

Independent External Review Report

World Intellectual Property Organization

Technical Assistance

Provided To

Countries Subject to United Nations Sanctions

9 September 2012

Independent External Review

WIPO Technical Assistance Program in Countries Subject to UN Sanctions

9 September 2012

Francis Gurry
Director General
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20, Switzerland

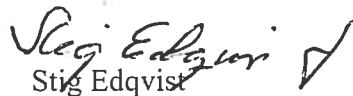
Dear Mr. Gurry:

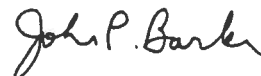
We are pleased to provide you with our report of the Independent External Review of WIPO's technical assistance with countries subject to United Nations sanctions, with special reference to the Democratic People's Republic of Korea (DPRK) and the Islamic Republic of Iran (Iran).

During our work over the past month, we interviewed twenty individuals at WIPO, and reviewed thousands of pages of documents. We received some limited input from other UN agencies for "best practices" for addressing technical assistance programs in countries subject to UN sanctions.

We worked independently but received the full cooperation of the WIPO Secretariat. We reviewed as many documents and communications as feasible in the time period authorized under the Terms of Reference.

Sincerely,


Stig Edqvist


John P. Barker

Independent External Review

World Intellectual Property Organization (WIPO) Technical Assistance Program In Countries Subject to UN Sanctions

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EXECUTIVE SUMMARY

WIPO is a Specialized Agency of the United Nations with 185 Member States. WIPO's mission is to use intellectual property (patents, copyright, trademarks, designs, etc.) to stimulate innovation and creativity.

The Convention establishing WIPO promotes the development of measures to protect intellectual property worldwide. As part of its mandate, WIPO offers cooperating States legal and technical assistance in the field of intellectual property. This technical assistance has included providing Information Technology ("IT") hardware (including computers and related equipment), software, and training.

WIPO has provided technical assistance to countries subject to UN sanctions, including the Democratic People's Republic of Korea ("DPRK") and Iran. For activities WIPO conducted in countries that are the subject of UN sanctions, with special reference to DPRK and Iran, the WIPO Director General asked for the following assessment:

- 1/ the nature and extent of the technical assistance activities related to the provision of IT equipment that occurred with the said countries;
- 2/ the conformity of these activities with the Program and Budget authorized by Member States; and
- 3/ the compliance of these activities with the UN sanctions regime applicable to various States.

The Director General also asked for recommendations to improve procedures in operations with countries that are the subject of UN sanctions. (For the full Terms of Reference, see Appendix 1.)

We reached the following conclusions:

Extent of Technical Assistance Related to the Provision of IT Equipment

WIPO has a longstanding history of delivering IT hardware and software to the DPRK and Iran. The deliveries stretch back at least to 2000 for the DPRK and 2001 for Iran.

Since 2006, WIPO has provided to the DPRK three deliveries of servers, desktop computers, notebooks, and associated software, printers, other accessories. The most recent delivery was in early 2012, and included a very capable hardware firewall and network security appliance not included in previous deliveries and which replaced a less capable software firewall and router. The equipment for the projects in the DPRK totaled approximately U.S. \$118,000/EUR 94,000 /CHF 112,000 (based on average exchange rates), not including the time and travel expenses for the substantial technical expertise provided by WIPO personnel to assess program needs. Some within WIPO noted that the DPRK program was only necessary to replicate WIPO databases in the DPRK that were

otherwise accessible on the internet because the DPRK does not permit access by its citizens to the internet. The vendor for the delivery of the equipment, located in China, was selected from a list of vendors provided by the DPRK.

In the same time period, WIPO provided three deliveries to Iran of notebooks, servers, desktops, and associated peripheral equipment worth approximately U.S. \$80,000/EUR 64,000 /CHF 76,000 (based on average exchange rates), not including WIPO personnel time.

While the equipment manufacturers would have to make the final determinations, most of the equipment provided by the third-party suppliers to fulfill the WIPO requests appears to be of U.S. origin or otherwise subject to U.S. jurisdiction based on the U.S. content in the equipment. Much of the equipment is standard office/desktop equipment, but some of the equipment is subject to a high level of encryption control under national laws. The DPRK and Iran could not have legally purchased most, if not all, of the U.S.-origin equipment (or equipment with a sufficient amount of U.S. content) on their own due to restrictions imposed under U.S. national law.

WIPO operates under the privileges and immunities of the UN and relies on the International Organizations Immunities Act. Based on these privileges and immunities, WIPO takes the position that, as an international organization, it is not bound by US national law in this matter.

Prior to the establishment on May 1, 2012 of new procedures by the WIPO Legal Counsel, WIPO had no procedure in place to require a review of programs for countries subject to UN sanctions. The new rules require a review for the application of sanctions by the Legal Counsel for shipments of equipment to countries subject to UN Sanctions. Staff members previously sought review by the Legal Counsel of some shipments on an *ad hoc* basis. The WIPO Senior Management Team had discussed the need for a review of policies for transfers to sensitive countries, including a need to determine how other international organizations handled dealing with special sensitive cases in international law, but the technical assistance programs were not systematically reviewed for sanctions compliance prior to shipment.

WIPO made similar shipments of computers and computer peripheral equipment to other countries subject to UN sanctions, including Côte d'Ivoire, Democratic Republic of the Congo, Iraq, Lebanon, Liberia, Libya, and Sudan. These shipments were not systematically checked for sanctions compliance prior to shipment.

Many of those individuals at WIPO we interviewed felt that WIPO, as a technical organization with an important but defined mandate of intellectual property protection, simply handled transfers to countries subject to UN sanctions, including the DPRK and Iran, in a manner similar to those countries not subject to UN sanctions. As a consequence, WIPO staff members did not consider the need to check the sanctions provisions, and the procedures did not change for transfers to the DPRK or Iran as the sanctions on these countries increased. These individuals stated their belief that the technical assistance program for the DPRK and Iran were handled in a manner similar to

any other country, although some WIPO staff members questioned the need for a technical assistance program in the DPRK given that the DPRK historically filed very few patents.

