available on the WIPO web site.

274. The Delegation of Switzerland recalled its permanent support for the work of the Standing Committee concerning the protection of country names with a view to improving the international dimension of that protection and filling the existing gaps. The Delegation felt that the studies and the reference documents had started to show the diversity of procedures existing in different countries. However, in many cases, country names continued to be registered as trademarks even if the products and services covered had no link with the country concerned. The Delegation hoped that the Standing Committee would continue reviewing this question and supported the proposal made by the Delegation of Trinidad and Tobago, on behalf of GRULAC. The Delegation believed that the SCT should undertake work to develop a Recommendation to the Paris Union Assembly on the protection of country names, in order to agree on guidelines that could subsequently be integrated into trademark examination manuals. The Delegation felt that such an approach would be useful for all countries to develop a more effective country name protection system.

275. The Delegation of the United States of America noted with appreciation the interventions made by the Delegations of Jamaica and Trinidad and Tobago on behalf of GRULAC, and recognized the significant interest that the issue under discussion had raised. The Delegation noted that after reviewing document SCT/29/5 Rev. it was struck by a feature that was clearly highlighted in the document, namely that governments could become brand owners. The Delegation understood that some governments wished to extract country names from the public domain and not just regulate them, but own them in a commercial sense. The implementation questions that such a concept raised became clear in paragraphs 41 through 49 of document SCT/29/5 Rev., concerning regimes where country names constituted a specific ground of refusal. Some of the countries reported in the document provided for registration of country names as trademarks only if an authorization by the competent authorities was presented. The Delegation indicated that the United States Patent and Trademark Office (USPTO) had received requests from foreign trademark offices to grant consent for the use of the name United States of America in trademark applications. The Delegation said that from the national perspective, country names were in the public domain and therefore, businesses were entitled to use such signs as long as they were not deceptive. The Delegation considered that deception was a question to be assessed under the national law of the State where the application was filed, and not under the law of the United States of America. Thus, by requesting authorization from the USPTO or the United States of America government, it appeared that the requesting country was not applying its own law and deception analysis, but was rather asking for the opinion of the United States of America. However, without additional information, the USPTO could not tell whether the use was deceptive or not and would therefore be inclined not to authorize use without knowing the facts of each case and the consumer perception in the other country. From a policy perspective, the Delegation believed that the act of requesting authorization for a foreign trademark application forced the USPTO into the position of becoming the brand owner of the name of its country. Therefore, a decision on one way or the other would be equivalent to extracting the name from the public domain and becoming responsible for controlling and licensing the terms of use of the name, just like a trademark owner. The Delegation considered this could be an enormous resource burden for governments. In reality, country names were used in many ways such that government ownership over the name of the country would upset the settled expectations and the current state of play of businesses around the world. The Delegation held the view that the Committee should be cautious, since the idea of government ownership of intellectual property enforced via an international obligation was alluring, and

might even prove unhelpful for businesses. Nevertheless, the Delegation wished to understand better how those States that required consent to register the names of other countries administered such a system and therefore, proposed that the Secretariat solicit and compile submissions on that specific topic, in order to better understand the policy goals underlying such a feature of the law. The Delegation proposed that the SCT pursue a more explicit study in the particular area of licensing or authorization for third parties to register country names. Without such information, the Delegation could not support work on a recommendation as suggested by GRULAC and the Delegation of Jamaica.

276. The Delegation of Italy aligned itself with the interventions made by the Delegations of the European Union and Switzerland and considered that the work on country names was also of interest for developed countries. The Delegation supported the continuation of the work along the lines suggested by the Delegations of Jamaica and Trinidad and Tobago on behalf of GRULAC, to improve the current situation under which there were still abuses in the use of country names.

277. The Delegation of Turkey believed that additional work should be devoted to the important issue of country names to help Member States that pursued efforts on nation branding and hoped that the item would remain in the agenda of the SCT for the next session.

278. The Delegation of El Salvador supported the statement of the Delegation of Trinidad and Tobago on behalf of GRULAC, as well as the proposal made by the Delegations of Barbados and Jamaica, consisting of a review of the existing legal positions on the protection of country names, provided for in Article 6^{ter} of the Paris Convention. Considering the extreme importance of the issue, the Delegation believed that the practices which existed in Barbados and Jamaica could serve as a reference point in order to promote effective protection for those types of rights by national offices. The Delegation underlined that legislation of El Salvador provided for a prohibition of registration of country names as trademarks based on the intrinsic nature of the sign. However, as pointed out by the Delegation of Switzerland, a gap existed at the international level. Therefore, the Delegation requested the continuation of the work to update the document with a view to possibly concluding a Recommendation by the WIPO Assemblies for future use by Member States.

279. The Delegation of Trinidad and Tobago, in its national capacity, aligned itself with the statements made by the Delegations of El Salvador, Italy, Jamaica, Switzerland, Turkey, Venezuela (Bolivarian Republic of) and GRULAC in favor of the protection of country names, and underscored the importance of the topic. The Delegation wished to explore the potential effects of a Joint Recommendation on the protection of country names against registration and use as trademarks and supported the continuation of the work in order to improve, enhance and make more consistent the protection of country names in the international context.

280. The Delegation of Norway, recalling the statements made during the previous session of the SCT, considered that the Committee had reached a natural conclusion of the work. Although the Delegation understood that several other delegations wished to pursue work on this question, it did not support work with the aim of drafting a Joint Recommendation. However, if the SCT were to pursue work in this area, it should follow the suggestion made by the Delegation of the United States of America.

