

Committee on Development and Intellectual Property (CDIP)

Eighteenth Session
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REPORT ON THE INTERNATIONAL CONFERENCE ON INTELLECTUAL PROPERTY AND DEVELOPMENT

prepared by the Secretariat

1. The International Conference on IP and Development was held at the Headquarters of WIPO in Geneva from April 7 to 8, 2016. The Conference was convened in accordance with a decision by the Committee on Intellectual Property and Development (CDIP) taken at its fourteenth session (see paragraph 16 of the Summary by the Chair).
2. It is recalled that the decision to convene the Conference was originally taken by the CDIP at its eleventh session. The decision included guidance for the Secretariat on the substantive and logistical aspects of the Conference and, *inter alia*, requested the Secretariat to prepare a factual report, summarizing the main discussions at the Conference and present it to the CDIP (see document CDIP/11/5).
3. Accordingly, the Annex to this document contains the requested factual report on the Conference.
4. *The CDIP is invited to take note of the information contained in the Annex to the present document.*

[Annex follows]

REPORT ON THE INTERNATIONAL CONFERENCE ON IP AND DEVELOPMENT

1. The International Conference on IP and Development (hereafter the Conference) took place on April 7 and 8, 2016, at WIPO Headquarters in Geneva. The objective of the Conference was “to discuss the role of IP in development at national, regional and international levels – sharing experiences and exploring future perspectives”.
2. The Conference was open to Member States, IGOs, NGOs and civil society. The working languages of the Conference were English, French, Spanish, Russian, Chinese and Arabic with simultaneous interpretation provided throughout the meeting.
3. Dr. Francis Gurry, Director General of WIPO, opened the Conference, followed by welcoming remarks by H.E. Mr. Alberto Pedro D’Alotto, Ambassador and Permanent Representative of the Argentine Republic to the United Nations and the Chair of the CDIP. H.E. Mr. Rob Davies, Minister for Trade and Industry of South Africa delivered a Keynote Address.
4. The Conference benefited from the presence of 21 presenters who were selected on the basis of a previous list drawn by the Secretariat and fresh proposals by the Member States. Due consideration was given to the principles of geographical balance, appropriate expertise and balance in perspectives. The Profile of Speakers to the Conference is available at: http://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ipda_ge_16/wipo_ipda_ge_16_www_333738.pdf
5. The Conference was structured around the following six themes:
 - (i) Social Development and the Role of IP;
 - (ii) Economic Development and the Role of IP;
 - (iii) Cultural Development and the Role of IP;
 - (iv) Designing a Dynamic IP System: Sharing Practices, Developing Strategies;
 - (v) Global Cooperation for IP and Development: The Role of WIPO and Other Key Actors; and
 - (vi) IP for Development: Current Challenges and Future Perspectives.
6. All the themes were discussed in the plenary. Each theme was introduced by a moderator, addressed by the speakers and then concluded with a Case Study presentation, showcasing the use of the IP system in practice, in support of social, economic and cultural development.
7. A “questions and answers” (Q&A) session at the end of each theme, as time permitted, engaged the participants in a discussion with the panelists.
8. The six Case Studies presented were:
 - (i) From the heart – Moldovan Brands;
 - (ii) Designing a program on Geographical Indications (GIs) for Jamaican jerk seasoning;
 - (iii) Leveraging IP for Commercialization of Research Outcomes: Experience of a Pakistani University;
 - (iv) Amouage – The Gift of Kings, Oman traditional fragrances;
 - (v) Rebranding Africa’s image through Label TV & Radio; and
 - (vi) Designing a dynamic IP system in Ethiopia.

9. The Program for the Conference is placed at:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=313876

10. Four of the Case Studies, namely Ethiopia, Jamaica, Moldova, and Pakistan also exhibited the results of their work outside the Conference hall, with the support of multimedia and other display methods.

11. In addition, a side event also took place in the form of a presentation on “Technology Transfer in Cebu, Philippines”, made by Ms. Evelyn B. Taboada, Dean, School of Engineering, University of San Carlos, Philippines, who has successfully turned fruit and vegetable waste into innovative products and have registered patents for those technologies. Ms. Evelyn B. Taboada has been a beneficiary of several WIPO training opportunities which helped her exploit the IP system to the benefit of her country.

12. Four other side events, organized on the margin of the Conference, included stands presenting the results of four Development Agenda projects, namely IP Development Matchmaking Database (IP-DMD), Technology and Innovation Support Centers (TISCs), Project on IP and Product Branding for Business Development in Developing Countries and Least-Developed Countries (LDCs), and a Pilot Project for the Establishment of “Start-Up” National IP Academies.

13. The first day of the meeting registered some 400 participants, including delegates from over 75 Member States. The Member State participants included the 26 WIPO financed delegates to the seventeenth session of the CDIP held from April 11 to April 15, 2016. During the two days of the Conference over 600 views were registered via webcast.

14. A dedicated webpage¹ on the WIPO website was established and made available in February 2016, providing all the relevant information on the Conference. The presentations given during the Conference and videos-on-demand have also been made available through this webpage. The webpage also had the facility of registration for the participants. Registration in person at the meeting was also possible.

15. A welcoming pouch with promotional materials, information about the WIPO Development Agenda, as well as an USB stick containing speaker’s presentations was distributed to all the participants.

