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WIPO'S PROGRAM OF ASSISTANCE TO LEAST DEVELOPED COUNTRIES (LDCs)

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## I. INTRODUCTION

1. This report has been prepared for the third session of the Permanent Committee on Cooperation for Development Related to Intellectual Property. The main purpose of the report is to review and assess progress in the implementation of technical assistance provided to LDCs from January 2001 to June 2002.
2. The first part of the report outlines the participation of WIPO at the Third United Nations Conference on LDCs (UN-LDC III) and focuses on the significant measures undertaken in the implementation of the five specific areas of WIPO Deliverables, adopted following discussions at the Conference.
3. The second part of the report focuses on the Joint Initiative on Technical Cooperation for LDCs provided by WIPO and the WTO. Information is also provided on the Joint WIPO-WTO Regional Workshop on Implementation of the TRIPS Agreement that was held in Dar es Salaam, United Republic of Tanzania, from April 22 to 25, 2002.
4. The last part of the report provides information on publications and the preparation of the WIPO-LDCs webpage.

## II. COOPERATION WITH THE UNITED NATIONS

### A. Participation of WIPO in the Third United Nations Conference on the LDCs

5. In 1997, the United Nations General Assembly decided to convene the Third United Nations Conference on the LDCs. After a number of preparatory meetings at the national, regional and interregional levels, the Conference was held in Brussels, Belgium, from May 14 to 20, 2001. The objective of the Conference was to contribute to the efforts of poverty eradication and had a mandate to:
  - (i) assess the results of the Program of Action for the 1990s at the country level;
  - (ii) review the implementation of international support measures, particularly in the areas of official development assistance, debt, investment and trade;
  - (iii) consider the adoption of policies for the sustainable development of LDCs and their progressive integration into the world economy;
  - (iv) elaborate a program of action for the decade 2001-2010, for which purpose conference participants held a special event on “The Challenge of Eradicating Poverty” following the inaugural ceremony;
  - (v) hold thematic sessions and organize parallel events.

6. Conference participants took part in a series of interactive thematic sessions<sup>1</sup>, including the one organized by WIPO entitled “Intellectual Property and Development: An Instrument for Wealth Creation.” A number of parallel events were held highlighting the role of civil society, including a high-level parliamentarians’ roundtable, discussions on the digital economy and the business sector, and on the music industry and a women entrepreneurs forum.

7. Following the decision made in Lisbon at the High Level Interregional Roundtable on Intellectual Property for LDCs, at the third session of the Intergovernmental Preparatory Committee and subsequent consultations, it was recommended that WIPO should participate in the special event on poverty eradication and should organize an interactive thematic session. The session was held on Tuesday, May 15, 2001 at the European Parliament with the participation of the Deputy Director General of WIPO (on behalf of the Director General of WIPO), Secretary-General of the Conference, Minister for Science and Technology of Brazil, and Minister for Information, Culture and Communications of Madagascar. Presentations were made on the five specific areas of WIPO Deliverables.<sup>2</sup>

8. A large number of LDCs shared their national experiences on the establishment of intellectual property institutions. They said that the technical assistance provided by WIPO was essential if they were to overcome the constraints to establishing effective intellectual property institutions. Some LDCs mentioned that such assistance is also important in the context of their accession to the WTO.

9. The representative of the European Union said that the report on WIPO Deliverables, the Lisbon Declaration and the Interactive Session prepared by WIPO provided a very sound basis for continued dialogue and will serve as a charter for future cooperation between the LDCs and their development partners. The European Union is ready to enhance its technical cooperation with WIPO and other international organizations and is looking forward to specific requests and project proposals.

10. Furthermore, WIPO was requested to continue its efforts to ensure that the Lisbon Ministerial Declaration on Intellectual Property for the LDCs was implemented through the formulation of programs designed to complement the domestic initiatives, program and policies of individual LDCs with tangible, measurable and achievable outputs. Cooperation with other relevant organizations was encouraged.