281. The Delegation of the United Kingdom supported the positions expressed by the Delegations of the European Union and the United States of America. The Delegation expressed concern on the idea that the SCT was moving towards a Joint Recommendation, since the work of the Committee with regard to the protection of country names was incomplete. In the view of the Delegation, the principles that applied to country names also applied to other forms of textual and graphical representation of signs relating to origin. Thus, giving protection to a country name as a special entity could generate problems of its own, as this constituted a

departure from established law. The Delegation noted that for instance, the United Kingdom was technically speaking not a country but a principality and yet the latter deserved equal protection as a designation of origin. The Delegation believed that the Committee needed to exercise caution and avoid creating internal inconsistencies in States which had a consistent application of the law or lessen the existing protection.

282. The Delegation of Morocco favored the continuation of work in this area and hoped that the treatment of country names could be subject to a more in-depth study.

283. The Delegation of Chile indicated that it was flexible to explore the potential impact of a Joint Recommendation in the area of country names. While such an instrument could have beneficial effects, it could also prove inadequate and even create difficulties, as it had been highlighted by a number of delegations. The Delegation believed that there might be other alternatives for the continuation of the work.

284. The Delegation of Guatemala associated itself with the statements made by the Delegation of Trinidad and Tobago on behalf of GRULAC, as well as other delegations in their national capacity. The Delegation hoped that the SCT would continue studying the protection of country names with a view to reaching concrete results.

285. The Delegation of the United Republic of Tanzania noted that it had replied to the Questionnaire on the Protection of Country Names and expressed concern about the misuse of such signs. The Delegation looked forward to the conclusion of the discussions, and in particular on the question of what constituted fair use of country names.

286. A large number of delegations expressed support for continuing work on this item. Some delegations proposed the continuation of this work, including work on a possible future Joint Recommendation in that area. Other delegations asked for further study on specific aspects of the topic, such as the role of countries as brand owners. The Chair invited delegations to submit their proposals in writing to the Secretariat before the end of the year. These submissions should be compiled by the Secretariat into a working document for consideration by the SCT at its next session.

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

287. Discussion was based on document SCT/30/5.

288. Upon invitation by the Chair, the Secretariat provided an update on trademark-related aspects of the expansion of the Domain Name System (DNS).

289. The Delegation of Hungary expressed its appreciation to the Secretariat for document SCT/30/5 on the latest developments in relation to the Internet Corporation for Assigned Names and Numbers (ICANN). The Delegation noted with approval the role of WIPO in the dispute settlement processes at ICANN. The Delegation expressed concern that some of the rights protection mechanisms available in the new generic Top-Level Domains may not be consistent with principles of trademark law and established practices of Intellectual Property authorities, and that, in particular, ICANN's Trademark Clearinghouse may create unnecessary burdens on trademark holders. The Delegation further noted ICANN's listing of certain geographical names for protection in the expanded DNS, but expressed concern as to ICANN's selection standards. In the Delegation's view, geographical indications and designations of origin should be included on such list of protected geographical names, especially since these identifiers are already contained in public registers. The Delegation supported maintaining trademark-related aspects of the expansion of the DNS on the SCT agenda and requested future updates.

290. The Delegation of Italy thanked the Secretariat for its contribution to dispute resolution in the DNS. The Delegation endorsed the comments of the Delegation of Hungary regarding geographical names to be protected by ICANN. The Delegation supported continued consideration of this issue going forward.

291. The Delegation of Switzerland thanked the Secretariat for its work and for its report on rights protection in the DNS. The Delegation endorsed the statements of the Delegations of Hungary and Italy with respect to the protection of geographical names in the DNS, including in terms of rights protection mechanisms.

292. The Delegation of Bangladesh thanked the Secretariat for its update on trademark-related aspects of the expansion of the DNS, which might give rise to an increase in the number of domain name disputes.

293. The Secretariat noted that the expansion of the DNS could see the number of disputes rise, although the availability of further preventive and curative rights protection mechanisms and of further ICANN dispute resolution providers could to an extent offset this impact in terms of WIPO Uniform Domain Name Dispute Resolution Policy filing. The Secretariat noted its continuing investment in WIPO dispute resolution under the UDRP.

294. The Chair stated that the SCT had taken note of document SCT/30/5 and that the Secretariat was requested to keep Member States informed on future developments in the Domain Name System.

AGENDA ITEM 7: GEOGRAPHICAL INDICATIONS

295. Discussion was based on document SCT/30/7.

296. The Delegation of the United States of America, indicating that it wished to raise the profile of geographical indications in the SCT, recalled that discussions on this topic had been suspended for a time in order to not prejudice positions on geographical indications in other fora, particularly, at the WTO. However, the Delegation noted that trade negotiations around the world had advanced, leading to inconsistent treatment and raising significant and difficult questions of implementation of geographical indication obligations. The USPTO had been asked to share its experiences with other countries for determining whether a geographical indication could be protected in the United States of America, as the territorial questions of prior rights and genericness came into play. There appeared to be high demand for an open exchange of information on issues affecting whether to protect another member's geographical indication. The Delegation therefore suggested two avenues of work: to explore the feasibility of a geographical indications filing system that would be inclusive for all national law protection mechanisms; and to request the Secretariat to undertake a study, or a series of studies, to examine the various national law approaches to specific geographical indications topics where there was a lack of international understanding. For example, the Secretariat could research and solicit input from WIPO members as to the tests for evaluating whether an applied for geographical indication was generic in a territory. As to the first proposed avenue of work, the Delegation was interested in exploring the feasibility of a geographical indication filing system administered by WIPO that would be neutral as to the type of national geographical indication system that a contracting party maintained at its national level. The Delegation recalled that the working group on the Development of the Lisbon System (Appellations of Origin) asked and received permission from the Lisbon Assembly to convene a diplomatic conference in 2015 for the purpose of substantively expanding the Lisbon Treaty to include geographical indications. The Delegation said it did not actively engage in the working group discussion because the mandate was limited to exploring "possible improvements to the procedures under the Lisbon