A recent lawsuit alleges that the Director General approved transfers to Iran and the DPRK because these countries supported his candidacy for Director General. Some WIPO staff members believe this to be the case, and that the ramping up of assistance, particularly to the DPRK, grew out of promises from the 2008 election. Others reject this, and cite the fact that WIPO computer shipments to these countries occurred under the previous Director General and stretch back more than a decade. (The lawsuit contains an annex that is not yet available which purports to prove that the current Director General personally approved the transfers in question.) The Director General is quoted in the press as denying the allegations, and that he made no deals with any country in exchange for its support.

We asked the Director General about the allegations related to the transfer of computer equipment to the DPRK and Iran. He unequivocally denied there was any link, express or implied, between his election and the authorization for the transfer of computer and related equipment to the DPRK or Iran.

We asked to speak with DPRK and Iranian Mission representatives to obtain their views, but not surprisingly, they would not speak with us.

The Director General signed a Note Verbale to the DPRK Permanent Mission dated June 30, 2011 which transmitted a copy of the project document for the Patent Databases Upgrade Project at the Invention Office of the DPRK. This was provided to the DPRK to confirm the plans for equipment that was ultimately delivered in early 2012.

Conformity of WIPO Technical Assistance Program in Countries Subject to Activities with the Program and Budget authorized by Member States

WIPO prepares detailed program and budget documents with hundreds of pages of detail for approval by Member States. In the broadest terms, Member States approved the overall technical assistance programs because these programs were included in the program and budget documents. These technical assistance programs included the computer and related equipment transfers to Iran and the DPRK.

Unless a Member State asked in advance of a shipment, however, Member States could not tell from the program and budget documents which countries would receive computers and equipment. WIPO staff traditionally would not volunteer this information out of concern that this would lead to individual Member States lobbying for particular equipment transfers based on what other Member States received.

After-the-fact reporting to Member States showed some transfers of computers and related equipment to Iran, but whether deliberate or simply omitted, the reports showed no information for recent transfers to the DPRK. Historical documentation shows earlier transfers to the DPRK, including transfers of used equipment. WIPO is

now developing an enhanced reporting tool that should permit Member States to determine more readily which states received assistance, and the form of that assistance.

Compliance of WIPO Technical Assistance Program with the UN Sanctions Regime Applicable to Member States

The UN Sanctions Committees, which implement the UN's DPRK and Iran sanctions, will make the ultimate determination of whether the transfers of computer equipment violated those sanctions. We note that some outside experts with serious national security, non-proliferation and legal credentials have concluded that some of the transfers may have violated the sanctions. A review of the same facts by WIPO in-house legal counsel, as well as a preliminary U.S. assessment reached the opposite conclusion that the transfers to Iran and the DPRK did not trigger sanctions. For the U.S., the review remains on-going and after a further assessment of potential ambiguities in the application of the sanctions, WIPO has referred the transfers to the DPRK and Iran for review by the relevant UN Sanctions Committees.

We are not in a position to second guess the UN Sanctions Committees, which will reach their own conclusions and will take into account the views of Member States. The sanctions determinations will be based in part on information that may be available only to the Member States. Nevertheless, we found no information to call into question the initial U.S. determination that the U.S. does not believe these projects violated UN Security Council resolutions.

There were a number of transfers to other countries subject to UN sanctions. These sanctions largely focus on arms embargoes, asset freezes and travel bans on certain specified persons. None of the transfers to those countries appeared to have triggered sanctions despite the failure to check for sanctions compliance, although it would be prudent for WIPO to confirm that none of the transfers involved individuals or entities on prohibited lists.

Recommendations

Although we appreciate and acknowledge the dedication and underlying technical competence of the individuals involved and the need to support IP protection across all 185 Member States, we simply cannot fathom how WIPO could have convinced itself that most Member States would support the delivery of equipment to countries whose behavior was so egregious it forced the international community to impose embargoes, and where the deliveries, if initiated by the recipient countries, would violate a Member State's national laws.

In the words of the Sanctions Committees, the Security Council "has resorted to mandatory sanctions as an enforcement tool when peace has been threatened and diplomatic efforts have failed."¹ The UN itself declared that Iran and the DPRK should

¹ See Security Council Sanctions Committees: An Overview (available at <http://www.un.org/sc/committees/index.shtml>).

fall into a heightened category of diligence and review because of their threats to world peace and stability. WIPO, as a UN agency, shares the obligation to support the work of other UN bodies, including the Sanctions Committees.

The UN previously grappled with problems with equipment transfers to the DPRK by the United Nations Development Programme (“UNDP”). In response to these earlier problems, the UN commissioned a review panel which recommended procedural changes for equipment and technology transfers to the DPRK. Had these changes been implemented at WIPO, they likely would have prevented the controversial transfers to Iran and the DPRK, or would have at least forced greater transparency with Member States prior to shipment, and a recognition of the risks WIPO would run by delivering equipment and technology to countries that would not be eligible to purchase such equipment and technology on their own.

To WIPO’s credit, it initiated important reforms and procedural changes as a result of the controversy over the transfers to Iran and the DPRK prior to the completion of this Review. These are useful steps, but we recommend consideration of the following additional steps:

