

Assemblies of the Member States of WIPO

Fifty-Sixth Series of Meetings
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**MEDIUM-TERM STRATEGIC PLAN FOR THE WORLD INTELLECTUAL PROPERTY
ORGANIZATION (WIPO) FOR 2016-2021**

Addendum

At its 25th session (August 29 to September 2, 2016), the Program and Budget Committee (PBC), requested that comments made/submitted by Member States in respect of the Medium-Term Strategic Plan (MTSP) 2016-2021 be annexed to the MTSP document. In accordance with this decision, the said comments made by Member States are reproduced in the present document.

[Comments by Member States follow]

COMMENTS BY MEMBER STATES ON THE MEDIUM-TERM STRATEGIC PLAN 2016-2021

The following Member States made/submitted comments on the Medium-Term Strategic Plan (MTSP) 2016-2021 during the 25th session of the Program and Budget Committee (PBC):

Australia
Brazil
Canada
China
France
Greece - on behalf of Group B
Hungary
Iran (Islamic Republic of)
Japan
Latvia - on behalf on behalf of Central European and Baltic States (CEBS)
Pakistan
Portugal
Russian Federation
Switzerland
United States of America

The comments are reproduced in the order in which they were made. The complete record of PBC discussions will appear in the report of the 25th session (document WO/PBC/25/22).

LATVIA

The Delegation of Latvia, speaking on behalf of the Central European and the Baltic States Group (CEBS), thanked the Director General for his presentation of the MTSP and the Secretariat for preparing the relevant documentation. The Group supported the vision outlined in the strategic plan. CEBS acknowledged that the MTSP took into account the unstable financial environment at the global level, and at the same time identified particular challenges for each Strategic Goal (SG). The Group considered that the document adopted a prudent approach regarding the finances of the Organization, while safeguarding its flexibility. CEBS welcomed the inclusion of the United Nations Sustainable Development Goals (SDGs) in the MTSP, and noted that the Group looked forward to seeing the contribution of the Organization in the implementation of the SDGs. The Group supported, overall, the proposed approach for the next three biennia and believed that this plan would be a useful guide for the production of the Program and Budget.

GREECE

The Delegation of Greece, speaking on behalf of Group B, welcomed the MTSP prepared by the Secretariat, and the introduction given by the Director General. Group B considered that the MTSP for 2016-2021 contained in document WO/PBC/25/18, while not a legally binding document, provided ideas for high-level strategic guidance for the preparation of the three consecutive Program and Budgets covered by the MTSP. Group B took note of the fact that the MTSP had commenced at a very challenging time for the multilateral community, when the world economy continued to underperform, and the long-awaited recovery from the global financial crisis was slow to materialize. Group B also acknowledged that, in this context, the MTSP for the period of 2016-2021 would need to be executed with an emphasis on continued fiscal prudence, flexibility to respond to changes in circumstances, and a realistic focus on what was possible for the Organization to achieve in order to add value to the multilateral framework for intellectual property. In this regard, Group B acknowledged the main orientations and strategies that were set out in the MTSP, corresponding to the nine Strategic Goals (SGs) of the Organization. The Delegation indicated that the specific concerns that some Group B Member States had regarding the document would be presented in an analytical manner by those individual delegations.

RUSSIAN FEDERATION

The Delegation of the Russian Federation felt that the document on the MTSP for WIPO for 2016-2021 was particularly interesting, and was grateful to the Director General for it. The Delegation considered that the document defined the basic directions for WIPO's activities for the following five-year period, and that it was clear from the document that the work which was being done on achieving WIPO's SGs would be continuing over the following five years. The document also underlined the fact that particular attention would be paid to encouraging innovation, in helping to achieve the SDGs, which the Delegation believed was very positive. The Delegation also hoped there would be more detailed documents which would shed further light on the link between innovation and the strategic plan. The Delegation believed that the document's methodology was also very helpful, because it described the current situation in respect of the specific SGs for the first time, highlighted the results which had already been achieved, and indicated where there were problems and where work and attention should be focused. The Delegation noted that the document also gave a glimpse of the expected results of this work. On SG I, for example, the balanced evolution of the international normative framework for intellectual property, the Delegation saw that activities would be continued to attract new participants to the international treaties administered by WIPO, and that work would continue and would build on what had already been done by the various committees. The