Agreement”, which the United States of America had no intention of joining, and it did not want to prejudice the position of the United States of America in ongoing trade negotiations. A draft new instrument concerning the international registration of geographical indications and appellations of origin became available in December 2011. Then, the document became a revised Agreement of Appellations of Origins and geographical indications. The Delegation considered that the expansion of the subject matter should not be contemplated by a mere revision. Upon learning that the Working Group had exceeded its mandate to include geographical indications and had requested approval for convening a diplomatic conference, the Delegation raised its concern at the Lisbon Assembly and the WIPO Program and Budget Committee. The Delegation was prepared to fully engage in discussions in future Lisbon Working Group sessions. The Delegation explained that its concerns stemmed from the fact that the revision text required Contracting Parties to implement a *sui generis* system that provided universal, automatic and perpetual protection to geographical indications, rather than just to appellations of origin in all Lisbon Contracting Parties, based on the country of origin’s evaluation and protection. The Delegation believed that, contrary to the Lisbon Secretariat assurances that the revision text did not mandate a particular form of implementation, trademark systems for the protection of geographical indications, such as that implemented by the United States of America, were entirely excluded from the system represented in the draft revision text. The Delegation further said that there appeared to be no mechanism whereby a WIPO Member State could oppose the funding of a diplomatic conference for a WIPO treaty that clearly exceeded its mandate and was not self-sustaining. The Delegation was unclear how this new right under the Lisbon Agreement would operate along with WTO TRIPS geographical indication obligations, and whether it could lead to a risk of conflicts between the two regimes, particularly with regard to the proposal for dispute settlement mechanism within the Lisbon Treaty. The Delegation was not sure whether WIPO through the Lisbon Assembly should be in the position of expanding international registry to supplant ongoing negotiations on WTO registry for geographical indications. The Delegation believed that a more inclusive system which did not discriminate against particular national systems could attract more members, particularly if it remained neutral on items that were different across national systems. The Delegation proposed that the SCT explore the feasibility of that option. With respect to sharing information, the Delegation suggested that the Secretariat solicit input on specific topics related to geographical indication examination in order to collect national office practices and perspectives for compilation in a series of information documents. The Secretariat could call for submissions on a topic, for example on how to examine as to genericness in a territory, by a certain deadline. The responses to that topic could be compiled in an information document for the next meeting and the SCT could discuss that document and ask questions for clarification. The Delegation suggested that Member States submit lists of proposed items for inquiry to the SCT electronic forum and that would form the basis for future work. In order to begin the work immediately, the Delegation proposed that the national office evaluations of genericness be the subject of the inaugural inquiry, and that the Secretariat issue a call for submissions on that topic by February of 2014.

297. The Delegation of Italy recalled that the issue of geographical indications was not dealt with only by the Patent and Trademark Office, but also by other subjects of the Public Administration and, in order to have a thorough examination of any concrete further work on geographical indications, additional time was needed. The Delegation asked that any decision on further work under this Agenda item be deferred to a next session of the SCT. Looking at the proposal made by the Delegation of the United States of America, the Delegation did not believe that it would add value to the work carried out in the past within the SCT or to the work currently carried out within the WTO. The Delegation said that it appeared that the main purpose of that proposal was to block or delay the work of the Working Group on the Revision of the Lisbon Agreement. The Delegation recalled that the Revision of the Lisbon Agreement was not aimed at imposing a single way of protecting geographical indications at the national level, nor a single mechanism to implement the TRIPS obligations. The Delegation believed that another study on national geographical indication legislations would lead to the conclusions

that were already known, namely that there were countries which protected geographical indications through the trademark system and other countries, including the European Union, which have developed so-called *sui generis* systems, fully recognizing and protecting geographical indications as independent IP Rights. The Delegation believed that, in light of the diversity of national systems, filing systems administered by WIPO, as the Lisbon and Madrid systems, were the best way to accommodate such diversity and to simply leave to Member States the democratic right to choose which system of protection they wanted to have. The Delegation said that blocking the revision of the Lisbon Agreement would instead undermine this diversity and limit the flexibility allowed to Member States by the TRIPS Agreement. The Delegation pointed out that a lot of work had already been done in this area and proposed to focus on other issues, like country names or well-known trademarks registries. Finally, the Delegation suggested discussing the protection of geographical indications in the domain names system, including in the framework of the expansion of Top-Level Domain Names and the issuance of new generic Top-Level Domain Names. The Delegation recalled that remedies for trademark holders, such as the dispute resolution system, were in place. Similar solutions for the protection of geographical indications from cybersquatting should be considered.