- Recognize the Obligations Imposed by Other UN Organizations, Particularly the Relevant Sanctions Committees. It is difficult to overstate the importance of the UN Sanctions Committees, as they are charged with using sanctions to help prevent wars, death and destruction. WIPO would benefit greatly from carrying through with its new commitments to check all assistance programs and transfers for sanctions compliance prior to execution. As part of this review, it will be important to check both the country sanctions lists, and the lists of prohibited individuals and entities. The new directives focus on the former, but checking the consolidated sanctions lists for individual listed persons and entities will be equally important.
- Implement Sanctions Compliance in a Systematic Manner and Throughout the WIPO Functions. WIPO has implemented new requirements to check on sanctions compliance in advance of program implementation through the distribution of legal memoranda and directives. This is a good first step, but it would benefit from some of the “best practices” in other UN agencies by incorporating these procedural requirements into procurement, payment and travel procedures. This is especially important because sanctions change rapidly. WIPO programs can stretch over several years. To reduce the risk that a program could be reviewed for compliance but the sanctions changed prior to implementation, the programs would need to be checked at each stage of implementation including travel, shipment and payment.
- Undertake Due Deference to Member States’ National Laws for the Transfer of Equipment and Technology in Appropriate Circumstances. WIPO takes the position that it is not subject to national laws, including the laws of countries which would otherwise control equipment and technology transfers. Other international organizations have the same privileges and immunities, yet often will take into account national laws on technology transfers to sensitive countries, end-users, and end-uses out of respect for the views of their Member States. WIPO could better

focus on its core mission and reduce distractions as well as address concerns of Member States if it gave due deference to equipment and technology restrictions by Member States, even if it believed that the restrictions by Member States did not legally apply to WIPO. Such an approach need not undercut the privileges and immunities enjoyed by WIPO. Instead, WIPO could make a deliberate policy decision, as other international organizations have done, not to deliver technology and equipment to a country if that could not legally obtain such technology and equipment on its own.

- Provide Training in Export Compliance. WIPO is not a procurement agency and little of its work involves direct technology transfers. Nevertheless, WIPO personnel would benefit from training and familiarization with the export control requirements of the U.S., the European Union, and other locations from which WIPO may export equipment and technology (such as China) or that are the country of origin of the equipment and technology WIPO may export. If WIPO sought to invoke its privileges and immunities to transfer equipment that would otherwise be contrary to international agreements or the national laws of Member States, WIPO should at least be aware of the risks it runs in advance of the transfers, and know when it may need to consult with Member States in advance of transfers.
- Consider Structural Changes, Including Appointment of a Chief Compliance Officer and Export Compliance Official. WIPO is implementing new procedures for risk management and internal controls, and has a relatively new Chief Ethics Officer. We recommend that WIPO consider going further and establish an internal compliance function.

The compliance function could be narrowly tailored to focus on exports and reexports, or could follow the direction of many international organizations of having a senior official who can serve as the ultimate resource as a Chief Compliance Officer for compliance responsibilities across the organization. In some organizations the Chief Ethics Officer and Chief Compliance Officers have the same role whereas in other organizations, these roles are separate. We do not have a view regarding the proper structure, but do recommend at a minimum an enhancement of the export compliance function.

- Enhance End-Use and End-User Checks. WIPO has a laudable history of ensuring that the equipment and technology it provides is used for the purposes intended, and has committed to conduct end-use and end-user checks on the IT equipment and software delivered to Iran and the DPRK. WIPO should also consider tapping the expertise of other UN or independent agencies in countries with limited access, such as the DPRK and Iran, where it is difficult to follow-up and the risk of diversion is great. If sister agencies such as the UNDP are not prepared to conduct such checks even if properly reimbursed for their time and expertise, this should serve as a “red flag” as to whether the program should proceed in these countries. No one should be under any illusions that a country such as the DPRK could not move the computer equipment or divert or enhance its computational power in between end-use checks, but at least enhanced end-use checks would raise the cost of any diversion.

- Require Contractors to Obtain Any Necessary Export Licenses and Confirm That There are No Country-of-Origin Restrictions or Restrictions Imposed by the Manufacturers for Delivery to Countries. The application of privileges and immunities to UN contractors and the transfer of equipment and technology is not clear. In some past cases, Member States have rejected the use of these privileges and immunities for the transfer of equipment or other activities by contractors, even in cases where Member States are prepared to recognize the privileges and immunities of agency staff of the international organizations. WIPO would expect its contractors to ensure that they obtained necessary customs and import clearance for equipment transfers. Export and re-export clearance, and confirmation that no restrictions under national laws apply for the export, deserves no less of a priority. The contractors would be in the best position to provide these assurances, but WIPO would have to initiate the requirement for the contractors to provide this information.
- Ensure Clear Lines of Responsibility with Implementing Agencies. WIPO is not a procurement agency. It relies on the expertise of other UN agencies to help deliver some of its equipment. Especially for deliveries to sensitive countries, there is a risk that the implementing agency may take the position that WIPO has the responsibility for vetting the equipment and technology deliveries for compliance, but WIPO may believe the responsibility lies with the implementing agency.
- Enhance Transparency and Reporting. WIPO would benefit from the examples set by other UN agencies, such as the UNDP, in providing full transparency to its programs in a manner readily accessible by Member States and on a country-by-country basis. WIPO is moving in the direction of posting all of its technical assistance programs on-line, by country, as WIPO did from 2000-2005. While WIPO may be concerned that such transparency may lead to micromanaging by Member States, any transfers that are contrary to the expectations of Member States will inevitably lead to even more micromanagement. In addition, if it is clear that every program and delivery will be reported in a transparent manner, this may encourage consultations early and often by WIPO with Member States for sensitive deliveries.
- Require Destruction or Return of the Equipment Upon Completion of Use in Cases Where the Equipment Could Not be Purchased by the Country Directly. Much of the equipment transferred to Iran and the DPRK could not have been obtained by the countries directly because of restraints under the laws of the countries of manufacture for the equipment, or the development of technology embodied in the equipment. We recommend that WIPO implement procedures to require the return of equipment, or verifiable confirmation of its destruction, when the equipment is no longer used for the WIPO programs in countries where the countries could not purchase the equipment directly.

- Seek a Uniform View on the Application of Member States' Export Control Restrictions Across UN Agencies. Past published references to the views of the UN Legal Affairs Office outlined the legal analysis that transfers to UN personnel in support of UN programs would not be subject to national laws, but transfers to governments where the equipment is not used by UN personnel could under certain circumstances be subject to restrictions. This analysis and information is somewhat dated, and we recommend verifying with the appropriate UN legal offices the current position regarding the need for permission from Member States for the export of equipment otherwise subject to the jurisdiction of Member States. This would help inform WIPO's policies.