Delegation continued that the Organization was going to try to improve the results between the Organization and Member States in areas of activities which had not yet been on the agenda. The Delegation remarked that the current situation in respect of international documents and, particularly, international treaties, was making headway, but that it was doing so rather slowly, which meant that Member States did not always manage to have mutually advantageous solutions. The Delegation pointed out that sometimes, parallel and additional work needed to be done in certain committees on documents which were of a more practical nature, and on certain questions. The Delegation referred, for example, to recommendations, practical guidelines, etc., because those documents could be addressed to individually interested groups of participants. The Delegation also thought it would be helpful to describe in more detail the activity which was going to be undertaken and the instruments that could be used, as well. In the Delegation's opinion, it was particularly important that steps be taken to achieve SG IV. The Delegation referred specifically to coordination and development of global IP infrastructure, which meant developing platforms, services and databases, *inter alia*, which would help to achieve WIPO's SGs. The Delegation pointed out that WIPO had some existing instruments already, such as patent system search tools and reviews of international filings, and thought these could be improved even further with additional expert input. The Delegation stated that developing new systems and bringing them into operation were equally important because the systems needed to be made more user-friendly; if they were, the Organization could expand the access that States had to them, and the use that they made of them. The Delegation considered that this was particularly important for developing countries and countries with economies in transition because it could have a very positive effect for them and, furthermore, for the Organization. The Delegation observed that more active use of these instruments would help both Member States and the Organization, referring to the Access to Specialized Patent Information (ASPI) program and others, and that access to the instruments could be provided through Technology and Innovation Support Centers (TISCs). The Delegation hoped that in future documents, which would be prepared on the development of the strategic plan, some of these aspects could be addressed in greater detail. The Delegation thought it important that the Organization's activity and work be improved and made more effective, for its benefit and for that of its Member States.

CHINA

The Delegation of China highly commended the MTSP for 2016-2021. The Delegation hoped that this plan would take into consideration the experiences gained in implementing the previous plan, and that it would effectively guide the establishment of the following three biennial Program and Budgets. Regarding the plan itself, China hoped that WIPO would strengthen its work, in the following stage, in encouraging Member States to ratify or accede to the Beijing Treaty and other new international instruments; promoting norm setting activities in areas such as genetic resources; promoting an increasing service level of the PCT and IP systems in general; increasing coordination so as to facilitate the use of IP for development; and extending the network of TISCs and increasing its service level. Furthermore, the Delegation noticed that the MTSP emphasized that WIPO would ensure an effective contribution to the implementation of the SDGs, within its mandate. The Delegation agreed with this position, recognizing the responsibility and duty of WIPO and the international IP community to contribute to the realization of the SDGs. The Delegation agreed with WIPO's view that SG IX was a priority. Meanwhile, the Delegation wished to point out that IP could also play an important role for the other Strategic Goals, such as SG XII.

PAKISTAN

The Delegation of Pakistan thanked the Director General for his remarks, and the Secretariat for the relevant document. Considering the importance of the document which provided the

strategic roadmap for the Organization, the Delegation believed that it required more deliberation and reflection. In its preliminary comments, the Delegation believed that for the MTSP to remain relevant, it was imperative that it be aligned to national and regional needs and that work continue towards achievement of a balanced global IP system, as indicated in SG I. The Delegation remarked, however, that there were no details in the document about how the Goal was to be achieved, including any reference to flexibilities, which were essential for balance. Similarly, the Delegation considered that the results of the external evaluation of the Development Agenda (DA) recommendations would be useful in guiding the plan. The Delegation stated that, in SG III, IP and its role in fostering innovation and the effective use of IP by businesses, was another important area. The Delegation wished to request details on specific measures resolved in the plan for this purpose. The Delegation also saw a need for a specific locus in the Organization to address this need, which was currently scattered, and hoped to see this reflected in the plan. In this regard, the Delegation believed that the Intellectual Property Automation System (IPAS) was a useful tool and encouraged the use of national IP expertise, wherever available, to overcome shortfalls. In SG IV, the Delegation supported the expansion of TISCs and their linkages with other IP services into a more broad-based, comprehensive range to cater to IP services related to innovation. Here again, the Delegation saw a need for a dedicated, cohesive nexus in the Organization for IP services and innovation, which was currently fragmented. The Delegation believed that the Global Innovation Index (GII) methodology should be continuously reviewed; one specific aspect which the Delegation viewed as requiring quick work-up was improved collection of up-to-date data, which was currently weak and required strengthening. The Delegation stated that this was essential to ensure accuracy and credibility of the GI. In SG VII, the Delegation trusted that the Organization would ensure that conflicts of interest were recognized when engaging in public-private partnerships. Similarly, the Delegation appreciated the provision of factual technical input to other UN agencies. However, conflicts of interest have risen in this regard, as was the case with the UN Secretary General's High-Level Panel on Access to Medicines, which should be avoided in the future. The Delegation also felt that the plan lacked information on how the proposed External Office (EO) network fit into the broader organizational framework, especially in view of the perception that the EO network indicated a more decentralized functioning of the Organization. The Delegation would seek more details on this. The Delegation believed that the plan required more deliberation, and requested that the Secretariat share the comparison of the changes proposed to the MTSP for 2010-2015, to the new MTSP for 2016-2021.