16. On the first evening of the meeting, the Director General, Mr. Francis Gurry, hosted a well-attended reception in WIPO AB building.

17. In addition to the above-mentioned webpage, the Secretariat reached out to a wider audience for promoting the event through internal newsletters, mailing lists and flyers, social media portals such as Twitter and Flickr, as well as IP related media portals such as IPwatch and others. During the Conference the participants twitted highlights of the meeting via social media and some of the Speakers were interviewed by the press.

18. The WIPO Secretariat received positive feedback during the closing ceremony and after the Conference from Member States, Speakers, Case study presenters and participants, expressing satisfaction on the substantive as well as the logistical aspects of the Conference.

¹ http://www.wipo.int/meetings/en/details.jsp?meeting_id=28522

THE OPENNING CEREMONY

19. The Director General (DG) of WIPO, Dr. Francis Gurry, welcomed the participants and expressed satisfaction for hosting such a Conference, particularly because WIPO had at its base a public-private partnership which was extremely interesting. He noted that the position of IP in the global economy system was no longer on the periphery but very much central, as more and more governments around the world were espousing innovation as the major part of their economic strategies. The role of IP in relation to innovation was to protect the competitive advantage conferred by innovation. Therefore, the subject addressed by the Conference was certainly an important one. The full text of the DG's opening statement is placed at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=336662

20. H.E. Mr. Alberto Pedro D'Alotto, Ambassador and Permanent Representative of the Argentine Republic to the United Nations and other international organizations in Geneva and Chair of the CDIP expressed appreciation for WIPO's continued support for the issue of Intellectual Property and development. He mentioned that although IP was sometimes invisible it had a vital role in the current world as it had a cross-cutting nature linked to almost all of the spheres of human life such as improving healthcare, promoting education, protection of environment, as well as civil and political rights. He encouraged progress through the promotion of the IP system but at the same time safeguarding and promoting the interests of those who needed development. Ambassador D'Alotto recalled the Development Agenda 2030 and encouraged WIPO as part of the UN system to make its best endeavors to support Member States in achieving its goals and objectives. The full text of Ambassador D'Alotto's statement is placed at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=335736

21. H.E. Mr. Rob Davies, in his Keynote Address provided a high-level perspective on how the Intellectual Property Rights (IPRs) system can best assist developing countries, including Least Developed Countries (LDCs) to achieve their development objectives. He applauded WIPO for taking steps and continuous efforts to implement the recommendations of the Development Agenda. Considerable work was undertaken on the relationship between Intellectual Property regimes and economic development under the aegis of WIPO. Countries took different paths in pursuing economic development and used IP protection in different ways at different times to support the development efforts. He emphasized that there was a need to assess the costs and benefits of the IPRs reforms in specific contexts. Reforms should be based on robust evidence and should be the product of extensive consultations with effected sectors, industries and firms. He mentioned that South Africa's national development plan called for greater emphasis on innovation, improved productivity and more intensive pursuit of a knowledge economy. South Africa had a long history of IPRs protection and as a signatory of the WIPO it had adopted and implemented all obligations under TRIPS. He concluded by calling on WIPO through the CDIP and pursuant to the Development Agenda to support the ongoing efforts to craft IP policies that supported the objectives of African industrialization. The full text of H.E. Mr. Rob Davies' statement is placed at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=335683

DELIBERATIONS²

22. The opening session was followed by introducing Theme One: *Social Development and the Role of IP*. Ms. Wang Binying, Deputy Director General, WIPO, moderated the discussion under that panel. The panelists, namely Professor Keith E. Maskus, Associate Dean for Social Sciences, Department of Economics, University of Colorado, Boulder, United States of America, and Professor Shamnad Basheer, Honorary Research Chair Professor of IP Law, Nirma University and, Founder, SpicyIP, Bangalore, India, gave a perspective on the impact of IPRs on social development, highlighting the major global issues in which IP could help in ensuring sustainable development, and how social benefits could be gained from an effective IP system.

23. Professor Maskus spoke about the concept of social development that he found broad and all-encompassing, making it difficult to discuss in a single sitting. He defined it as an establishment and sustainable growth of markets and institutional structures to facilitate and foster sustained improvements in living standards, and increasing abilities of society, governments, firms, educational institutions, health authorities, etc. to meet the needs of citizens for physical well-being and fruitful social interactions. He considered that IPRs could have multiple and cross-cutting impacts on those processes. Effective IPRs might be dependent on many socioeconomic factors, such as the level of economic development, human capital, competition, openness to trade, and prospects for innovation and creativity. Governments could take steps to optimize the effectiveness of IPRs by embedding them in a system aimed at broader development goals. Mr. Maskus first reviewed qualitatively the many ways in which IPRs were supposed to benefit an economy in terms of its economic and social development, and then considered the potential costs. The review pointed out first, that it was known relatively little about the relationship between IPRs and innovation and creativity in developing countries. Econometric studies suggested that patent reforms could stimulate innovation in emerging economies but there was little evidence of that impact in poorer nations. More research was needed about the determinants of creativity in informal sectors and how that might be affected by intellectual property, if at all. IPRs could be an effective means of increasing technology flows within market channels, but with two conditions. First, that conclusion held for emerging and middle-income economies which met certain threshold conditions. Second, there was not much evidence of an effect in the poorest economies. While that outcome was interesting, it did not tell much about the mechanisms that drove that diffusion, nor did it offer evidence about the effects of formal IPRs on imitation and other forms of non-market learning.