298. The Delegation of the European Union, on behalf of its member states, thanked the Delegation of the United States of America for their proposal and requested to postpone its consideration to a future session of the SCT.

299. The Delegation of Chile said that little participation in the Lisbon Working Group was due to the lack of financing. Nevertheless, the Delegation understood that decisions taken within this working group could potentially have an impact on the international system for geographical indications and appellations of origin. The Delegation, expressing the wish for a comprehensive discussion on geographical indications, reserved the right to come back with detailed comments on the proposal made by the Delegation of the United States of America at a future session of the SCT.

300. The Delegation of Greece aligned itself with the statements made by the Delegations of the European Union and Italy. The Delegation was of the view that any concrete further work on geographical indications should be well examined and therefore asked to defer the decision on this Agenda item to the next session of the SCT.

301. The Delegation of Bangladesh, on behalf of the Asia-Pacific Group, indicating that many members of the Asia-Pacific group were not members of the Lisbon system and that it was not sure about the effect of this proposal on the overall work of the Standing Committee, requested additional time for consideration of the proposal made by the Delegation of the United States of America.

302. The Delegation of China agreed, in principle, with the proposal made by the Delegation of the United States of America and supported that the SCT continue the work on geographical indication issues.

303. The Delegation of El Salvador, expressed support for an exchange of information on geographical indications and welcomed continuation of this dialogue at the next session of the SCT.

304. The Delegation of Argentina, indicating that the matter of geographical indications was of particular importance for Argentina, said that it reserved the right to make comments on the proposal at the next session of the SCT.

305. The Delegation of Japan believed that the proposal put forward by the Delegation of the United States of America could give a new dimension to the discussions held within the framework of the SCT. The Delegation shared the sentiment that the SCT was the appropriate forum in WIPO to discuss the geographical indication issue and considered it useful for Member States to explore appropriate protection systems for geographical indications.

306. The Delegation of Portugal, pointing out it would need more time for the consideration of the proposal, requested to defer the decision on this Agenda item. As a preliminary remark, the Delegation expressed its concern regarding the possible interference with the discussions currently taking place in the framework of the Lisbon system. Finally, the Delegation reiterated the commitment to the work on the further development of the Lisbon system within the Lisbon Working Group.

307. The Delegation of the Russian Federation recalled that some time ago it had proposed to the SCT to renew its work on geographical indications. The Delegation said that the Russian Federation intended at that time to become a member of the WTO and was interested in geographical indication discussion, also in order to better understand the TRIPS obligations and to be aware of experiences in that area. At that time, the Standing Committee did not accept the proposal because it wanted to focus on other areas. The Delegation also recalled that important issues on the current Agenda like industrial designs and the convening of a diplomatic conference still required the attention of the Standing Committee. The Delegation urged members of the Standing Committee to focus on the development of those documents. Concerning the subject of geographical indications, the Delegation found it an interesting topic and thanked the Delegation of the United States of America for submitting the proposal. The Delegation said that the Russian Federation was not a member of the Lisbon Agreement, but it did follow the work of the Lisbon Working Group. The Delegation believed that document SCT/30/7 could form a basis for future discussion in the SCT, but not before the work on the development of a Draft Design Law Treaty was concluded.

308. The Delegation of Canada supported the discussion on geographical indications at WIPO and believed that the proper forum for such discussion was the SCT. The Delegation considered that the proposal put forward by the Delegation of the United States of America had merit and supported further work on its analysis.

309. The Delegation of the Republic of Korea, supporting the statement made by the Delegation of Bangladesh, on behalf of the Asia-Pacific Group, welcomed the discussion on geographical indications in the SCT, as it believed that it was the right forum to discuss geographical indications. The Delegation believed that the exchange of information in this area would be very useful.

310. The Delegation of Switzerland, while thanking the Delegation of the United States of America for its proposal, expressed the view that it did not bring any added value to the work done by the Standing Committee in the past in the field of geographical indications. In view of the negotiations held in other WIPO Committees or in other fora, the Delegation did not see how new studies on the various systems of protection would provide the Standing Committee with any additional information. The Delegation said that it was known that some countries used trademark systems and other countries developed *sui generis* systems to protect geographical indications. The Delegation believed that both the Lisbon and Madrid systems recognized the diversity of means of protection on the national basis, and did not share the view that the Lisbon system or its current revision would impose a particular system of geographical indication protection. The Delegation regretted that some members of the Standing Committee did not take part in the work of the Lisbon Working Group, and hoped that there was no wish to hold up the development of the Lisbon Agreement and to delay the diplomatic conference. At this point,

the Delegation did not favor launching work on geographical indications within the SCT. Nevertheless, the Delegation said that the issue of the protection of geographical indications with regard to domain names remained open and required additional research.

311. The Delegation of Hungary aligned itself with the statements made by the Delegations of Italy, Portugal and Switzerland. The Delegation did not support any further work based on the proposal put forward by the Delegation of the United States of America, although it was not contrary to conducting work on geographical indications in other areas. The Delegation disagreed with the arguments put forward in document SCT/30/7, especially with those referring to WTO obligations and also with comments on the development of the Lisbon system.

312. The Delegation of South Africa, welcoming the proposal made by the Delegation of the United States of America believed that the time was ripe to resume the work on geographical indications. Upon becoming aware of the draft amendments prepared by the Lisbon Working Group in respect of the Lisbon Agreement, the Delegation shared the same concerns raised in document SCT/30/7. The Delegation looked forward to participating in discussions on the proposal by the Delegation of the United States of America, as well as on geographical indications in general, at future meetings of the Standing Committee.