BACKGROUND

WIPO has a long-standing technical assistance program to assist countries of all sizes and regions to participate in the global Intellectual Property (“IP”) system. The activities range from the provision of software systems for administration of IP rights, to the establishment of computer and communications systems for managing IP rights, to the exchange of data and information on IP rights with IP management offices in other countries.

Article IV of the convention establishing WIPO provides that WIPO “shall promote the development of measures designed to facilitate the efficient protection of intellectual property throughout the world and to harmonize national legislation in this field.”² WIPO notes that automated systems can help to increase productivity in national IP management offices, provide standard business processes to these offices, and increase the quality of IP rights.³

To execute this mandate, WIPO provides consulting services, assistance with automation projects, capacity building, workshops, seminars, and automation product enhancements. WIPO calibrates its assistance depending on the needs of the country. In some countries, the most basic assistance needed is computer hardware and software infrastructure.

We focused our inquiry on deliveries since 2006 for the DPRK and Iran. The records were most complete for those deliveries, and for U.S.-origin equipment subject to restrictions under U.S. law for deliveries to countries such as the DPRK and Iran, the U.S. generally focuses its enforcement on violations that occurred in the past five years. Moreover, for deliveries through 2005, WIPO provided a more transparent and user-friendly country-by-country public summary of its IT equipment and technology deliveries.

As published on WIPO’s website, WIPO provided computers under its technical assistance programs to the DPRK since at least the year 2000 (see Appendix 2) and to Iran since at least 2001 (Appendix 3).

We review below: (I) the extent of the cooperation; (II) the program and budget for the cooperation; (III) the potential application of sanctions; and (IV) recommendations:

² See Convention Establishing the World Intellectual Property Organization (available at http://www.wipo.int/treaties/en/convention/trtdocs_wo029.html).

³ See WIPO’s Technical Assistance to IP Offices (available at http://www.wipo.int/global_ip/en/activities/technicalassistance/#objectives).

I. The Nature and Extent of the Provision of Technical Assistance Activities Related to the Provision of IT Equipment in Countries Subject to UN Sanctions

A. Democratic People's Republic of Korea (DPRK)

WIPO determines what technical assistance to provide to countries based on what those countries need to fulfill the WIPO mandate of intellectual property protection. The WIPO technical assistance program focuses on those countries with the least developed IT infrastructure in the government offices responsible for intellectual property protection. For example, in 2011, WIPO provided technical assistance equipment to 28 countries/offices, most of which received computer equipment, and most of which are developing countries. See Appendix 4.

The DPRK is one of these countries. WIPO's provision of IT equipment goes back to at least 2000 (Appendix 2), although some of the early deliveries involved used equipment.

From 2006 to 2012, WIPO authorized the delivery of IT equipment to the DPRK in 2007 (U.S. \$28,814.30), 2008 (CHF 28'500) and in 2011 (\$52,638).⁴ Prior to the establishment on May 1, 2012 of new procedures by the WIPO Legal Counsel which requires a review for sanctions issues by the Legal Counsel for shipments of equipment subject to UN Sanctions, WIPO had no procedure requiring a separate review of programs for countries subject to UN sanctions.

WIPO staff members sought review by the Legal Counsel of individual cases from time-to-time, but the initiative of the program director determined whether the review would occur. Even though the advice of the Legal Counsel was sought for some projects, we could find no procedure requiring such a review prior to the implementation of the new guidelines in 2012, and WIPO staff confirmed to us that no such procedure existed prior to 2012. WIPO staff did not provide a basis for why they sought review of some shipments, but not others.

In March 2012, when questions first arose regarding the payment of an invoice for the DPRK program, individual WIPO staff members raised questions regarding the appropriateness of assisting the DPRK, particularly in light of the potential concerns by Member States. A U.S. bank also raised questions regarding a wire transfer to the UNDP for the provision of such equipment. At this point, however, the equipment had already been shipped to the DPRK. The sole question remaining at that point was whether the vendor in China which shipped the equipment, Beijing Heyman Muye S&T Development Co., Ltd., would receive reimbursement for the shipment. We review in Section III below the compliance of these shipments with the UN sanctions regime.

⁴ Note that there is often a lag between when the program is authorized and when the deliveries occur. For example, WIPO lists a 2007 authorization for computer deliveries to the DPRK, but the computers under this authorization were not delivered until February 2008. Similarly, activity under the 2011 authorization continued in 2012.

WIPO sought the assistance of the UNDP to handle the actual delivery of the equipment. WIPO staff informed us that the equipment delivery is subject to a 1978 Agreement between the UNDP and WIPO for specific technical cooperation activities.⁵ The memorandum does not address directly whether WIPO or the UNDP is responsible for assuring that any equipment deliveries comply with UN sanctions, although the memorandum acknowledges that the “UNDP Resident Representative in a country has full responsibility and ultimate authority on behalf of the Administrator of the UNDP for all aspects of the UNDP programme in the country concerned ...”⁶ WIPO staff members informed us that they were not aware of, and we could not confirm that, WIPO staff sought confirmation from the UNDP regarding whether the UNDP had checked to determine whether the deliveries were consistent with the UN sanctions requirements or were consistent with the license requirements under US law for the equipment with U.S.-origin content.

In short, with the exception of some isolated reviews initiated by individual program managers, WIPO’s provision of technical assistance for the DPRK was handled in the same manner as it would have been for countries not subject to UN sanctions.

WIPO has taken steps to reduce the risk of violations of UN sanctions for future deliveries, including issuing a July 17, 2012 directive to suspend delivery of IT hardware under Technical Assistance programs, and implementing in May 2012 procedures developed by the WIPO Legal Counsel requiring a review for sanctions issues prior to shipment. We review these procedures and other recommendations in Section IV below.