24. The presentation concluded with thoughts about policy lessons. Professor Maskus noted that for developing countries it made sense to take advantage of available flexibilities in the design and scope of IPRs. There were also means by which governments could encourage domestic innovators and knowledge creators to use the expanded system. However, IPRs need to be considered in the context of overall development needs and strategies. Finally, two observations were made about how the international community might help optimize the flow of information and knowledge to assist in development. One was to establish access pools from which researchers and firms in poor countries would have improved access to knowledge and applied technologies largely developed with public funding. The second was to increase the medium-term mobility of skilled labor, which had been shown to beneficially increase international knowledge flows.

25. Mr. Shamnad Basheer introduced the term “development” as a heavily contested one. He considered that it meant overall well-being, both societal and individual, and that current IP innovation regimes could help foster it by encouraging diversity, democratization and distributive

² The Speakers interventions contained in this Report are based on written executive summaries submitted to the Secretariat by the Speakers.

justice. He stated that the nexus between increased IP protection and enhanced rates of innovation continued to remain empirically contested, with no conclusive proof. A mono-centric view of IP must have had necessarily yielded to a pluralistic one that admitted of “diverse” notions on how best to incentivize innovation. IP should be treated as merely one of the tools that could potentially foster innovation in select sectors, perhaps those requiring high investments. But even there, one could think of more direct investment protection regimes, as opposed to the standard IP model which called for a significantly indeterminate cognitive filter, namely inventive step or non-obviousness. A filter that was hardly appropriate for investment protection, if at all investment protection rated as a laudable policy goal. A commitment to diversity or plurality ensured that it didn’t end up imposing a largely formal IP framework onto the informal “shadow” economy that was gaining prominence in the IP and innovation debates. Rather it would mean that it made some effort towards understanding the informal economy, nature of innovative processes, the drivers of creativity, appropriation mechanisms, modes of dispersion and sharing of creative wares before deciding on an appropriate set of norms to foster more creativity and development.

26. Mr. Basheer thought IP discourse must have been democratized a lot more if it was to make sense to society as a whole. Therefore, in his opinion the IP discourse ought to be resuscitated from an exclusive IP priesthood, comprising selected lawyers and policy makers that spoke a selected esoteric language, and democratized to include a larger set of stakeholders within its fold. He concluded by saying that most of the worlds’ problems were distributional in nature. If IP regimes could find ways in which to foster more distributive justice, it would have gone a long way towards redressing the many inequities that IP regimes were often accused of spurring. A uni-dimensional focus on IP rights and enforcement needed to yield to a more evolved framework that would pay adequate attention to IP duties as well as duties that would ensure that IP regimes were more equitable from a distributional perspective and result in overall societal welfare.

27. The Speakers presentations were followed by two Case Studies, which showcased the role and the use of IP in encouraging Social Development in practice, namely:

28. The Case Study *From the heart – Moldovan Brands* was presented by Mr. Octavian Apostol, Director General, State Agency on Intellectual Property of the Republic of Moldova. The Case Study referred to the role of IP for socio-economic development of the light industry enterprises from the Republic of Moldova. *From the heart– Moldovan Brands* is a platform that promoted local brands in light industry bringing new knowledge and working with local producers in order to rebuild local brand promotion strategies and adjust them to the European standards to compete with European brands. The project was launched in 2012 and in just three years, it has achieved great success in Moldova, creating new brands, revitalizing by rebranding the already existing ones and discovering young but promising brands. Thanks to this project, today Moldovan consumers feel proud of wearing domestic fashion brands.

29. *Designing a program on Geographical Indications (GIs) for Jamaican jerk seasoning* was another Case Study under the same theme, presented by Ms. Sara Allen, Attorney-at-Law and Project Manager on the Protection of GIs Project in Jamaica. Jamaican jerk seasoning is a style of cooking native to Jamaica. In 2008, under the technical assistance project between the Jamaica Intellectual Property Office (JIPO) and the Swiss Federal Institute of Intellectual Property (IPI) Jamaica Jerk was identified as a product in need of protection. Jerk has been around for centuries and its popularity had mushroomed in the last two decades. As a result of the assistance Jamaica Jerk producers were able to organize themselves, create their code of practice and their control manual and to register Jamaica Jerk as a GI. It was estimated that the Jerk Industry exports 666,667 cases valued at 15m US dollars each year, therefore as a result of the project, approximately 16,000 Jamaican farmers directly generated their income from providing ingredients for jerk seasoning and sauce, with close to 3,000 of these being women.

30. Theme two: *Economic Development and the Role of IP*, was moderated by Mr. Joakim Reiter, Deputy Secretary General, United Nations Conference on Trade and Development (UNCTAD), Geneva. The three speakers under this panel were: Mr. Henning Grosse Ruse-Khan, Lecturer in Intellectual Property Law, University of Cambridge, Mr. Carlos Maria Correa, Director, Center for Interdisciplinary Studies on Industrial Property and Economics, and Postgraduate Course on Intellectual Property, Law Faculty, University of Buenos Aires and Mr. Ivan Bliznets, Rector, the Russian State Academy of Intellectual Property, Moscow. The speakers shared their views on how the IP system could be used to induce and foster progress and development. The speakers examined how IP could play a role in supporting innovation and creativity, in encouraging effective technology transfer, in maximizing the potential to raise dynamic competition and how countries could benefit from flexibilities in the global IP system and which was its contribution to their national economies.