BRAZIL

The Delegation of Brazil joined other delegations in thanking the Director General for his remarks and the Secretariat for preparing the MTSP. The Delegation stated that the MTSP was a useful document in order to follow the many activities of WIPO. While the Delegation recognized that the MTSP was a self-assessment exercise and a framework by the Secretariat, the Delegation's firm view was that guidance by Member States should be fully taken into account in an open and transparent process. The Delegation also believed that the document should provide more information on each of the SGs so that Member States would be able to follow their implementation, and understood that the specific strategies under each SG could be more detailed. The Delegation stated that the document did not provide the linkage between the DA recommendations and WIPO's SGs, and that it should be amended in order to include this information, as had been done in the MTSP for the period of 2010-2015. The Delegation proceeded to comment on specific SGs. On SG I, in the Delegations' view, implementation of the Marrakesh Treaty was one of the main issues. The period covered by the last MTSP saw the conclusion of the Marrakesh Treaty. The Delegation considered it a major achievement of the Organization, and an expression of the fact that a balanced IP system must incorporate the humanitarian and social development dimensions. In the MTSP for the period of 2016-2021, the Delegation saw a need of ensuring adequate financial and human resources to assist

Member States, especially developing countries, to implement the Treaty. The Delegation stated, however, that the document only made reference to technical and legal assistance in the process of ratification, not with regard to implementation, and expressed the view that it was appropriate that the MTSP be amended in order to clearly state that members who choose so would be able to receive support from WIPO in order to initiate their national implementation. Regarding SG III, Brazil was keen to continue implementation of the DA, which it considered should translate not only into technical assistance but also, and perhaps more crucially, into WIPO continuing to provide technical assistance in an adequate, balanced and tailor-made manner. The Delegation stated that WIPO must incorporate the imperative of development in its activities. The Delegation remarked that this was not an exhaustive work. While it was a good sign that the DA was recognized and that projects carried out in the period had generated relevant results, many shortcomings remained for the effective mainstreaming of the DA. The Delegation pointed out that the document on the independent review of the implementation of the DA recommendations, under discussion in the Committee on Development and Intellectual Property (CDIP), may provide further guidance on the matter. Regarding the development of IP infrastructure (SG IV), the Delegation supported the view expressed in the plenary that development of IP infrastructure was beneficial to developing countries, especially in the case of databases and systems such as the IPAS. Regarding SGs III and VII, the Delegation suggested that more information on the SDGs be provided, especially on how WIPO was working towards their implementation. The Delegation noted that there were ongoing discussions in the CDIP regarding the SDGs, but disagreed with the language stating that SDG IX was the most relevant to WIPO. The Delegation stated that to limit the participation of WIPO to SG IX would go against the agreed language of the 2030 Agenda which stated that the SDGs were, and the Delegation quoted, “integrated and indivisible”. During the next period of the MTSP, therefore, the Delegation believed that WIPO should put all of the SDGs in its work and play a constructive role in their implementation. Regarding the PCT, the Delegation recalled its proposal for a fee reduction for Universities from developing countries. This was an issue related to SGs I, II and III. The proposal would have a very small cost, while generating concrete and long-term results. The Delegation considered that WIPO's net financial surplus of 33 million Swiss francs in 2015 alone clearly showed that there was room for providing this fee reduction for those institutions from developing countries. It had a solid econometric base and the Delegation expected that the next session of the PCT Working Group would reach agreement on this important matter. It was also an issue to be included in the MTSP, taking into account the support received from many countries.

CANADA

The Delegation of Canada thanked the Secretariat for the preparation of this MTSP, and believed that it generally provided a realistic and sound framework for the Organization's work. The Delegation had one suggestion, which was that, in future MTSPs, the Secretariat could consider more explicitly and/or more systematically reflecting or otherwise weaving in various recommendations made by internal/external and UN audit functions into the orientations and strategies, particularly when those recommendations were horizontal in nature, so as to promote the Organization-wide pollination of audit recommendations at a strategic level. The Delegation noted with particular interest some of the new or newer strategies outlined under SG II and IV pertaining to coherence and user experience in registration systems, and considered these to be positive for users of WIPO's registration systems. The Delegation inquired, however, about the plans under SG III that contemplated the establishment of IP training academies in Member States, and asked what specific form these would take. On that point, the Delegation recalled the Internal Oversight Division's recent findings regarding existing overlaps between Programs 11 and 30 and, therefore, wondered where these sort of academies would sit. The Delegation further took the opportunity to support WIPO GREEN and WIPO Re:Search, which were again mentioned in the document, and welcomed the Secretariat's renewed commitment to promote their continued enhancements through broader

participation. The Delegation also noticed that, on page 27 of the English version of the document, there was a reference to “up to three new” WIPO External Offices, while the General Assembly’s decision on the matter refers to “not more than three” External Offices.