B. Islamic Republic of Iran

WIPO has had longstanding technical assistance programs in Iran with computer deliveries going back to at least the year 2001 (Appendix 3). Since 2006, WIPO has provided to Iran IT equipment in 2006 (CFH 10’788), 2007 (CHF 25’892), and 2009 (27’221 Euros). See Appendix 5.

As with equipment shipments to the DPRK, WIPO did not implement special procedures for review of the shipment of equipment to Iran for sanctions compliance prior to export.

C. Other Countries Subject to UN Sanctions

From 2007 to 2012, WIPO provided assistance to other countries subject to UN sanctions, including the Côte d’Ivoire, Democratic Republic of the Congo, Iraq, Lebanon, Liberia, Libya and Sudan. See Appendix 6 for further details. The provision of equipment to these countries, as with the DPRK and Iran above, does not automatically mean that the equipment transfers violated UN sanctions. We review in Section III below the compliance of these transfers with the UN sanctions regime. We do note,

⁵ Agreement between the United Nations Development Programme and the World Intellectual Property Organization dated 22 June 1978 (the “UNDP MOU”).

⁶ See UNDP MOU at 2.

however, that prior to March 2012, WIPO had no mechanism to assure that it took into account any restrictions under UN sanctions in determining whether to proceed with technical assistance programs to these countries including technology and equipment transfers.

II. Conformity of Activities With the Program and Budget Authorized by Member States

A. Prospective Budgets

WIPO has a detailed budgeting and reporting process. As noted on WIPO's website:

Every two years, WIPO's Director General presents a Program and Budget to member states for approval. It details objectives, performance measures and budgetary planning for all proposed activities.⁷

This procedure yields a detailed budgeting process for approval by Member States. The program does not, however, seek approval for activities at the individual state level for specific technical assistance programs. For example, the 2008-2009 budget document provides as follows:

To increase the availability of the information disclosed via the patent system, WIPO will provide direct technical assistance to IP offices in developing countries to assist them with digitization and dissemination of patent data from local patent collections.⁸

The budget document does not, however, identify individual programs for the coming budget cycle. It does not, for example, state that the DPRK or Iran will receive technical assistance. Indeed, according to WIPO staff, in the past there has not been a specific budget approval by Member States for individual technical assistance programs, in part out of concern that individual Member States would seek to insert themselves into the process for determining technical assistance (*i.e.*, that a country such as Mozambique might try to make the case that it deserves the same type of scanner and printer that was provided to Namibia, but not to Mozambique).⁹

Similarly the program budget for 2010 included the following objective:

PROGRAM 15: IP Office Modernization
PROGRAM OBJECTIVE

⁷ See "Results, Performance and Budget" (available at <http://www.wipo.int/about-wipo/en/budget>).

⁸ See Revised Program and Budget for the 2008/09 Biennium at 98 (available at http://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/rev_prog_budget_08_09.pdf).

⁹ We note that in 2011, Mozambique received a server and Namibia received a server, scanner and printer. See Appendix 4.

Develop and strengthen national and regional IP institutions in accordance with the Development Agenda, through provision of modernization services, to enable them to participate in the global IP infrastructure and to maximize their benefits from the access and use of its collective resources.

As part of this objective, WIPO noted that it intended to:

assist national and regional IP institutions to benefit from modern tools, systems and best practices. These services include technical consultancy ... customized automation solutions ... and automation system support. The actual nature of services provided to any specific institution is based on its request, priorities and assessed requirements. In recommending best practices, the normative neutrality of the support will be ensured.

The expected contribution from the beneficiary institution is: commitment and readiness for the project; availability of technical persons with adequate level of skills that can acquire the necessary knowledge and expertise from WIPO to use, operate and support the automation system; transition management from existing manual to automated procedures; adequate Internet access; and resources to maintain and upgrade the automation infrastructure and its components to sustain the benefits from the assistance. ...

... The automation systems offered are based on the WIPO Industrial Property Automation System (IPAS) which is continually upgraded with enhancements, new functionality and national language interface as part of regular Program activity. IPAS will continue to be upgraded, making the best use of the recent developments in ICT, including open source software.¹⁰

Once again, while the budget document outlines the technical assistance program in general, it does not call out plans for individual states. The only mention of individual states is in the section on contributions by Member States.

The most recent budget document for 2012/13 similarly only mentions specific countries in the contributions section. It includes as an objective “the strengthening of the technical infrastructure of IP offices”¹¹ and budget numbers for “Enhanced technical and knowledge infrastructure for IP Offices and other IP institutions leading to better services (cheaper, faster, higher quality) to their stakeholders”¹² as well as upgrading of

¹⁰ See PROGRAM AND BUDGET FOR THE 2010-11 BIENNIUM, World Intellectual Property Organization, Approved by the Assemblies of the Member States of WIPO on October 1, 2009, at 102-03 (available at http://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/budget_2010_2011.pdf).

¹¹ See WIPO PROGRAM AND BUDGET, PROGRAM AND BUDGET FOR THE 2012-13 BIENNIUM, Approved by the Assemblies of the Member States of WIPO on September 29, 2011, at 9, subject to requirements for reduction of expenditures through cost efficiency measures (available at http://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/budget_2012_2013.pdf).

¹² See WIPO PROGRAM AND BUDGET FOR THE 2012/13 BIENNIUM at 12, 38, 85, 115, 116, and 142 (available at http://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/budget_2012_2013.pdf).

technical infrastructure.¹³ The budget document also sets the overall objective for the technical assistance program:

WIPO technical assistance shall be, *inter alia*, development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion. In this regard, design, delivery mechanisms and evaluation processes of technical assistance programs should be country specific.¹⁴

The budget documents presented to and approved by Member States thus conform to the program and budget authorized by Member States, although the only mechanism by which Member States would be able to determine whether countries such as Iran or the DPRK were to receive technical assistance such as computers would be to pose specific questions to the WIPO Secretariat.