31. Mr. Henning Ruse-Khan focused his presentation on the development of utility model protection in Germany, presenting a special law designed to cover small or incremental innovations and improvements in the fields of technology that was important at the time of its introduction, to a tool that primarily functioned to fill perceived gaps in patent protection, for example by obtaining fast, interim protection for pending patent applications. He emphasised that the term “economic development” should be understood in the wider context of sustainable development, which in turn primarily called for a balance between economic, social and environmental objectives and interests. A similarly wide and holistic understanding was used for the term ‘IP System’. The concept of an ‘IP System’ included aspects of protection, but equally encompassed allowances for imitation, limitations and the public domain. Such a holistic understanding found normative support in Article 7 of the TRIPS Agreement. The provision set out the common understanding of WTO members for achieving the overall utilitarian purpose of the IP system by promoting innovation as well as facilitating access and transfer of technology.

32. The presentation then offered anecdotal evidence how countries had, historically, used IP protection, as well as its absence, in order to promote their development. Various examples from history suggested that countries had opted for a range of approaches with primarily one thing in common; they all attempted to tailor their IP system to their domestic development needs. Countries that had made conscious choices about their IP systems appeared to have done so in a way that tailored the domestic IP system to the respective level of development. More specifically, some suggested that ‘the history of IP laws in now developed countries demonstrated that they did not introduce strong protection until it suited their level of development’. From all that followed, as a general principle in designing national IP systems, *one size did not fit all*. In Germany, the rationale for introducing a system for protecting new and improved working tools as well as other utilitarian objects in 1891 was closely tied to a perceived gap of protection that resulted from high thresholds for obtaining patent protection, and the absence of design protection for improved technical or otherwise functional elements of a product. Based on application data, the utility model system from its inception received a warm welcome from industry, in particular from domestic small and medium enterprises.

33. The presentation concluded by pointing to two particular threats in relation to the identified need for flexibility in designing national IP systems to domestic needs that were likely to change over time. First, IP rules in Free Trade Agreements (FTAs) became increasingly comprehensive and prescriptive, often transplanting detailed rules from the IP-demanding country into the text of international agreements. As treaty obligations, those detailed rules were then cast into the stone of international law, with little options to adapt to changing domestic needs. That was often accompanied by a lack of transparency, inclusiveness and equal participation of all relevant stakeholders, deficits which could not be corrected in the implementation processes if detailed FTA IP rules left no flexibility for a tailored implementation.

That critique was not in any way passing judgment on the substance of IP rules in FTAs: their mere specificity and comprehensiveness as such was highly problematic if one accepted the basic proposition that for national IP systems, one size did not fit all. Second, recent trends to utilise investor-state dispute settlement (ISDS) mechanisms to litigate compliance with international IP norms might well have had an impact on the ability and willingness of states to use the flexibilities of the multilateral IP system under the WTO TRIPS Agreement and the core WIPO treaties.

34. Mr. Carlos Maria Correa mentioned that there were two common assumptions, that intellectual property promoted innovation and that innovation generated economic growth. He thought that the role of Intellectual Property regarding innovation if focused on patents was strongly dependent on the context where protection was sought. He focused his presentation on some key points indicated by the history and economics of intellectual property. The currently industrialized countries developed in a framework of no intellectual property system, or flexible intellectual property protection system. Intellectual property did not necessarily guarantee innovations and patents might block rather than promote innovation. He pointed out that developing countries had not benefitted from the strengthening of protection and the role of intellectual property varied in different levels of development (initiation, internalization, generation). The TRIPS Agreement recognized in Art. 66.1 the need to adopt an evolutionary approach, but limited to Less Developed Countries (LDCs).

35. Mr. Ivan Bliznets spoke about the close interrelation between the Russian Institute of Intellectual Property and national innovation system. At the present stage the development innovations seemed to be the main key factor influencing the long term growth of the Russian economic welfare. Mr. Bliznets presented some examples of developing innovation spheres in Russia, the results achieved in those spheres and problems that arose in the process. The influence of the intellectual property institute on the dynamics of innovation processes was disclosed alongside the practice of working out the national strategy in intellectual property sphere. He also spoke about the results of the economic performance characterizing the state of the Intellectual Property Institute in the Russian economy as well as the role of industrial property and copyright in economy and gross domestic output. He also touched upon the experience of Russia in the process of commercialization by creating an intellectual property registry in Russia and the practice of state support given to small and medium innovation businesses. In the end of the presentation Mr. Bliznets spoke about the problems preventing the development of the potential of the country's economy, the connection between the developed economy and education by special personnel trainings, what has been done by Russia in that direction, including examples of different projects promoting education in the intellectual property sphere.