UNITED STATES OF AMERICA

(written statement)

“In 2010, the United States welcomed the development of a MTSP for 2010-2015, and the consultative process that resulted in the Strategic Goals. The United States recognizes that the proposed 2016-2021 MTSP is based on the 2010-2015 MTSP, is not legally binding, and reflects the Director General’s ideas for strategic priorities. The United States, however, believes that the proposed MTSP for 2016-2021 does not reflect the collective decisions of the WIPO Membership in two important areas related to geographical indications. The proposed MTSP fails to acknowledge that there has been no decision taken by the WIPO membership that WIPO should administer the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Geneva Act).¹ Additionally, the proposed MTSP does not reflect the direction of the General Assembly to the Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT) “to examine the different systems for protection of geographical indications, within its current mandate and covering all aspects.” As a result, the United States does not accept that the proposed MTSP provides guidance on the appropriate strategic priorities to the Organization regarding the protection of geographical indications. The WIPO Secretariat indicated at the 2015 WIPO Assemblies that it was not competent to take a decision to administer the Geneva Act because it was a decision for the Member States. However, the proposed MTSP includes promotion of the Geneva Act of the Lisbon Agreement to prospective new contracting parties and takes the position that the Geneva Act will be administered by the Organization if it enters into force.

“The Organization has not been Authorized to Administer the Geneva Act:

“In the General Assembly in 2015, the United States submitted a document, “Matters Concerning the Administration of the Geneva Act of the Lisbon Agreement: Proposal of the United States of America to the WIPO General Assembly, WO/GA/47/3,” which notes that, consistent with Articles 4(iii), 6(2)(v) and 6(3)(g) of the WIPO Convention, the Director General must propose measures for the implementation of the Geneva Act, so that these measures can be fully considered by the WIPO General Assembly, the Paris Union Assembly and the Berne Union Assembly, and these bodies can decide whether to approve them. This document explained that the new Union that may be established by the new Geneva Act should not be considered a “Special Union” for which WIPO performs administrative tasks under Article 4(ii) of the WIPO Convention. The Union created by the Geneva Act is not a Special Union of the Paris Union because it expands the membership of the Lisbon Union to non-Paris, and even non-WIPO members. Moreover, the contracting parties to the Geneva Act could be completely different from those of the Lisbon Agreement itself, further demonstrating that the Unions created by the two agreements are different. Instead, the Organization’s responsibilities in relation to the Geneva Act should be considered under Article 4(iii) of the WIPO Convention which, for agreements established outside of the Paris and Berne Unions, and their special unions, requires the consideration and decision of the appropriate WIPO organs under Articles 6(2)(v) and 6(3)(g) of the WIPO Convention. No decision has been taken by the Organization on the Geneva Act; rather a subset of less than one-sixth of the WIPO membership adopted a treaty over the objection of several WIPO members. This same minority group decided that the existing Union should expand to include non-Paris Union and non-WIPO members and decided

¹ See, Assemblies of the Member States of WIPO, Synthesis of Decisions, Item 9, Approval of Agreements (which evidences a decision to approve agreements other than the Geneva Act of the Lisbon Agreement) available at: http://www.wipo.int/export/sites/www/about-wipo/en/assemblies/pdf/synthesis_2015.pdf

to revise the agreement to include additional subject matter without demonstrating the financial responsibility to fund the new arrangement. The Organization has not acquiesced to the Lisbon Union's decisions.² When the WIPO Assemblies approved the Program and Budget for 2016/17--the Organization's first budget following the adoption of the Geneva Act of the Lisbon Agreement--there was no consensus that WIPO would administer this new international registry for geographical indications. On the contrary, the United States specifically noted in its statement upon the budget adoption that the decisions by the General Assembly and each WIPO Union did not confer approval of the Geneva Act of the Lisbon Agreement or approval of any measures providing for WIPO to administer the Geneva Act.³ Addressing this dispute during last year's Assemblies, the Director General stated that the International Bureau was not in a position to decide whether administration of the Geneva Act was automatic or had to go through the separate approval process outlined in the WIPO Convention. Yet in the proposed Medium-Term Strategic Plan, the International Bureau appears to present the Geneva Act of the Lisbon Agreement for automatic approval by asking the PBC to recommend the proposed plan to the Assemblies. The United States does not agree to the automatic administration of an agreement that was concluded by less than one-sixth of WIPO members without having a broader discussion among the WIPO full membership as required by the WIPO Convention. As a result, the United States is not in a position to agree to the proposed MTSP guidance regarding the Geneva Act.

“What the Medium-Term Strategic Plan for 2016-2021 Should Say:
In 2016-2021 the Organization Must Prioritize a Broad Discussion on the Protection on
Geographical Indications

“It is important for the Organization to have a broader discussion of the protection of geographical indications in all aspects, including the possibility of a new international agreement for the international registration of geographical indications which all WIPO members could join. The General Assembly in 2015 decided that the discussion of geographical indications will continue in the Standing Committee on the Law of Trademarks, Industrial Designs and

² In this respect, the Union established by the Lisbon Agreement Geneva Act is different from the Union established by the Madrid Union, in that the process to expand the Madrid Union gave most WIPO members the ability to vote, and no WIPO member objected to the decisions of the Madrid Union. In fact, all Unions concerned have affirmatively approved WIPO's administration of the Madrid Protocol.