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<sup>1</sup> The subjects of the thematic sessions were: Governance, Peace and Social Stability, organized by UNDP; the Agricultural Sector and Food Security, FAO; Intellectual Property and Development: an Instrument for Wealth Creation, WIPO; the Role of Health, WHO; Education, UNESCO; International Trade, Commodities and Services/Tourism, WTO, UNCTAD and World Tourism Organization; Energy, UNIDO; the Role of Investment and Enterprise Development, UNCTAD; Human Resources Development and Employment, ILO; Infrastructure Development, Transport and Financing Growth and Development, ITU and UNCTAD.

<sup>2</sup> WIPO’s Deliverables include five specific areas of cooperation, namely: WIPONET; WIPO Worldwide Academy; collective management of copyright and related rights; genetic resources, traditional knowledge and folklore; and small and medium-sized enterprises.

11. In the interactive session, the LDCs supported and unanimously approved the Deliverables proposed in the WIPO report. They also noted with appreciation the establishment of an LDC Unit within WIPO.

B. Progress Report on the Implementation of WIPO Deliverables in the Context of the Third United Nations Conference on the LDCs

12. Global competition for new products, processes and services brought about by the international trading system and advances in information technology rely on intellectual capital which is considered an input to economic production. Transfer of technology can be affected and intellectual capital can be made available through the intellectual property (IP) system to potential users and investors to develop new, or to improve existing products or processes. In this context, an effective and efficient IP system would foster creativity and innovation in the LDCs and facilitate the commercialization of inventions and creations to benefit rights holders and contribute to national wealth creation.

13. At the Third United Nations Conference on LDCs member states decided on the five WIPO Deliverables to be implemented during the current decade by WIPO. The implementation of the five Deliverables will enhance the ability of public administration and the private sector to formulate appropriate intellectual property policies and strengthen managerial and technical capacities to provide the service infrastructure for the building of intellectual property institutions in LDCs. In this context, since the beginning of the implementation of the WIPO deliverables, June 2001, the following were accomplished for their benefit.

(a) The WIPO Global Information Network (WIPONET)

14. WIPONET is a state-of-the-art project designed to ensure that the Organization is able to respond to the increased demand for electronic data exchange services. WIPONET will facilitate access to intellectual property data and will also serve as a platform to establish new services and to further streamline and automate the basic business functions of intellectual property offices worldwide. A key feature of the network will be its ability to provide for secure end-to-end transmission of confidential intellectual property data. This attribute will generate significant efficiency gains for users of WIPO's international registration services while at the same time giving them access to each other's intellectual property information. WIPONET will promote international cooperation by facilitating the digital exchange of intellectual property information.

15. In order to empower LDCs to better reap the benefits of global IP information resources, WIPONET will equip LDCs' IP offices with internet connectivity and basic equipment. Implementation of WIPONET in LDCs commenced in September 2001 with Chad and Cambodia being the first to benefit from WIPO deliverables. Since then, 11 of the 49 LDCs<sup>3</sup> have been connected.

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<sup>3</sup>Angola, Benin, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Lao People's Democratic Republic, Mauritania, Nepal and Togo.

(b) The WIPO Worldwide Academy

16. The development of human resources has become a vital strategic component in the effort to modernize and use the IP system effectively for economic, social, and cultural development in the LDCs. In this connection, the WIPO Worldwide Academy assists the LDCs through its specially tailored programs, in acquiring the specialized knowledge and skills with which to take advantage of the IP system. The Academy plays a central role by providing teaching, training, advisory and research services in intellectual property for LDCs. It creates a forum for policy and decision-makers in the LDCs to debate the importance and implications of IP in the economic and social development of their countries. Since June 2001, the following specialized training organized by the Academy were attended by 31 LDCs<sup>4</sup>:

- (i) Academy session in Khartoum, January 2002;
- (ii) WIPO Academy on Intellectual Property, February, 2002;
- (iii) WIPO Academy session in French, February-March 2002;
- (iv) Administrative issues in patent and trademark procedures in the Hague, Alicante and Geneva, March 2002;
- (v) Coordinated patent search and examination procedures, in Madrid, Munich and Geneva, May 2002;
- (vi) Administration of patents, June 2002.

(c) Collective Management of Copyright and Related Rights

17. Collective management organizations are an important link between creators and users of copyrighted works because they ensure that as owners of rights, creators receive payment for the use of their works. To develop their talent and encourage them to create, individuals have to be given incentives, namely remuneration in return for permission to make use of their works. Collective management organizations most commonly take care of the right of public performance, the right of broadcasting, the right of cable distribution for musical, audiovisual or dramatic works for example, and the right of reprographic reproduction in the field of literary works as well as related rights for performers and producers of phonograms.