36. The Speakers presentations were followed by two Case Studies on the role of IP in support of Economic Development in practice, namely:

37. *Leveraging IP for Commercialization of Research Outcomes: Experience of a Pakistani University*, presented by Mr. Arshad Ali, Rector and Vice Chancellor, National Textile University of Pakistan. It showcased how the National University of Science and Technology of Pakistan (NUST) addressed IP issues in its work related to strengthening linkages with industry, and the regulatory and administrative structure that has been put in place to systematically deal with commercialization of technologies. The Software developed was patented in the United States of America. The IP developed at NUST helped in attracting Silicon Valley companies in exploiting Pakistani talent which has reached to a team of over 175 professionals. For NUST this experience of working with industry in developed world was extremely important in lifting the knowledge base, as a strong IP system helped in generating economic opportunities and entrepreneurial spirit for young graduates.

38. The following Case Study shared the experience of Oman traditional fragrances—*Amouage*, a luxury perfume house established in Oman which used traditional Middle Eastern perfume ingredients. It was presented by Mr. Rabin Chatterjee the Chief Financial Officer. *Amouage* had taken Oman's heritage and fused it with a creative and original development process, a strong brand image, and innovative designs to develop one of the world's foremost lines of niche fragrances. Combined with protection by the IP system, the perfumery was poised to continue to bring the heritage, culture, and fragrances of Oman throughout the world.

39. Theme three: *Cultural Development and the Role of IP*, was moderated by Mr. Minelik Alemu Getahun, Assistant Director General, WIPO. Two speakers under this panel, Ms. Irini Stamatoudi, General Director of the Hellenic Copyright Organization and Mr. Mihaly Ficsor, Chairman, Central and Eastern European Copyright Alliance (CEECA), Budapest, shared their perspective on the policy frameworks and other elements needed to be used to allow the IP system to play an effective role in cultural development and how it could help countries to protect and preserve their culture and derive economic benefits.

40. Ms. Irini Stamatoudi referred to Recommendations 16 and 20 of the WIPO Development Agenda which referred to a 'rich, 'accessible' and 'robust' public domain. Although there was considerable literature with regard to the notion of the public domain and its effects on economy and society, in her opinion that discussion has become even more timely because of the evolution of new technologies, the Internet and the increased need for access and for multiple uses of content. Ms. Stamatoudi offered in broad terms a definition of the notion of the public domain as it had evolved in recent years and provided its dividing line with copyright. She argued that new standard licensing initiatives pertaining to permissive uses of copyright works, such as open source software and creative commons, as well as legal fictions or voluntary agreements which aimed to promote certain uses of copyright works, such as orphan works and out of commerce works, had created a 'new area' which stood somewhere between copyright and the public domain. Ms. Stamatoudi demonstrated that both the public domain and the 'permissive uses were always defined with direct reference to copyright. A robust public domain did not run counter to copyright. It was complementary to it and formed a necessary prerequisite for the attainment of important societal and economic goals.

41. Mr. Mihaly Ficsor in his presentation pointed out that in order to maintain or restore the credibility and public acceptance of copyright³ and to apply it effectively for economic, social and cultural development it was needed to keep in mind that copyright should function as "advertised" in the sense that it was supposed to serve economic, social and cultural development through granting moral and economic rights to creators, authors and performers. At the international level, that "advertised" function of copyright should prevail not only in certain countries, but in all countries of the world to serve development and protect and promote cultural diversity. Copyright should also function as "advertised" in the sense that it guaranteed adequate access to protected creations necessary for development purposes and that it made possible to people to actively participate in political and cultural life. Well-balanced and duly established exceptions to and limitations of copyright were important means of economic, social and cultural development.

42. Mr. Ficsor mentioned some specific considerations that he found necessary, with special attention to the principles of the WIPO Development Agenda. Practical, effective solutions were needed rather than taking side in ideology-rooted debates between academics. The existing possibilities offered by the international treaties for exceptions and limitations that were important for public interests and for development should be fully exploited. The Appendix to the Berne Convention, although it had been included by reference in both, the TRIPS Agreement and the WIPO Copyright Treaty (WCT), due to its too complex procedural rules and

³ The reference to copyright, in Mr. Ficsor's presentation is to be understood also as to reference to related rights

long deadlines, it had never been suitable to fulfill the objective of offering preferential treatment for developing countries (through compulsory translation and reprint licenses) for educational and research purposes. With the spectacular technological developments, it had lost any real relevance. However, the principles on which it was based and the objectives it was to serve were still 100 per cent valid. It would be justified to review how those principles may be applied and how those objectives may be served in the digital online environment. In the attempts of adopting exceptions and limitations to the digital environment, specific norms seemed to be necessary for such issues, important from the viewpoint of development, as distance education, digitization, use of orphan works and access to out-of-commerce works.

43. Mr. Ficsor further referred to the proposal submitted by the Group of Latin American and Caribbean Countries (GRULAC) at the December 2015 session of the SCCR. Although the projects concentrating on exceptions to and limitations of copyright serving development interests was a key element of the Development Agenda, appropriate attention should also have been paid to the protection and enforcement of copyright.

44. The Speakers presentations were followed by the presentation of a Case Study, which showcased the role and the use of IP in encouraging Cultural Development.