³ The United States expressed the same view in the Lisbon Union Assembly. As indicated in LI/A/32/5, paragraph 10, the United States stated “document LI/A/32/1 only captured the statistics of the diplomatic conference without reflecting the dynamics of that meeting. In particular, the Delegation expressed its disappointment that the Lisbon Union had been unable to allow the participation of the full WIPO membership and that it ultimately did not produce a new agreement that the fuller WIPO membership would be able to join. In that regard, the Delegation recalled that it had approached the diplomatic conference believing that it would represent a real opportunity to negotiate a geographical indications system that would be of interest to the wider WIPO membership, thereby continuing the work that had been done under the Paris Union in the 1970's and 1980's at WIPO, but which had been paused to allow for the negotiations that had resulted in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). As explained in document WO/GA/47/10 regarding the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), the Delegation believed that the Geneva Act was inconsistent with many national and regional systems for the protection of geographical indications, and therefore that the Lisbon Union had failed to meet the needs of the wider WIPO membership at the diplomatic conference. The Delegation further recalled that the Lisbon Union had significant financial difficulties and expressed the view that the proposed establishment of a Working Group would need to be funded with money from the Lisbon Union. As a result, the Delegation expressed concerns about the Lisbon Union embarking upon yet another expensive work program. Furthermore, the Delegation was of the view that it would be premature for the Lisbon Union members to commence work on plans for WIPO to administer the Geneva Act, when the full WIPO membership had not agreed that WIPO should perform that task. Pursuant to the WIPO Convention, the Delegation believed that the General Assembly, the Paris Union Assembly and the Berne Union Assembly would still have to formally decide to administer that new plurilateral agreement. Until such time, the Delegation was of the view that any decision by the Lisbon Union Assembly to make the Organization administer the Geneva Act would not be legitimate. **The Delegation recalled that it had encouraged the Director General to propose measures to the relevant Assemblies so that there could be clarity on the issue as discussed in its proposal to the General Assembly, as contained in document WO/GA/47/3.**” (emphasis added)

Geographical Indications (SCT). In that setting, a global system that meets the needs of all Members may evolve. The Strategic Plan for the Organization must anticipate that this conversation will occur so as to remedy the missed opportunity that was the Diplomatic Conference for the Adoption of a new Act of the Lisbon Agreement.

“What the Medium-Term Strategic Plan for 2016-2021 Should Not Say

“The MTSP should not ignore the interests of the majority of WIPO members in making the wishes of a minority of WIPO members a strategic priority. The United States objects to language in the proposed 2016-2021 MTSP that implies that a decision has been made for WIPO to administer the Geneva Act of the Lisbon Agreement. Such a decision can only be made by the Paris Union, the Berne Union and the General Assembly based upon a proposal by the Director General to administer the agreement. Moreover, the United States objects to the characterization of the Lisbon System as a “Global” IP system. A system with a small actual and potential membership is not global. In addition, the United States has the following specific objections to language in the proposed MTSP:

- “In paragraph I.1, second sentence, it is stated that the Organization administers 27 treaties. This is incorrect because it includes the Geneva Act of the Lisbon Agreement as a treaty that WIPO administers. There has been no decision by the Organization to adopt or administer this treaty. Similarly the third bullet in the paragraph assumes that no decision is required for WIPO to implement this treaty. The Geneva Act should be removed from this list, until such time as the General Assembly, the Berne Union and the Paris Union members agree that WIPO shall administer the Geneva Act.
- “In paragraph I.3 – the Lisbon system is referred to as a Global IP System of the Organization; the U.S. objects to this characterization since fewer than one-sixth of the WIPO membership adheres to the Lisbon Agreement and the Organization has not taken a decision on the Geneva Act. The discussion of the Lisbon system should be moved into a separate paragraph from discussion of WIPO’s true Global IP Systems that have been approved by the Organization as a whole and enjoy its broad support.
- “In Graph 1, the Geneva Act of the Lisbon Agreement should be removed from the listing of WIPO-administered Treaties.
- “Paragraph I.4 identifies the “treaties administered by the Organization” and includes the Geneva Act of the Lisbon Agreement.
- “In paragraph I.5 – The United States objects to this paragraph characterizing all of these treaties, including the Geneva Act, as “adopted by the Organization” and that, as such, “they represent the collective policy expression of the Member States.” This statement is plainly inaccurate. It is clear from the diplomatic conference including less than one-sixth of WIPO members as full participants that the Geneva Act was not adopted by the entire Organization and that it does not represent the collective policy expression of the WIPO Member States.
- “The proposed MTSP should be revised to reflect that the Geneva Act was not the “collective policy expression” of the WIPO Member States. The discussion of the Geneva Act should be set apart from the other WIPO treaties that were negotiated by the full WIPO membership and should better reflect the concerns that have been raised by WIPO members about its adoption by the Lisbon Union and its financial sustainability.