313. The Delegation of Australia supported the geographical indication discussion within the SCT, which was the appropriate forum for these matters, and welcomed the opportunity to explore those ideas further. Information exchange and sharing of members' experiences was an area in which the SCT had proven it could excel. The Delegation said that geographical indications was an area where there were many different approaches to issues across WIPO members and a greater understanding of each other's perspectives would reveal genuine similarities and differences, and how these can be best translated to the international level. The proposal to explore the feasibility of a geographical indications filing system that would be inclusive for all national law protection mechanisms was an interesting idea. A study on the various national law approaches to specific geographical indication topics could be very informative for the members of the SCT and could perhaps follow the proposed approach. The Delegation recalled that according to national law, collective or certification trademarks were used to protect both domestic and foreign geographical indications. The Delegation believed that the trademark system was well established internationally and its users knew what to expect in terms of scope of protection and enforcement. Noting that there remained some significant divergences in national laws and geographical indications protection policies, the Delegation said that there were also areas of convergence that might not yet be fully understood. The Delegation wished these convergences on national protection mechanisms be better explored rather than continuing to focus solely on the divergences. The Delegation recalled that Australia also had long experience in administering two different registration regimes for geographical indications. One of these was the Register of protected geographical indications and other terms under the Wine Australia Corporation Act, which implemented the Australian-European Community Agreement on trade in wine from 1994. The other was the certification trademark system. The Delegation noted that many wine geographical indications protected under *sui generis* geographical indication regime were subsequently protected under the certification trademark system. This suggested that geographical indication holders might perceive some advantages to having trademark protections, as well as specialized geographical indication protection. The Delegation also shared the concerns about the revision of the Lisbon Agreement, which had been raised at the Lisbon Working Group and at the General Assembly. The Delegation supported the work of WIPO Committees to create new international norms, provided that this work would be sufficiently inclusive and take adequate accounts of the views of all members.

314. The Delegation of Mexico, indicating that it was an active participant of the Lisbon Working Group, noted that it was currently analyzing the proposal put forward by the Delegation of the United States of America, and hoped to be able to comment on it at future SCT sessions.

315. The Delegation of Poland aligned itself with the statement made by the Delegation of the European Union and its member states and requested more time to consider the proposal.

316. The Delegation of the United Kingdom recalled that the intellectual property office was not the only organization that had responsibility for geographical indications. The main responsibility for non-agricultural products belonged to the Department of Environment, Food and Rural Affairs (DEFRA). The Delegation could not engage in any preliminary negotiations without consulting DEFRA first. The Delegation recalled that the United Kingdom was not a Lisbon member and, therefore, could not engage into discussions that might have implications for a treaty to which it did not belong. The Delegation strongly recommended that any consideration of this proposal be deferred until the next meeting, at which point, it would have had adequate time to consult and come back with a position.

317. The Delegation of France aligned itself with the statement made by the Delegation of the European Union and its member states. The Delegation did not support the discussion of the proposal in the committee as it might have a negative impact on the discussion taking place in other fora and, in particular, the Lisbon Working Group.

318. The Delegations of Brazil, Colombia, and Guatemala thanked the Delegation of the United States of America for the proposal made in relation to the future work of the SCT on geographical indications and reserved the right to make comments on the proposal at the next session of the SCT.

319. The Delegation of Venezuela (Bolivarian Republic of), highlighting the need for transparency and inclusiveness in the work of all multilateral organizations, regretted that when observers participated in the discussion of the Lisbon Working Group, the response was always “thank you for your comments, but we will not take them into account because you are not members”.

320. The Delegation of Spain, indicating that the proposal by the Delegation of the United States of America had certainly some constructive elements in it, said that due to the short notice, it was not able to comment on it but hoped to do so at the next session of the Standing Committee.

321. The Delegation of Senegal, noting that in Senegal geographical indications were governed by the Ministry of Industry, the Ministry of Agriculture and the OAPI office, said that it would comment on the proposal at the next session of the SCT.

322. The Representative of INTA said that it viewed the proposal put forward by the Delegation of the United States of America with the greatest interest. The Representative shared the view that there was a need for the review and the clarification of the various national approaches of the protection of geographical indications and of how international obligations, notably under the TRIPS agreement, were met in this respect, including the interface between geographical indications and trademarks. The Representative agreed that the SCT should address those issues. The Representative stressed the fact that INTA supported the protection of geographical indications as an intellectual property right. At the same time, INTA firmly advocated that such protection must not prejudice other existing IP rights, including trademarks, and that any conflict between those rights must be resolved pursuant to the well-established principles of territoriality, exclusivity and priority. The Representative also welcomed the proposal to explore the feasibility of a geographical indications filing system that would be inclusive for all national law protection mechanisms. The Representative recalled that, back in 2004, in an effort to contribute to the negotiations on the establishment of a multilateral system of notification and registration of geographical indications under Article 23 of the TRIPS agreement, INTA elaborated the concept of a PCT-like or Madrid-like filing and registration

system for wines and spirits. This concept had since been developed into a model framework which was available from the topic portal of INTA's web site. The Representative reiterated that the international geographical indications community could greatly benefit from an international filing registration system that would, as the Madrid system, leave questions of substance to national law and that could effectively attract participation by countries with different geographical indication protection systems. The Representative believed that by mixing issues of substance with the purely procedural aspects of a Madrid type registration system, the purported revision of the Lisbon system failed to offer the inclusive approach that INTA's model framework pursued. The Representative of INTA, therefore, supported the two pronged approach proposed by the Delegation of the United States of America.