45. The Case Study under this theme was titled Rebranding Africa's image through Label TV and Radio. It was presented by Mr. Mactar Silla, Founder and CEO of Label TV and Radio and former director of the French international TV channel "TV5 Afrique". Mr. Silla presented an innovative project on media broadcasting aiming at boosting and refreshing Africa's world image through a global broadcasting. This project was born in 2012 to promote and guide the transition of Africa's audio-visual media sector to the digital era and is considered to be the most ambitious and rallying audio-visual project in Africa. Mr. Silla's main motivation was the wish to set-up a Pan-African radio and television station in the heart of the continent in order to address the lack of development of that sector. He had identified some major issues such as Africa's marginalization from the film industry, production and distribution of audio-visual materials and services. Also, he identified the need to implement a tool that would allow Africa to reaffirm its cultural emergence. This tool would be the digitalization of broadcasting. His case study also provided an overview of the overgrowth of TV channels in the past decade in Africa and the process of transition to digital media. Most of the countries had started the transition but only four had achieved it. More incentives and more guidance needed to be provide.

46. Theme four: *Designing a Dynamic IP System: Sharing Practices, Developing Strategies*, was moderated by Mr. John Sandage, Deputy Director General, Patents and Technology Sector, WIPO. Three speakers under this topic namely, Professor Andrew Christie, Davies Collison Cave Chair of Intellectual Property, University of Melbourne Law School, Melbourne, Australia, Mr. Maximiliano Santa Cruz, Director, National Institute of Industrial Property of Chile, Santiago, and Ms. Anzhela Plionkina, Deputy Director General, National Center of Intellectual Property of Belarus, Minsk, shared successful practices in the strategic management of copyright and related rights, as well as industrial property rights in order to design a dynamic IP system.

47. Professor Christie talked about the characteristics of a dynamic IP system. When the operation of an intellectual property (IP) regime, such as copyright or patent law, was considered as a dynamic system, it could be seen that most, if not all, of the features that characterized a complex system were likely to be present. A full model of an IP regime as a dynamic system would be incredibly complex. Nevertheless, the key factors were easily identified - and, in simplified form, could be considered to be factors of three general types: technological, societal, and regulatory. Those factors inter-relate with each other to influence the state of the IP regime. Technological factors were factors related to the technologies that embody the subject matters protected by the IP regime under consideration. Societal factors

were factors relating to the manner in which private entities, both human and corporate, engaged with the IP regime. Regulatory factors were factors relating to how the public entities, government and its agencies, regulated the application of the IP regime. Those points were applicable to all of the IP regimes. To give substance to those points, Mr. Christie used as an example of the copyright regime. He then talked about the regulatory design issues, as well as relationship between the design issues that appear when designing regulation for a Dynamic IP system.

48. Mr. Maximilliano Santa Cruz first questioned as to what a dynamic IP system was. The necessary components of an IP system, was understood as “a set of things working together as parts of a mechanism or an interconnecting network, a complex whole” (e.g., norms, infrastructure, IT, agencies, actors), and how a modern, democratic society had brought new actors into the system (e.g. civil society, patients, users) and hence new challenges to IP offices. Mr. Santa Cruz agreed that a dynamic IP system was one that changes and was able to accommodate itself to new circumstances, expectations or social, economic or legal needs. Mr. Santa Cruz then spoke about the role that an IP office should have in developing and administering a dynamic IP system. He touched upon the changing role of IP offices. IP offices, particularly those in developing countries, should go beyond their usual and traditional role of managing efficiently their registries, e.g. timeliness, quality, transparency, standards, awareness, towards being an active player in the innovation and entrepreneurial environment. In other words, a modern IP office should be able to help accomplish the objective of the IP system, which was both to encourage innovation as well as diffusion of knowledge and technology transfer (e.g. balance, public domain, flexibilities, access, interrelation with competition, public health, and education). He concluded by focusing on some examples and developments in the Chilean IP office (INAPI). He referred to examples of what they had been doing to go beyond their traditional role, including the work on an IP strategy.

49. The presentation of Mrs. Plionkina highlighted some issues faced in the establishment of a dynamic IP system in the Republic of Belarus. One of the main conditions of statehood in 1991 for the Republic of Belarus was the creation of the national IP system: IP infrastructure and legislation formation. It was supposed to create an independent IP system for a new state in conditions of limited material and human resources, as well as to form new (unknown or unconventional for Soviet legislation) IP institutions and provide a psychologically difficult for public the transition from “authors’ certificates” to exclusive rights. The integration of the Belarusian national IP system into the global system was rather challenging. Belarus acceded to 16 international treaties and agreements administered by WIPO. At the regional level, the Republic of Belarus became a full member of the Eurasian Patent Convention. Within the implementation of the state policy in the sphere of IP some positive results were achieved, aimed at improving the management of IP, the education system in IP sphere, raising public awareness of the importance of IP for social and economic development. The Strategy of the Republic of Belarus in the sphere of intellectual property for 2012-2020 took into account the main tasks and challenges facing the IP system to promote sustainable development. In the conditions of formation of an innovative economy the IP Office should provide a wider range of services in the field of innovation and commercialization of IP objects.

50. Mrs. Plionkina further informed that the IP system was already being used by national producers as a mechanism for economic development, as evidenced by examples of success of large Belarusian companies in the field of mechanical engineering, chemical, food and light industry, as well as well-known start-ups in the field of IT. At the same time the national branding system based on IP was being established. However, the participation of small enterprises in the mentioned processes is still insufficient. She concluded by saying that the compliance of the national IP system with specific international standards was important, but the most flexible approach was appropriate at the stage of formation, taking into account national circumstances of a particular state.