- “In paragraph I.10, paragraph (2), the proposed MTSP encourages accession to the Geneva Act of Lisbon while pointing out the option of protecting GIs through a trademark system. This same sentiment is expressed in paragraph II.7 (1). The United States objects to this language and approach because (1) the proposed MTSP should not promote entry into force of an agreement not endorsed by the Organization and (2) the language does not propose a balanced approach to the protection of geographical indications at WIPO, as reflected in the General Assembly decision of last year which agreed that WIPO should undertake a more balanced approach to GI discussions.⁴ However the proposed MTSP (in paragraphs I.10 and II.7(1) of WO/PBC/25/18) includes plans to encourage ratification of the Geneva Act while at the same time pointing out the option of protecting GIs through a trademark system.
- “A balanced approach to GI protection is not a binary discussion about two registration system models. First of all, the Lisbon System model does not fully represent all of the sui generis GI registration systems of the world, but represents a singular, overly-broad protection model that distorts trade and competition. Second, advancing the Lisbon model (either the original Lisbon Agreement or the Geneva Act) and encouraging accessions to that model while simply mentioning trademarks, does not reflect the mandate of the General Assembly to promote a broader discussion of other models and other ways of balancing affected interests. Lisbon should not be highlighted as the focal point for GI-related activities of WIPO in the proposed MTSP.
- “The WIPO proposed MTSP needs to be neutral on encouraging accessions to the Lisbon Agreement. Also, the document should reflect that any promotion for the Geneva Act should be part of a broader discussion about different GI models of protection, not just trademarks, and different ways to balance affected interests. Moreover, the proposed MTSP should promote a broader discussion by all WIPO members on GIs at the Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT).
- “In paragraph II.1 – reference to the Organization managing five global IP systems should not refer to a Lisbon System that includes geographical indications being administered by WIPO. The Lisbon System that WIPO administers is an agreement on appellations of origin.
- “In paragraph II.4, the reference to the new Geneva Act of the Lisbon Agreement should not be referenced in regard to future growth of the existing Lisbon system absent a decision by WIPO to administer the new Act.
- “In paragraph II.7, sub-paragraph (1), last sentence, the objective relating to the Geneva Act is premature until WIPO decides whether to administer this Act. Moreover, even if the Organization were to decide to administer this Act, the United States does not share the objective that the Geneva Act should go into force. On the contrary, the United States would prioritize all WIPO Members being able to negotiate an agreement for the protection of geographical indications to meet their collective interests.

⁴ The General Assembly directed the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) to examine the different systems for protection of geographical indications, within its current mandate and covering all aspects.

- “Also in paragraph II.7, subparagraph (2), the objective of “settling” the question of financial sustainability is not clearly stated and should be specifically understood to mean that the Lisbon Union will ensure that the System is financially viable, consistently with the Lisbon Agreement, by fees, by contributions or a combination thereof in order to more correctly reflect the decision of the Lisbon Union Assembly, which was relied upon by the 55th Assemblies “to adopt measures by the 2016 Assemblies to eliminate the Lisbon Union’s projected biennial deficit, as described in the 2016/17 biennium WIPO program and budget (1.523 million CHF).”⁵
- “The United States supports the strategies for facilitating the use of IP for Development in paragraph III.7, especially WIPO’s contribution within its core mandate to the United Nations’ Agenda for Sustainable Development. WIPO’s public-private partnership initiative, WIPO Match, should be actively enhanced and promoted alongside WIPO’s well-developed public-private partnerships described under Strategic Goal VII on Global Policy Issues including WIPO Re:Search, Accessible Books Consortium and WIPO Green.
- “Finally, as to IV.4(2), it is said that: “The Locarno Classification for designs is becoming more important as the Hague System expands. The Locarno Classification needs to be enhanced and to take into account, in particular, the experience of examining offices.” The Locarno Classification System currently does not provide a useful system to enable search and examination of industrial designs, and the Medium Term Strategic Plan should envision building upon the Locarno System to allow greater granularity to facilitate useful classification and efficient search functions.”