18. The LDCs have an abundance of talent in music and culture. They could easily translate this talent into a source of foreign exchange earnings. The music industry is a larger component of the global trading system. Although the LDCs lack the domestic expertise and business skills to bring music products to global markets, cultural industries have grown faster than any other areas of economic activity. Within the cultural sector, the share of music has grown very fast, but without protection of intellectual property there is little that can be done

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<sup>4</sup> Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Lao People's Democratic Republic, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Sao Tome and Principe, Senegal, Sudan, Togo, Uganda, Yemen and Zambia.

to stimulate artistic efforts and ensure rewards for artists. The assistance received from WIPO in this regard will be crucial.

19. The current work in LDCs in this area involves the progressive implementation of a number of activities. These are related to the development and improvement of legislation and the initiation of a mechanism for national, sub-regional and regional collective management organizations to start work to create and upgrade a set of collective management societies for copyright and related rights and link national societies of the LDCs via the internet to a sub-regional or regional center so that the hardware, software, management and data resources required by each society may be shared with support services common to all the societies being served by the center.

20. Between June 2001 and May 2002, collective management societies for copyright and related rights have been established in Chad, Guinea Bissau and United Republic of Tanzania. Initiation work for the establishment of regional collective management societies has also started in the Pacific Island LDCs.

(d) Genetic Resources, Traditional Knowledge and Folklore

21. The LDCs are considered to be rich in genetic resources, traditional knowledge and expressions of folklore which are an important part of their cultural and natural heritage. In this context, as decided at the Brussels Ministerial Meeting (UN-LDC III), the need for the protection of genetic resources, traditional knowledge and expressions of folklore should be viewed within the context of their larger socio-economic and cultural development.

22. It was also decided that WIPO is the proper forum within which to develop internationally acceptable and equitable solutions to the intellectual property issues related to genetic resources, traditional knowledge and expressions of folklore.

23. Following the decision taken in Brussels, WIPO has helped a number of LDCs in their participation in national, sub-regional and regional seminars on genetic resources, traditional knowledge and folklore. WIPO also assists LDCs in their participation in the various meetings of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

(e) Small and Medium-Sized Enterprises (SMEs)

24. SMEs in the LDCs are often the driving force behind invention and innovation activities. Their innovative and creative capacity is not always fully exploited. What is more, many SMEs are not sufficiently informed or are hesitant to seek protection for their inventions, brands and designs, and fail to take full advantage of the IP system. In order to facilitate access to information on SMEs in LDCs, WIPO took the following measures:

(i) The preparation of a CD-ROM with the content of the SME website in three languages (English, French and Spanish) containing over 300 HTML pages of practical information for SMEs and SME support institutions. The CD-ROM has been distributed to all LDCs;

(ii) The organization of national, sub-regional and regional seminars/workshops on IP for SMEs with the participation of SME associations, government focal points for SMEs, business consultants, entrepreneurs and investors have been organized where representatives from LDCs participated.

### III. PROGRESS REPORT ON THE IMPLEMENTATION OF THE JOINT INITIATIVE ON TECHNICAL COOPERATION FOR LDCS PROVIDED BY WIPO AND THE WTO

#### A. WIPO-WTO Joint Initiative

25. WIPO and WTO have launched a joint initiative on technical cooperation to LDCs in meeting the challenge of fulfilling the obligations under the TRIPS Agreement which will come into force on January 1, 2006. This Agreement provides, *inter alia*, that the two organizations will cooperate in providing legal-technical assistance and technical cooperation related to the TRIPS Agreement for LDC Members of either of the Organizations.

26. In the first phase of the Initiative, the Organizations will organize two regional workshops in the year 2002, one for the least developed sub-Saharan African countries and Haiti and the other for the LDCs in Asia and the Pacific region. Under the Initiative, WIPO and WTO commit themselves to the use of available resources to provide, on request, assistance to enable LDC members of the WTO to comply with obligations under the TRIPS Agreement within the applicable time limits. The joint initiative aims at facilitating enhanced utilization of programs both in respect of procedures and remedies for their enforcement, which is an integral part of the TRIPS Agreement.