51. The Speakers presentations were followed by the presentation of the sixth Case Study, which reflected the significance of developing a dynamic IP system as a tool for development using the success story of Ethiopia.

52. *Designing a dynamic IP system in Ethiopia* and was presented by Mr. Getachew Alemu, Intellectual Property Consultant and Attorney Getachew and Associates Law Office, Addis Ababa. The Case Study showcased the Ethiopian IP Office's experience in developing IP policies and procedures, as well as management of different IP tools that designed a dynamic IP system for advancing development.

53. Theme five: *Global Cooperation for IP and Development: The Role of WIPO and Other Key Actors*, was moderated by Mr. Naresh Prasad, Assistant Director General and Chief of Staff, Office of the WIPO Director General. Under this panel representative of two intergovernmental organizations (IGOs) – UNCTAD and WTO, non-governmental organizations (NGOs) – Medicines Patent Pool and Technical Office of European Affairs International Relations Office of Spain and, an industry representative – Knowles Intellectual Property Strategies, explained their role in the global cooperation for IP and development and presented the benefits of an effective IP system for economic growth.

54. Mr. Yi delivered his presentation on behalf of the WTO. He underlined that the continued and enhanced global cooperation will be essential if the intellectual property system was to achieve its full potential to underpin and promote social and economic development. For the WTO, WIPO had been an indispensable partner for cooperation since WTO was founded. He referred to the TRIPS agreement and mentioned that it was 20 years ago that the WIPO and the WTO concluded an agreement that put cooperation for development at the centre of the working relationship between the two Organizations. The cooperation between the two Organizations had naturally evolved and diversified over the years, but some trends stood out. Mr. Yi highlighted just a few, and mention some examples from their work.

55. Mr. Yi suggested that coordination, valued addition and positive feedback loops were important future priorities and future directions needed to be taken into consideration. He also felt that a focus on LDCs was critical. The WTO rules recognized maximum flexibility for LDCs, and important decisions have been taken to give effect to this flexibility. The challenge now was to support LDCs appropriately, recognizing their diverse and distinct needs and circumstances, at a time when they were looking to build their technological bases, to leverage their creativity and inventiveness, to find their place in global value chains, and to attain greater value from their distinctive local and traditional products. Even if resource-poor in an economic sense, LDCs had tremendous intellectual resources and human capacity, and remarkable potential to use new technologies to follow new pathways of development. But the need for careful coordination and a more tailored and nuanced approach appropriate to the individual circumstances was absolutely essential if the multilateral system was going to provide effective support to enable LDCs to tap into this potential.

56. Mr. Guillermo Valles, Director for International Trade in Goods, Services and Commodities, (UNCTAD) represented Mr. Joakim Reiter. He highlighted the longstanding contribution of UNCTAD to WIPO's work. UNCTAD is the lead UN Agency for the integrated treatment of IP and development issues since its third ministerial conference in 1972. UNCTAD had contributed to many of WIPO's work among which was a special report on the TRIPS agreement and the developing countries and a resource book on development which provided an interpretation of each of the provisions of the TRIPS agreement. He made particular reference to Recommendation 40 of the WIPO DA which requested the Organization to intensify its cooperation on IP-related issues with all UN agencies, including UNCTAD. In the light of that, UNCTAD had a mandate established and a tradition of cooperation in the field of IP.

Today IP was not only a major issue for business or commercial objectives but a cross-cutting policy issue compulsory for development. This was very well captured in the 2030 Agenda for Sustainable Development; all international organizations needed to have a common agenda with a target on development. Mr. Valles noted that UNCTAD's contribution came through its three pillars of work namely; (i) research and analysis, (ii) technical cooperation and (iii) Intergovernmental consensus building. Its work could be stressed with WIPO but also with WTO. Finally, he noted that addressing the question of development was a question of balance and in that sense there was no one-size-fits-all for the development needs and challenges of countries. A balance between competition and contestable markets needed to be reached for the benefit of consumer and the protection of IP, and UNCTAD, together with WIPO, would work towards that goal.

57. Ms. Barbara Martin Munoz was representing the Spanish National Organization of the Blind, which was a public social organization that carried out actions in the area of social inclusion, non-discrimination, equal opportunities, and achieving the rights of persons that represented more than 72,000 people in Spain. The Organization carried out principal objective delivering services to blind persons, access to information, access to employment, access to culture and social inclusion. She emphasized the importance of WIPO Marrakech Treaty and called it the first human rights convention of the 21st century. She underlined that the Treaty was important particularly because persons with disabilities for reading or who were blind or partially sighted, had the same needs to have access to all, to have access to the same things for the same reason, culture, leisure, employment, for inclusion, the need to feel themselves, feel as part of an active society, a global one. It was a human right and to put it in practice on the part of persons with disabilities will require binding legal instruments which would enable for the production, distribution, and availability of free access legally without any impediment of materials in accessible formats. Ms. Munoz stressed that the territorial nature of IP legislation made it impossible that institutions devoted to promotion and distribution of works in accessible formats could exchange with other countries from a same linguistic region, works in accessible formats. It was not possible to choose, to elect reading of other works in other languages, and it was impossible to have accessible copies of those institutions for various reasons. Only 5 per cent of all works published on a yearly basis were in accessible formats thanks to the major effort made by persons with disabilities. The Marrakech Treaty was a magnificent instrument to combat persons with disabilities that did not have this format. This was an achievement by having the effort and the participation of persons in cooperation for development.