323. The Delegation of Nepal requested to defer the discussion of this Agenda item to the next meeting.

324. The Delegation of Iran (Islamic Republic of) said that the Iran (Islamic Republic of) was a member of the Lisbon Agreement. The Delegation assured that all members of the Lisbon system had shown maximum flexibilities towards the non-members of the Agreement, and had tried to incorporate their ideas and concepts in the draft text of the agreement. The Delegation believed that this approach had certainly enriched the text, bringing more depth and thoroughness to it.

325. The Representative of ORIGIN shared his worries about the lack of protection of geographical indications with regard to the new domain names. The Representative stressed that new strings such as ".coffee", ".wine", ".organic", combined with the lack of protection of geographical indications in the domain names, could lead to the occurrence of new web sites like "colombian.coffee", "bluemountain.coffee", or "rioja.wine", not necessarily belonging to the concerned association of producers. The Representative called for discussing these issues and finding common ways to make sure that ICANN process would consider protecting geographical indications with regard to new domain names.

326. The Delegation of the United States of America thanked all the delegations for their interventions, in particular those that had expressed support for further work and consideration on the topic of geographical indications, a standing item on the SCT agenda. The Delegation understood that more time was needed for delegations to formulate more detailed or more concrete positions on the proposal. The Delegation said it would submit a more detailed document on a potential geographical indication filing system to the Secretariat before the next session. The Delegation also would welcome submissions from other delegations, should they have preliminary thoughts on the topic. The Delegation asked the Secretariat to collect these documents and to prepare them for consideration by delegations at the next session. Recalling that work had been done on the area of Internet domain names and geographical indications at the tenth session of the SCT, the Delegation said that it would not oppose more discussion on that topic. The Delegation believed that it would benefit all the members that the Secretariat refreshed the collective memory as to what discussions the SCT had had in the past. The Delegation therefore expected that the Secretariat might provide more information on that topic. The Delegation further said that it wished to convey the sentiment to the Delegation of the Russian Federation that in no way the proposal on further work on geographical indications intended to delay or impede the progress on the DLT. The Delegation also supported the specific comment by the Delegation of Switzerland with respect to the wish to have systems respect countries' national protection mechanisms, and for this very reason the Delegation believed that further work was necessary in this area. The Delegation also thanked the Delegation of South Africa for noting the fact that work on geographical indications had never relinquished, but rather was suspended informally by acquiescence of the Member States of the Standing Committee. Finally, the Delegation thanked the Delegation of Australia for their intervention, in particular, for suggesting that discussions be inclusive of all Member States'

views on this particular topic. The Delegation thanked the Standing Committee for its consideration of this important subject matter on the agenda and looked forward to continuing this discussion.

327. The Delegation of Italy reiterated that its position was not against discussing geographical indications in the SCT. The Delegation expressed concerns on the roadmap proposed in document SCT/30/7 and, therefore, proposed some other avenues for a discussion on geographical indications. The Delegation said that in order to go further, an inter-ministerial coordination at the national level was needed. Therefore, the Delegation asked to defer the discussion to the next session of the SCT.

328. The Delegation of Philippines reserved the right to make comments on the proposal at the next session of the SCT.

329. The Delegation of Hungary shared the views expressed by the Delegation of Italy. The Delegation added that the SCT could not request the Secretariat at this point to do any further work on this subject.

330. The Delegation of Switzerland supported the statement made by the Delegation of Hungary. The Delegation reiterated that was not in favor of pursuing work on the basis of document SCT/30/7.

331. The Delegation of Australia said that it did not see any harm in the Secretariat collecting submissions from countries between this and the next meeting.

332. The Delegation of the Russian Federation reiterated its concern that the Standing Committee would envisage giving the Secretariat a mandate for additional work and that the Secretariat might not have the necessary resources to deal with geographical indications for the time being, particularly to gather contributions.

333. The Delegation of the European Union, on behalf of its member states, reiterated the position that consideration of the proposal put forward by the Delegation of the United States of America should be deferred to a future session of the SCT.

334. The Delegation of Greece echoed the statements made by the Delegations of the European Union, Hungary, Italy and Switzerland, and said that due time should be given to reflect over the proposal.

335. The Chair stated that concerning the proposal by the Delegation of the United States of America, a number of delegations noted that it was presented only at the start of the meeting and further time for its consideration was needed. However, a large number of delegations were of the view that the SCT should pursue its work on geographical indications including other issues, such as the protection of geographical indications in the Domain Name System. The Chair stated that all delegations were invited to present their proposals for this Agenda item in time before the next session of the SCT.

AGENDA ITEM 8: ADOPTION OF THE SUMMARY BY THE CHAIR

336. The Chair concluded that no comments had been made on Agenda items 1 to 6.

337. As regards paragraph 16 of the Summary by the Chair, the Delegation of Hungary said that it would like to categorize these discussions under this agenda item the following way: "Some delegations raised specific concerns and asked questions in relation to some aspects of the second level legal rights, protection mechanisms, in particular, the development of the list of

geographical terms and proposed to extend the list with the protected geographical indications and appellation of origin". The Delegation further wished to change paragraph 16 in the following way: "The Chair stated that the SCT had taken note of documents SCT/30/5 and the comments and the questions raised, and that the Secretariat was asked to answer the questions and to keep Member States informed on the future developments in the Domain Name System".