B. Reporting

WIPO has provided limited reporting after the fact regarding its technical assistance program to Iran. In the Program Performance Report for 2008-09 dated June 28, 2010, WIPO identifies Iran as one of a group of countries that “were assisted in modernizing their IP administration, including digitization of records, provision of automation tools and equipment.”¹⁵ It is not possible from this oblique reference to be certain that Iran actually received computers. There is no reference to the provision of such support to the DPRK.

The most recent Program Performance Report for 2010-11 dated August 1, 2012 includes a number of references to technical assistance programs, and mentions several outreach programs for Iran, but none of the entries identify specifically the provision of computers to Iran or the DPRK.¹⁶

In response to a previous Development Agenda Recommendation, WIPO is developing a Technical Assistance Database on:

. . . technical assistance activities undertaken by the Organization where one or more of the beneficiary countries were either developing or a least developed country or a country in transition.¹⁷

¹³ *Id.* at 114.

¹⁴ *Id.* at 215.

¹⁵ See WIPO Program Performance Report for 2008/09 at 63 (available at http://www.wipo.int/edocs/mdocs/govbody/en/a_48/a_48_6.pdf).

¹⁶ See WIPO Program Performance Report for 2010/11 (available at http://www.wipo.int/edocs/mdocs/govbody/en/a_50/a_50_4.pdf).

¹⁷ See WIPO Technical Assistance Database (available at <http://www.wipo.int/tad/en/>).

This database, when completed, will include a section on “Equipment Provided-Delivered,” but it does not yet include the equipment delivered to Iran and the DPRK as outlined in Appendix 5.

Therefore, there currently is no mechanism for comprehensive reporting to Member States countries subject to UN sanctions that have received technical assistance from WIPO, including computers and other IT equipment.

III. Compliance of WIPO Technical Assistance Program with the UN Sanctions Regime

The UN has imposed sanctions on a number of countries, including Iran and the DPRK. WIPO has reviewed the transfers to the DPRK and concluded that they did not violate UN sanctions.¹⁸ Dr. Esther Brimmer, Assistant Secretary of State for International Organization Affairs, summarized the views of the U.S. Executive Branch regarding the most recent transfers to the DPRK and Iran when she noted on August 13, 2012 “Based on the information we have received so far, we believe that the projects did not violate UN Security Council sanctions.”¹⁹ The U.S. has received additional information since this date and its review is ongoing.

On the other hand, commentators with substantial non-proliferation, national security and legal credentials have concluded that the transfers were in blatant disregard of Security Council sanctions²⁰ and may well have violated the sanctions.²¹ The U.S. House Foreign Affairs Committee has promised to investigate these activities.²²

¹⁸ Memorandum from WIPO Legal Counsel to the Director General dated March 28, 2012 entitled “Security Council Sanctions Against the DPRK and the Legality of the Technical Assistance Computer Purchase”.

¹⁹ U.S. Efforts to Address World Intellectual Property Organization (WIPO) Technical Assistance Projects. Bureau of International Organization Affairs, August 13, 2012 (available at <http://www.state.gov/p/io/rls/othr/196416.htm>).

²⁰ See, e.g., John Bolton, former U.S. Permanent Representative to the United Nations, United States Mission to the United Nations, and former Under Secretary of State for Arms Control and International Security, “What America Gets for Its UN Blank Check, Bureaucrats give ‘technical assistance’ to Iran and North Korea”, dated July 17, 2012 (available at <http://online.wsj.com/article/SB10001424052702303754904577530720384291742.html>). A version of this article appeared July 18, 2012, on page A13 in the U.S. edition of The Wall Street Journal, with the headline: What America Gets for Its UN Blank Check. (“The UN body’s actions are in blatant disregard of Security Council sanctions on Tehran and Pyongyang, prompting House Foreign Affairs Committee Chairwoman Ileana Ros-Lehtinen to call last week for freezing U.S. contributions to the organization.”).

²¹ See George Russell, Fox News, “EXCLUSIVE: Experts charge UN high-tech shipment to North Korea violates UN sanctions; State Department waffles”(available at <http://www.foxnews.com/world/2012/07/26/legal-proliferation-experts-charge-un-high-tech-shipment-to-north-korea/#ixzz25K5xIVuY>).

Pertinent sections of the article include the following:

The obscure branch of the United Nations that shipped sophisticated computers and other high-tech equipment to North Korea violated the UN’s own sanctions against that regime, according to

The determination of whether an activity violates UN sanctions ultimately is up to the UN Sanctions Committee members. Sanctions are by their very nature a combination of a technical assessment of whether a particular product falls under the list of items controlled by the sanctions, and a political assessment of whether a sanctions determination would advance the policy for that particular sanction. Thus a computer sent to Iran or the DPRK to a particular location or for a particular purpose might not trigger a sanction, whereas the same computer sent to a different location in the same country for a different purpose might trigger a sanction. Sanctions Committee members will not only bring their own policy objectives into any sanctions determination, but

a prominent international legal scholar, who echoed congressional investigators in calling for an “independent, external commission” to probe the incident.

John Yoo, a national security expert during the first Bush administration and now a University of California, Berkeley, professor who specializes in international and U.S. constitutional law, says that the equipment shipped by the Geneva-based World Intellectual Property Organization, or WIPO, “would allow North Korea to carry out simulations necessary to design highly sophisticated nuclear warheads...without the need for testing.” North Korea set off illegal nuclear blasts in 2006 and 2009, which led to the Security Council sanctions.

...

According to Yoo, the equipment transfer gives the regime of fledgling leader Kim Jong Un a significant boost in hardware and software “that could quite conceivably contribute” to North Korea’s nuclear-related programs

That alone, he argues, is enough to cross the threshold of the first UN sanctions resolution against North Korea (known in UN-speak as DPRK, for Democratic People’s Republic of Korea), enacted in 2006. That resolution urges UN member states to prevent the “direct or indirect” supply of goods and technology “which could contribute to DPRK’s nuclear-related, ballistic missile-related or other weapons of mass destruction-related programs.”