27. Following the signing of the Joint Initiative, a number of requests have been received from LDCs for assistance on the obligations and options allowed under the TRIPS Agreement and on the necessary steps required at the national level for compliance with the TRIPS Agreement, to make better use of the technical assistance made available to LDCs by WIPO. Some countries also expressed interest to host the regional workshops.

#### B. Joint WIPO-WTO Regional Workshop on Implementation of the TRIPS Agreement, Dar es Salaam, United Republic of Tanzania, April 22 to 25, 2002

28. The Workshop was organized by WIPO and the WTO in cooperation with the Government of the United Republic of Tanzania, in Dar es Salaam, from April 22 to 25, 2002. The purpose of the Workshop was to discuss with senior officials from LDCs international norms and standards of intellectual property rights as well as current intellectual property issues, including the work in WIPO and the results of the Fourth WTO Ministerial Conference held in Doha, Qatar, in November 2001.

29. The objective of the Workshop is to contribute to institution building on intellectual property in LDCs by providing a forum: (i) to make LDC senior officials (representatives from ministries of trade, industry and justice) more aware of the salient features of the TRIPS Agreement for more active and more effective participation in future discussions and implementation and (ii) to broaden knowledge and grasp of the salient features of various international agreements on intellectual property, through interaction with, and in the presence of international and regional resource persons, WIPO, WTO, African Regional Industrial

Property Organization (ARIPO) and *Organisation africaine de la propriété intellectuelle (OAPI)*, in order to facilitate their accession and implementation.

30. Around 140 senior government officials (from 33 African LDCs and Haiti) and around 40 from the host country, United Republic of Tanzania, were present at the Workshop. Around 25 of them were women. The following were the main points raised during the discussions:

(i) Participants recognized the importance of intellectual property to critical policy fields such as food security, health, trade, culture and heritage, investment and scientific and technological development. They recognized that laws comprise only part of a national system of intellectual property protection. Effective protection depends on the institutions administering the system and the means available for enforcement;

(ii) during discussions after the presentations of the various topics, at the panel and the breakout session, it was recognized that the LDCs, despite their commitment to fulfill obligations in the field of intellectual property, face certain constraints such as shortage of resources and a weak intellectual property infrastructure. They recognized the vital importance and desirability of improving the institutional and policy framework for the modernization and development of the intellectual property systems of LDCs;

(iii) they also recognized the difficulties involved in coping with increased global competition when LDCs' lack of capacity prevented them from taking full advantage of the opportunities afforded by developments in the world economy. They encouraged WIPO to further assist enterprises in LDCs including SMEs in improving their competitiveness and their ability to gain regular access to new ideas and technologies as well as funds;

(iv) it was suggested that strengthening of intellectual property régimes was an important condition though not sufficient on its own to enable technology transfer to take place. Participants appreciated the effort of the Director General of WIPO and requested him to continue his efforts at facilitating transfer of knowledge in favor of LDCs as a further contribution to the fight against poverty;

(v) it was acknowledged that rapid changes in digital technologies have made copyright economically very important and that the contributions of copyright systems to national economies are noteworthy in terms of their contribution to economic and social development;

(vi) participants expressed their commitment to undertake active participation in deliberations on the wealth creation effect of traditional knowledge, folklore, genetic resources and intellectual property and to participate effectively at the national, regional and international level in formulating strategies (policies, plans and mechanisms) including intellectual property-based tools, for regulating access to and benefit-sharing in genetic resources including the protection of traditional knowledge and folklore;

(vii) emphasis was made to further strengthen cooperation between OAPI and ARIPO member States and their respective organizations;

(viii) participants requested WIPO to finance additional delegations from LDCs to increase their participation in the various expert meetings of WIPO. They also requested that WIPO assist them in establishing an informal group of LDCs in WIPO to enable them discuss WIPO technical issues covered by the various meetings of the Organization;

(ix) the Workshop had made the obligations and options allowed under the TRIPS Agreement clearer to participants, and it was expected to make it easier for the LDCs that participated to take the necessary steps required at the national level for compliance with the TRIPS Agreement and to make better use of the technical assistance made available to LDCs by WIPO. The active participation of the audience was particularly demonstrated by the interest aroused during the discussions following presentations of the various topics;

(x) the Workshop was very helpful to participants and met its objectives of contributing to institution building on IP in LDCs by providing clarification on obligations under the TRIPS Agreement including the Doha Declaration and measures required to be taken at the national level for compliance with them, to broaden knowledge and grasp of the salient features of various international agreements on intellectual property and on the technical assistance available from WIPO and the WTO.