338. The Delegation of Switzerland, referring to paragraph 17, said that it believed that the text did not reflect the course of the discussion. The Delegation proposed amending the paragraph or inserting a footnote to that effect.

339. The Delegation of Italy recalled that there were divergent views on the future work on geographical indications and that the matter was reverted to the next meeting. The Delegation said that some delegations opposed future work based on the proposal put forward by the Delegation of the United States of America. The Delegation noted that this was not reflected in paragraph 17.

340. The Delegation of the European Union supported the intervention made by the Delegation of Italy and believed that a footnote to that effect could be a solution.

341. The Delegation of Hungary supported the statement made by the Delegation of Italy and recalled that some delegations did not support any future work based on the proposal put forward by the Delegation of the United States of America. The Delegation also recalled that no decision on Documents SCT/30/7 was taken.

342. The Delegation of the United States of America, supported by the Delegations of Australia, Canada, Jordan, and South Africa, believed that the most appropriate path forward might be to leave the Summary by the Chair intact, as it constituted the sum-up of the discussions done by the Chair of the SCT.

343. The Delegation of Jamaica supported the statements made by the Delegations of Italy and Switzerland to reflect the divergent views on this agenda item.

344. The Delegations of Greece and Portugal associated themselves with the statements made by the Delegations of the European Union and Italy.

345. The Delegation of Iran (Islamic Republic of) supported the statement made by the Delegation of Italy and disagreed to support any future work based on the proposal put forward by the Delegation of the United States of America.

346. The SCT approved the Summary by the Chair as presented in document SCT/30/8 Prov..

AGENDA ITEM 9: CLOSING OF THE SESSION

347. The Delegation of Switzerland thanked the Chair for the excellent chairing of the meeting and for the ability to lead the Committee to a fruitful outcome.

348. The Delegation of the European Union, on behalf of its member states, extended the thanks and requested that its statement be placed on the record of the Standing Committee's proceedings and be considered as an integral part of the conclusion process. The Delegation had several observations with regard to the characterization of proceedings, which in its view, did not fully capture the positive views of the Standing Committee in relation to the design law treaty and the very significant progress achieved regarding the DLT. The Delegation suggested

that the Standing Committee did not just make further progress but made significant further progress and substantial discussions on the remaining open issues, as well as significant progress on technical assistance. The Delegation also noted that no delegation objected the convening of a diplomatic conference. In conclusion, the Delegation thanked the Chair for the unwavering commitment in this week's discussions.

349. The Delegation of Egypt believed that progress had been made and appreciated the fact that all delegations were in favor of a diplomatic conference and agreeing to the inclusion of provisions on technical assistance in the future treaty.

350. The Delegation of Trinidad and Tobago, on behalf of GRULAC, agreed that the SCT made progress on the DLT text and also on Article 21 in terms of technical assistance.

351. The Delegation of Algeria, on behalf of the African Group, recognized the efforts undertaken both by the Chair and the Secretariat in achieving positive results in the discussions.

352. The Delegation of Poland, on behalf of the CEBS Group considered that the past week was a serious and productive advancement and the results were encouraging. The Delegation reiterated its commitment to an article on technical assistance and capacity building within the text of the treaty, and looked forward to a diplomatic conference.

353. The Delegation of Bangladesh, on behalf of the Asia-Pacific Group, expressed its satisfaction with the outcome of the discussions and thanked all the Member States for showing flexibility and active engagement. The Delegation hoped that a consensus would be reached on the article on technical assistance and requested the delegations to come forward with the spirit of flexibility.

354. The Delegation of Japan, on behalf of Group B, underlined that the Standing Committee made a significant progress on DLT issues through intensive discussion at this session, in both plenary and informal meetings. The Delegation strongly hoped that this momentum would continue and lead to the satisfactory and successful conclusion of a diplomatic conference.

355. The Delegation of China thanked the Chair for his excellent leadership, as well as all delegations for their active efforts and their constructive contributions throughout this week.

356. The Delegation of Brazil recognized the progress made and thanked all the delegations for their constructive engagement.

357. The Delegation of the United Kingdom supported the statement made by the Delegation of the European Union, on behalf of its member states. The Delegation firmly believed that the work done this week should lead to a diplomatic conference on Design Law Treaty in 2014.

358. The Delegation of the Russian Federation hoped that remaining issues would be solved at the highest level during the General Assembly in December. The Delegation also hoped that the conference would be held in 2014 and reiterated its Government's commitment to host the diplomatic conference.

359. The Delegation of Italy supported the statement made by the Delegations of the European Union and the United Kingdom. The Delegation said that the tremendous progress achieved had paved clearly the way towards a diplomatic conference in 2014 in the Russian Federation, and sincerely hoped that these would be a positive decision at the next General Assembly.

360. The Delegation of the United States of America agreed that a lot of progress had been made, and thanked all the delegations for their constructive engagement. The Delegation was very interested in going to the diplomatic conference and looked forward to moving in that direction and having constructive, flexible, and collective group discussions.

361. The Delegation of Nigeria agreed with the progress made during this SCT, and hoped that remaining fundamental issues could be addressed during the extraordinary General Assembly in order for the diplomatic conference to go forward.