Yoo emphasizes the word “could,” which, he says, means that the UN sanctions resolutions were intended to “cover a broad, non-exhaustive list of items and circumstances.” He also noted that other Security Council resolutions explicitly called on “relevant United Nations bodies and other interested parties,” as well as nation-states, to cooperate “fully” in the sanctions efforts.

Yoo offered his legal opinion jointly with another Berkeley law professor, Laurent Mayali, at the behest of a WIPO whistle-blower who first brought the issue to public attention by alerting the U.S. mission in Geneva, among others, to the agency’s actions.

Their contentions were backed up by a sanctions expert who is not involved in the whistle-blower imbroglio: Mark Fitzpatrick, head of the Non-proliferation and Disarmament program at Britain’s prestigious International Institute for Strategic Studies, or IISS, and a former long-time top-level proliferation specialist at the U.S. State Department in the Bush and Clinton administrations.

“Dr. Yoo’s argument is correct,” Fitzpatrick emailed in response to questions from Fox News based on the Berkeley professors’ arguments. “Regardless of whether or not the computers in question could allow North Korea to conduct simulations that would enable the development of smaller weapons, it seems unquestionable to me that the computers could aid the program.”

....”

For a copy of the legal memorandum referenced above, see <http://www.foxnews.com/world/2012/07/26/north-korea-wipo-document/>.

²² See “Committee Will Investigate UN Agency Caught Sending Technology to Iran, North Korea, Ros-Lehtinen Says” dated July 9, 2012(available at <http://foreignaffairs.house.gov/news/story/?2508>). Related press releases are available on the House Foreign Affairs website at <http://foreignaffairs.house.gov/>.

Sanctions Committee members may have access to information that is not otherwise publicly available and important for the sanctions determination.

Given these uncertainties, and the importance of promoting and upholding the UN's sanctions, we believe that WIPO acted prudently in changing its policy after the transfers to the DPRK and Iran became public. WIPO has now committed to reviewing all programs for sanctions compliance prior to execution, and to refer any especially sensitive proposals potentially subject to U.S. sanctions to the appropriate Sanctions Committees. Conversely, we see no justification for the previous lack of a policy to check Sanctions Committee compliance on a systematic basis.

The relevant Sanctions Committee members will make the final determination of whether sanctions apply to any of the WIPO transfers to countries subject to UN sanctions. We are not in a position to second guess the determination of Sanctions Committee members, all of whom have demonstrably more information available to assess the impact of these transfers on the recipients. To assist in understanding the application of these sanctions, we provide below an overview of the sanctions and our analysis of the potential application of the sanctions for projects in Iran, the DPRK, the Côte d'Ivoire, Democratic Republic of the Congo, Iraq, Lebanon, Liberia, Libya and Sudan with the recognition that the Sanctions Committee members will make the final determinations.

A review of each individual transfer under the sanctions would be well beyond the scope of this review. We therefore review the application of these sanctions to the most recent transfers. We would expect the analysis for the earlier transfers generally to track the later transfers, but this would require a more detailed analysis that would not be feasible in the time-frame for this review.

A. Iran

1. Sanctions Summary

The UN Security Council has imposed a series of sanctions on Iran in response to international concerns about Iran's ongoing nuclear program. These sanctions have focused on preventing Iran's acquisition of equipment, materials, and technology that could assist Iran in developing a nuclear weapon or nuclear weapon delivery system. We provide a summary of the sanctions below.

In July 2006, the UN Security Council adopted Resolution 1696, which “[c]alled upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to exercise vigilance and prevent the transfer of any items, materials, goods and technology that could contribute to Iran's enrichment-related and reprocessing activities and ballistic missile programmes.” (See UN Res. 1696 at ¶ 5.) Resolution 1696 did not promulgate a specific list of items subject to export restrictions, but instead called on UN Member States to heighten their vigilance and prevent transfers of nuclear- and missile-related technologies to Iran “in accordance with their national legal authorities and legislation.”

Resolution 1696 is somewhat ambiguous. It could be interpreted broadly to sanction any exports to Iran made in violation of the national laws of a Member State. This interpretation tacitly assumes that all of a Member State's export controls on Iran are for the purpose of preventing the transfer of goods and technology that could be used in Iran's nuclear and missile programs. The resolution could also be more narrowly interpreted to apply only to those goods and technologies that a Member State has specifically identified as items that could be used in a nuclear or missile program.

In December 2006, the UN Security Council adopted Resolution 1737. Unlike Resolution 1696, Resolution 1737 provided that the UN Security Council “[d]ecides that all States shall take the necessary measures to prevent the supply, sale or transfer directly or indirectly from their territories . . . to, or for the use in or benefit of, Iran . . . of all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems, namely” those enumerated on a list of goods issued by the UN (*See* UN Res. 1737 at ¶ 3 (emphasis added).) Resolution 1737 went beyond Resolution 1696 in that it “decided” that States should take measures to prevent the supply of certain nuclear- and missile-related technology to Iran.

Resolution 1737 enumerated a list of specific goods that were subject to the export prohibition of paragraph 3 of Resolution 1737. These were:

- (a) those set out in sections B.2, B.3, B.4, B.5, B.6 and B.7 of INFCIRC/254.Rev.8/Part1 in document S/2006/814;
- (b) those set out in sections A.1 and B.1 of INFCIRC/254/Rev.8/Part 1 in document S/2006/814, except the supply, sale or transfer of:
 - (i) equipment covered by B.1 when such equipment is for light water reactors;
 - (ii) low-enriched uranium covered by A.1.2 when it is incorporated in assembled nuclear fuel elements for such reactors;
- (c) those set out in document S/2006/815, except the supply, sale or transfer of items covered by 19.A.3 of Category II;
- (d) any additional items, materials, equipment, goods and technology, determined as necessary by the Security Council or the Committee established by paragraph 18 below (herein “the Committee”), which could contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapons delivery systems.