#### IV. OTHER ACTIVITIES

##### A. Publications

###### (a) Profile of Intellectual Property for LDCs

31. The English and French copies of this publication, prepared on the basis of replies to a questionnaire sent to LDCs, is available for all countries. The “LDCs Profile on Intellectual Property” provides a handy guide to the state of LDCs national legislation on intellectual property and other related legislation such as legislation on the transfer of technology and foreign direct investment. The profile will serve as a convenient reference tool for government officials, universities and research institutions, journalists and non-governmental organizations. The profile also provides information for LDCs on existing intellectual property instruments.

32. The electronic version of the profile is available and can be accessed through the WIPO website.

###### (b) Handbook on Transfer of Technology

33. The purpose of the Handbook is to provide guidance on negotiating licensing contracts. While negotiations are practical and will naturally vary with each agreement, there are some basic rules, common factors and tips that will be of assistance in embarking on such an exercise. The Handbook will try to assist in that process by providing an introduction to some of the basic clauses in licensing contracts and some practical hints as to how and in what circumstances they should be utilized.

34. The handbook will provide guidance as to where technology could be found, some example of clauses that could be used in licensing agreements, some sample agreements and finally some real life cases with possible answers which have been used in training potential negotiators in the art of negotiation. Once it is finalized, this will be a useful part of a “tool box” in accessing suitable technology for business and will contribute to more effective transfer of technology between enterprises, countries, and ultimately worldwide.

#### B. WIPO-LDCs Website

35. The WIPO LDCs Website is available under WIPO Website of the Sector of Cooperation for Development. The Website will serve as a convenient reference and communication tool for all institutions/organizations and interested individuals who are concerned with, or involved in, the development of intellectual property and its protection in the LDCs.

36. The website, *inter alia*, provides information on: the historical evolution of LDCs; the criteria for a country to qualify as a LDC; national legislation regarding IP and related issues; the WIPO-administered treaties to which LDCs are party; the basic geo-economic indicators of LDC; the address of the national focal point for IP in LDCs and basic socio-economic statistics. The website also contains quarterly information on the participation of LDCs in WIPO meetings.

### V. CONCLUDING REMARKS

37. The capacity to generate and utilize knowledge became a key factor in explaining differences in human progress at the end of the last century. In the new millennium, no LDC can expect to remain isolated from global economic, social and political interaction. However, the persistent global inequalities in incomes and standards of living, the fall in the price of primary commodities, the deterioration of terms of trade, the burden of foreign debt and the intensification of migratory currents indicate the non-viability of the current position of many LDCs in the world economy.

38. For the LDCs, to acquire, adapt and use knowledge through knowledge transfer is as important as producing it: this is where the WIPO Deliverables make a difference in building knowledge capital in the LDCs. WIPO should interact simultaneously with the states, the market and civil society to identify the ways in which government agencies, private industry, non-governmental organizations, educational institutions, research centers, labor unions, professional associations and similar entities interact in strategy design and policy implementation.

39. There is a need to understand better a host of new institutional arrangements in inter-related areas of health, education, science and technology, economic development, investment, labor and other social issues, for knowledge transfer, research and development in intellectual property systems in the LDCs in order to assess their applicability and evaluate their impact. As a consequence, regardless of their level of productive, scientific or technological capabilities, individual LDCs may have to integrate intellectual property components into the design of their national development policies and strategies.

40. The final outcome of WIPO's efforts in the implementation of WIPO Deliverables and the WIPO-WTO Joint Initiative on Technical Cooperation in individual LDCs depends on the appropriate strategy mix and policy coordination at the national level and on the country's history and culture, resource endowments, type of government, entrepreneurial qualities and external cooperation.

*41. The Permanent Committee is invited to express its views on the information contained in this document.*

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