58. Mr. Esteban Burrone spoke on behalf of Medicines Patent Pool (MPP). He informed that MPP was an NGO created to increase access to existing and new quality medicines for people living with HIV in developing countries. It was founded at the request of the international community in 2010 through the innovative financing mechanism UNITAID. Its mission was to improve access to affordable, appropriate HIV, viral hepatitis C and tuberculosis treatments in low-and-middle income countries. Through its innovative business model, the MPP partners with governments, industry, civil society, international organizations, patient groups and other stakeholders to forecast, prioritize and license needed medicines. The organization encouraged generic manufacture and the development of new formulations through patent pooling. To date, the MPP had signed agreements with seven patent holders for twelve HIV anti-retroviral and for one hepatitis C direct-acting antiviral. Its generic partners had distributed more than 7 million patient-years of WHO-recommended HIV medicines to 117 countries. The key features of MPP agreements included broad geographical scope with licenses covering countries where 87-93 per cent of people living with HIV in the developing world resided. MPP licenses were transparent as the full text of the license agreements was available on the website. The licenses were also compatible with TRIPS flexibilities and address issues related to diversion and pharmacovigilance. The MPP recognized that public health-oriented licensing was only one part of the "access to medicine" puzzle. Other challenges - price, regulatory

issues, social stigma, R&D, treatment funding, local manufacturing issues - remained to be addressed.

59. The presentation by Ms. Knowles focused on entities and organizations in developed countries that could provide support and assistance to intellectual property initiatives in developing countries and least developed countries. She emphasized that there were numerous sources in developed countries that were enthusiastic about providing information, mentoring, technical support and networking. She also noted that the responsibility for successful developed country assistance to regional IP development was shared by the developed and developing countries. She referred to Article 66.2 of TRIPS which provided that developed country members shall provide incentives to enterprises and institutions in their territories to encourage technology transfer to developing countries to help them create a sound and viable technology base. Developed countries were requested to submit Article 66.2 reports on an annual basis. Some but not all developed countries submit reports on Article 66.2 initiatives. Ms. Knowles noted that the WTO and perhaps WIPO may play a role to encourage reports from developed countries not currently submitting them. The suggestion was made that WTO could create a more prominent portal for Article 66.2 reports perhaps with bullet point summaries, contact information and other practical information that made it easier for those in developing countries to contact potential sources of assistance. Another suggestion was to encourage the establishment of a fund to be administered by WIPO and contributed to by developed countries that helped pay the basic national and international filing fees for a set number of qualifying patent applications filed by inventors from least developed or developing countries. This would be an advantageous means to encourage and reward innovative efforts from such regions.

60. Ms. Knowles stated that researchers in developing countries played an essential role in communicating with developed countries about their needs to successfully progress innovation initiatives. Practical tips included knowing and being specific about what was needed, having the group that would use the assistance asked for it (to enhance the clarity of the request), approach through the correct channels and ask for something that the entity in the developed country likely had. WIPO could play a leading role with these communications by acting as a clearinghouse to connect the requestor with the likely assistor, which would increase the likelihood of a successful connection. She also noted that a basic impediment to fundamental research in developing countries was the availability of research equipment and supplies. She suggested that further incentives be created to motivate companies and organizations in developed countries to donate used equipment and reagents and provide initial training on the equipment if necessary. WIPO might also play a role by creating a web-based bulletin board with requests from developing countries for specific items of desired research equipment. It had been observed that among the most important needs of researchers in developing countries was access to the experience and know-how of more seasoned researchers. It was considered that WIPO might also play a key role here by creating a web-portal for inspirational talks, discussion of scientific know-how on specific topics such as, pharmaceutical formulations or delivery systems, IT approaches, medical device issues, etc., and legal best practices for technology transfer agreements and patent prosecution. When combined with the eagerness of many key actors in developed countries to mentor and assist, innovation in developing countries could be facilitated and progressed, leading to economic development, diminished export of talent and a higher quality of life.

61. The final sixth Theme of the International Conference was: *IP for Development: Current Challenges and Future Perspectives*. It was moderated by Mr. Mario Matus, Deputy Director General, WIPO. This panel brought together all speakers to conclude the discussion addressing the challenges and future perspectives of IP for Development. Each of the speaker had three minutes to share they views on the current challenges and potential solutions for those challenges.

62. Some of the speakers mentioned that it was important to focus on research and policy thinking, on transparency, information gathering and conduct as many studies as possible in order to really understand how IP, innovation, growth and development were capable of working together. It was also encouraged to refresh the current research and to train specialized staff in the area of IP. A very much seconded thought was that *one-size-fit-all* was not a correct approach in making IP work for development. Another idea expressed was to concentrate on specific issues where the progress was more promising, such as digitalization, digital education, orphan works and out of commerce works, etc. It was encouraged to use the available flexibilities in respect of IP, including the three-step test which might be applied in a flexible way.

[End of Annex and of document]