IRAN (ISLAMIC REPUBLIC OF)

The Delegation of Iran (Islamic Republic of) congratulated the Chair and wished the Chair every success, and also thanked the Director General for his remarks. The Delegation noted that the MTSP would serve as an overall strategic direction for the preparation of the three consecutive budget biennia. The Delegation commented that it was unclear to what extent Member States had been involved in giving feedback to the Secretariat in the elaboration of this draft prior to the current session of the PBC, and that the document had been published recently. As it was a very important document, the Delegation believed that there was no need to rush a recommendation to the General Assembly to take note of the MTSP, and that Member States should be given sufficient time to analyze and discuss the draft MTSP for 2016-2021. With regard to the incorporation of the DA into the MTSP, the Delegation stated that it would be important to have the result of the external evaluation of the implementation of the DA recommendations, which would be ready by October 2016, in order for it to be included in the MTSP. Concerning WIPO’s work in relation to the United Nations SDGs and the 2030 Agenda for Sustainable Development, the Delegation recalled that the role of WIPO in relation to the SDGs was currently under discussion in the CDIP, and that the result of this discussion should also be considered in the new MTSP.

⁵ See http://www.wipo.int/export/sites/www/about-wipo/en/assemblies/pdf/synthesis_2015.pdf at page 7.

JAPAN

The Delegation of Japan recognized that the MTSP document was not legally binding. The Delegation was of the view that there were two critical points in the process of promulgating the next MTSP. One point was to make sure the plan promoted economic development based on utilizing IP. The other point was to ensure that WIPO's Global IP Services for stakeholders were continually improved. The Delegation noted that, according to the MTSP proposed by the Secretariat, it was planned to continue increasing the number of contracting states to the PCT, the Madrid Protocol and the Hague Agreement. The Delegation recalled that, in the past, Japan had supported developing countries in joining the PCT, Madrid or the Hague System by sharing Japan's knowledge and information with them. The Delegation was prepared to actively provide countries that desired to join the Systems with support such as legislative assistance and advice regarding implementation. The Delegation reiterated that it would consider how the Government of Japan could support other countries, and encouraged Member States to contact the Delegation if they wished to cooperate in any way.

FRANCE

The Delegation of France congratulated the Chair on his election, and supported the statement which had been made on behalf of Group B by the Delegation of Greece. The Delegation of France wished to return to the substance of the document, particularly as it related to the Lisbon Union. The Delegation was extremely satisfied by the fact that investments were being made in the area of IT where Lisbon was concerned. On page 13 (of the French version), in paragraph 3, the Delegation did regret the fact that there was a certain pessimism in the way Lisbon was dealt with, that is, pessimism as to the growth of the Union and in terms of its number of members, and the financial situation of the Union, on the understanding that members were making enormous efforts in order to resolve the financial problems of the Union. From a more detailed view of this, the Delegation noticed that there seemed to be an error of translation between the original English version and the French version of the document. On page 9 of the French version, there was a parentheses where a reference was made to the trademark system. In view of the English version, the Delegation thought that a better translation of this parenthesis would be "*dans ce dernier cas, la possibilité d'assurer la protection des indications géographiques par l'intermédiaire du système des marques sera signalée*", and thought that this would be much closer in French to the English version. The Delegation also wished to respond to some of the remarks made by the Delegation of the United States of America. The Delegation noted that the Committee had heard a number of arguments which seemed to question the status of the Lisbon Union, and that those had already been raised at the Assemblies and responded to. The Delegation thought valuable time was being spent repeating observations made at previous meetings. The Delegation understood that the Delegation of the United States of America did not wish that the Lisbon Union be considered as a specific Union administered by WIPO, nor, therefore, that it be considered within this MTSP. The Delegation recalled that, in Article 4(ii) of the 1967 WIPO Convention, it was clearly stated that WIPO administers Unions established in relation with the Paris Union. The Delegation stated that there was no question that this was the case of the Lisbon Union, and it should be administered by WIPO under that definition. The Diplomatic Conference which met in May 2015 under the aegis of the Organization, on the basis of the Convention of 1967, and on the basis of the sovereign rights of the Lisbon Union members, agreed to the Geneva Act of the Lisbon Union. The Delegation added that observers, that is, non-members of the Lisbon Union, participated fully in the drafting of that revised document, while not having a right to vote, and invited all delegations to check the minutes of the working groups and the minutes of the Diplomatic Conference itself to make it clear that observers at that meeting participated fully in the debate. The Delegation stated that Article 21 of the Geneva Act made it clear that it was part of the Lisbon Union and, in Article 22(1), that the contracting parties were members of the same Assembly as the members of the Lisbon Union. The Delegation believed that, if any

doubt had persisted, it was clear that the Geneva Act was explicitly adopted as a revision of the Lisbon Agreement, by the members of the Lisbon Union. Consequently, it was governed by Article 30 of the Vienna Convention on the Law of Treaties, and from the point of view of international law, any changes to the Lisbon Union were the result of this Act, in exactly the same manner as in the case of the Madrid Agreement. The Delegation emphasized that the Lisbon Union was administered by WIPO and would continue to be so. From France's point of view, the observations made by the Delegation of the United States of America, which reject this document because of references to the administration of the Geneva Act by WIPO, are therefore unfounded.