362. The Delegation of South Africa echoed the sentiments expressed by other delegations that progress had been achieved in this session. The Delegation said that the General Assembly would be able to evaluate and take a decision on whether to convene a diplomatic conference to adopt the design law treaty, with an article on technical assistance.

363. The Chair closed the session on November 8, 2013.

[Annexes follow]



SCT/30/8
ORIGINAL: ENGLISH
DATE: NOVEMBER 8, 2013

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

**Thirtieth Session
Geneva, November 4 to 8, 2013**

SUMMARY BY THE CHAIR

adopted by the Committee

AGENDA ITEM 1: OPENING OF THE SESSION

1. The Chair, Mr. Adil El Maliki (Morocco), opened the thirtieth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), welcomed the participants and invited Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO), to deliver an opening address.
2. Mr. Marcus Höpperger (WIPO) acted as Secretary to the SCT.

AGENDA ITEM 2: ADOPTION OF THE AGENDA

3. The SCT adopted the revised draft Agenda (document SCT/30/1 Prov.2).

AGENDA ITEM 3: ACCREDITATION OF A NON-GOVERNMENTAL ORGANIZATION

4. Discussion was based on document SCT/30/6.
5. The SCT approved the representation of the Institute for Trade, Standards and Sustainable Development (ITSSD) in sessions of the Committee.

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

6. The SCT adopted the draft report of the twenty-ninth session (document SCT/29/10 Prov.) with the comments made by the Delegation of China and the Representative of the Centre for International Intellectual Property Studies (CEIPI).

AGENDA ITEM 5: INDUSTRIAL DESIGNS

7. Discussion was based on documents SCT/30/2 and 3.
8. All member delegations and representatives of observer organizations that made general statements expressed broad support for the work of the SCT on design law and practice and the conclusion of this work in the form of a Design Law Treaty. All delegations expressed support, in principle, for making available technical assistance and capacity building measures to developing countries and Least Developed Countries (LDCs) in the context of the implementation of the future Treaty.
9. The Committee reviewed in detail all provisions which were presented in the form of alternative options, or for which footnotes indicated proposals or reservations of individual delegations. The Chair stated that all statements made by delegations would be recorded in the report of the thirtieth session.
10. The Chair noted that the SCT had made further progress on the draft provisions that it had considered and requested the Secretariat to prepare revised working documents for consideration of the SCT, or a possible preparatory conference, as the case may be, which should reflect all comments made at the present session in the following form: provisions for which alternative options existed would be redrafted in accordance with the decision taken by the Committee; individual proposals presented in footnotes for which there was support by other delegations would be elevated into the text and presented in square brackets with an indication of the delegations having supported the proposal; individual proposals for which there was no support would remain in footnotes; reservations to provisions would be recorded in the form of footnotes.
11. With regard to technical assistance, the Chair noted that progress was made on the provisions in draft Article 21/Resolution and requested the Secretariat to reflect the new draft Article 21/Resolution in the revised working document.
12. Concerning the convening of a diplomatic conference for the adoption of a Design Law Treaty, the Chair noted that all delegations that had taken the floor were in favor of convening such a diplomatic conference. A large number of delegations was of the view that an agreement to address technical assistance in the form of an article in the treaty had to be reached prior to convening such a diplomatic conference. Other delegations were of the view that the SCT could already recommend to the General Assembly the convening of a diplomatic conference. Among the latter, a number showed flexibility as to whether technical assistance should be addressed in a resolution or an article, whereas one delegation was of the view to defer this matter to the diplomatic conference itself.

AGENDA ITEM 6: TRADEMARKS

Study on the Protection of Country Names

13. Discussion was based on documents SCT/29/5 Rev. and SCT/30/4.

14. A large number of delegations expressed support for continuing work on this item. Some delegations proposed the continuation of this work, including work on a possible future Joint Recommendation in that area. Other delegations asked for further study on specific aspects of the topic, such as the role of countries as brand owners. The Chair invited delegations to submit their proposal in writing to the Secretariat before the end of the year. These submissions should be compiled by the Secretariat into a working document for consideration by the SCT at its next session.

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

15. Discussion was based on document SCT/30/5.

16. The Chair stated that the SCT had taken note of document SCT/30/5 and that the Secretariat was requested to keep Member States informed on future developments in the Domain Name System.

AGENDA ITEM 7: GEOGRAPHICAL INDICATIONS

17. Concerning the proposal by the Delegation of the United States of America, a number of delegations noted that it was presented only at the start of the meeting and further time for its consideration was needed. However, a large number of delegations were of the view that the SCT should pursue work on geographical indications including other issues, such as the protection of geographical indications in the Domain Name System. The Chair stated that all delegations were invited to present their proposals for this Agenda item in time before the next session of the SCT.

AGENDA ITEM 8: SUMMARY BY THE CHAIR

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

AGENDA ITEM 9: CLOSING OF THE SESSION

19. The Chair closed the session on November 8, 2013.

[Annex II follows]



SCT/30/INF/1
ORIGINAL: FRANCAIS/ANGLAIS
DATE: 8 NOVEMBRE 2013 / NOVEMBER 8, 2013

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

**Trentième session
Genève, 4 – 8 novembre 2013**

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

**Thirtieth Session
Geneva, November 4 to 8, 2013**

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LIST OF PARTICIPANTS**

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prepared by the Secretariat*

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

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