SWITZERLAND

The Delegation of Switzerland thanked the Director General for drafting the MTSP for the years 2016-2021, and supported the proposed strategic plan in as much as it was a balanced vision for the coming years. The Delegation considered that the MTSP would usefully guide the work of the Organization in the years to come and would strengthen its management without being a rigid and inflexible proposal. The Delegation attached great importance to SGs I, II, III, IV and VII, which were at the very core of WIPO's work. The Delegation thought that the MTSP was an extremely useful instrument at a very high level and, of course, could not contain detailed presentation of the work which had been undertaken by WIPO. In response to those delegations which found matter for concern in this MTSP, the Delegation observed that the proposed decision was to take note of this strategic plan. The Delegation recalled the statement of the Director General that it was not a document which would be binding in any way, as opposed to the biennial Program and Budgets. The Delegation, therefore, suggested to those delegations that the Committee proceed as follows: If there were elements contained in the document which a delegation could not subscribe to, that disagreement would then be reflected in the minutes of this meeting and the delegations concerned could refer to those objections in the future without any need to change the contents of document WO/PBC/25/18. The Delegation further suggested that, if reference to the minutes did not sufficiently satisfy the delegations expressing concerns, that those delegations address their concerns in the manner which was already adopted in 2010 for a similar situation. The Delegation, therefore, proposed that the statements of the delegations be attached to this strategic plan as an Annex, which would mean that they would be visible and would be taken into account in the future. The Delegation hoped that this would allow the Committee to proceed to noting the strategic plan without changing the language of the document WO/PBC/25/18.

PORTUGAL

The Delegation of Portugal supported the comments made by the Delegation of France and wished to add some remarks. Regarding the comments on the MTSP made by the Delegation of the United States of America, the Delegation emphasized the global character of the Lisbon System to the extent that, through the Geneva Act, several legal mechanisms were introduced allowing access to the protection of geographic indications of a larger number of WIPO members. The Delegation stated that globality did not necessarily entail the accession of all WIPO countries to this System. It was global for those countries which had the legal concept protected by the agreement as part of their respective domestic laws, and any country was free to take on board this legal framework. The Delegation reiterated that the Geneva Act was not a new treaty, but the renewal of an existing one, which was why it was open to its current members, which did not prevent, however, the participation of all members in the discussions, and for this reason it should be administered by WIPO.

IRAN (ISLAMIC REPUBLIC OF)

The Delegation of Iran (Islamic Republic of) had no new comment, but supported the positions and the comments made by the Delegations of France and Portugal concerning the Lisbon Union and the Geneva Act of the Lisbon Union.

AUSTRALIA

(written statement)

“The MTSP 2016-2021 provides a high-level vision for the Organization. Australia recognises the important context of this challenging time for the multilateral community, with a need to focus on fiscal prudence, have flexibility to respond to changes, and have a realistic focus on what is possible to achieve. We also recognise that the MTSP provides a general strategic orientation and direction rather than detail on the various programs. Australia continues to support the nine strategic goals in the MTSP, and in general supports the suggested high level strategic directions. Australia continues to welcome productive and focused discussion among Member States, including through normal program and budget processes, on particular strategic outcomes and defined actions that can be realistically achieved to deliver the goals set out in the plan. In particular, we welcome the continued focus on the normative framework under Strategic Goal I, alongside recognition of the importance of core business in delivering global IP services under Strategic Goal II. The Global IP Systems form the financial basis of the Organization, with the PCT and Madrid systems accounting for 94 per cent of revenue, and the potential for global reach and cost recovery fee structures being core to this. We recognise that the Hague System is less mature, but that the growth of the system should enable the financial profile of the Hague System to become balanced and not be in deficit. However we remain concerned that the Lisbon System, with its inherent limitations in fee structures, and potentially membership due to non-inclusive provisions, will have greater difficulty in addressing ongoing deficits. Consequently, we do not support inclusion in Strategies I.10 (2) and II.7 (1) of expansion of the membership of the Lisbon system, which will increase the financial burden of this system and lack balance in relation to the promotion of different methods to protect geographical indications.”

HUNGARY

The Delegation of Hungary supported the position and the arguments that had been put forward by the Delegations of France, Portugal and Switzerland.

GREECE

The Delegation of Greece thanked the Director General, and had two comments with regard to the references to the SDGs and the implementation of the DA. With regard to the DA, Group B considered that the DA was mainly relevant to SG III, and that this was adequately reflected in the MTSP. With regard to the SDGs, the Group remarked that the period of the new MTSP would fall together with the implementation of the United Nations SDGs and the 2030 Agenda for Sustainable Development. The Group welcomed the execution of the MTSP with a view to ensuring an effective contribution by the Organization, within its mandate, to the implementation of the SDGs, with special attention to innovation within SDG IX.

FRANCE

The Delegation of France supported the proposal made by the Delegation of Switzerland, which it considered a very reasonable one.

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