Paragraph 4 of Resolution 1737 stated that the Security Council “[d]ecides that all States shall take the necessary measures to prevent the supply, sale or transfer directly or indirectly . . . to, or for the use in or benefit of, Iran . . . of the following items, materials, equipment, goods and technology:

(a) those set out in INFCIRC/254/Rev.7/Part2 of document S/2006/814 if the State determines that they would contribute to enrichment-related, reprocessing or heavy water-related activities;

(b) any other items not listed in documents S/2006/814 or S/2006/815 if the State determines that they would contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems;

(c) any further items if the State determines that they would contribute to the pursuit of activities related to other topics about which the IAEA has expressed concerns or identified as outstanding.

Paragraph 5 of Resolution 1737 authorized the export of certain articles listed in documents S/2006/814 and S/2006/815, with certain conditions. In paragraph 5, the UN Security Council stated that it “[d]ecided that, for the supply, sale or transfer of all items, materials, equipment, goods and technology covered by documents S/2006/814 and S/2006/815 the export of which to Iran is not prohibited by subparagraphs 3(b), 3(c) or 4(a) above, States shall ensure that:

(a) the requirements, as appropriate, of the Guidelines as set out in documents S/2006/814 and S/2006/985 have been met; and

(b) they have obtained and are in a position to exercise effectively a right to verify the end-use and end-use location of any supplied item; and

(c) they notify the Committee within ten days of the supply, sale or transfer; and

(d) in the case of items, materials, equipment, goods and technology contained in document S/2006/814, they also notify the IAEA within ten days of the supply, sale or transfer.

UN Resolution 1747, adopted in March 2007, called upon all States to “exercise vigilance and restraint” against individuals who enter into or transit through their territories and provide support for Iran’s sensitive nuclear activities or the development of nuclear weapons delivery systems, as well as exercising vigilance and restraint in the supply, sale or transfer of battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms to Iran, and in providing to Iran any technical or financial assistance related to such items. Resolution 1747 thereby expanded the UN’s Iran sanctions to conventional military equipment.

In March 2008, the UN Security Council adopted Resolution 1803, expanding the list of equipment that was prohibited from export to Iran. Specifically, the Council “[d]ecid[ed] that all States shall take the necessary measures to prevent the supply, sale or transfer directly or indirectly from their territories, or by their nationals or using their flag

vessels or aircraft to, or for the use in or benefit of, Iran, and whether or not originating in their territories, of:

(a) all items, materials, equipment, goods and technology set out in INFCIRC/254/Rev.7/Part 2 of document S/2006/814, except the supply, sale or transfer, in accordance with the requirements of paragraph 5 of resolution 1737 (2006), of items, materials, equipment, goods and technology set out in sections 1 and 2 of the Annex to that document, and sections 3 to 6 as notified in advance to the Committee, only when for exclusive use in light water reactors, and where such supply, sale or transfer is necessary for technical cooperation provided to Iran by the IAEA or under its auspices as provided for in paragraph 16 of resolution 1737 (2006);

(b) all items, materials, equipment, goods and technology set out in 19.A.3 of Category II of document S/2006/815.

(See paragraph 8.)

Finally, in June 2010, the UN Security Council revised the list of goods, services, and technology prohibited from export to Iran. In Resolution 1929, the UN issued two new lists of goods, services, and technology: (1) INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2, which superseded the list of items in S/2006/814 specified in paragraphs 3-7 of Resolution 1737, and (2) S/2010/263, which superseded the list of items in S/2006/815 specified in paragraphs 3-7 of Resolution 1737. (See UN Res. 1929, paragraph 13.)

Resolution 1929 also applied the prohibitions of paragraphs 3-7 of Resolution 1737 to “any further items if the State determines that they could contribute to enrichment-related, reprocessing or heavy water-related activities or to the development of nuclear weapon delivery systems. . .” (*Id.*)

2. Application of Sanctions to Transfers to Iran

WIPO caused the following items to be sent to Iran in approximately January 2010:

- 20 HP Compaq dc7900 SFF computers, with HP L1950G Flat Panel 19-inch monitor
- 20 copies of MS Office 2003 Small Business Edition English
- 20 copies of Symantec Norton Internet Security 2009
- 20 APC Back UPS 650 VA USB/Seriel
- 3 Fujitsu fi 5530 Document Scanners

To determine whether WIPO's exports of these items to Iran violated UN sanctions, one must review the applicable sanctions and, particularly, the lists of goods to which those sanctions apply.

Paragraphs 3-5 of Resolution 1737 contain the majority of the prohibitions and restrictions on exports of certain goods to Iran that are currently in effect. They apply to portions of the lists of controlled goods in documents S/2006/814 and S/2006/815.²³ We begin with an analysis of these lists, to determine whether the items WIPO exported to Iran appear on these lists, and if so, whether any of the export prohibitions and restrictions of paragraphs 3-5 of Resolution 1737 apply.

S/2006/814 contains two separate lists: (1) the Guidelines for Nuclear Transfers implemented by the Nuclear Suppliers Group (NSG) and (2) Guidelines for the Transfer of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology. We review each of these lists to determine whether the computer equipment WIPO exported to Iran appears on either list.

The Guidelines for Nuclear Transfers includes as Annex B a "Clarification of Items on the Trigger List," which is a list of a number of specific goods and technologies useful in nuclear activities, broken down by category of item. The export prohibitions and restrictions of paragraphs 3-5 of Resolution 1737 apply to a subset of these the items on this list.

Below, we provide a list of the categories of items on the list, and some examples of the items in each category.

Category 1: Nuclear reactors and especially designed or prepared equipment and components therefor

Examples: complete nuclear reactors, nuclear reactor vessels, nuclear reactor control rods

Category 2: Non-nuclear materials for reactors

Examples: Deuterium and heavy water, nuclear grade graphite

Category 3: Plants for the reprocessing of irradiated fuel elements, and equipment especially designed or prepared therefor

Examples: Irradiated fuel element chopping machines, solvent extractors and solvent extraction equipment

²³ The exports to Iran took place in approximately January 2010, prior to Resolution 1929, under which document S/2006/814 was superseded by INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2, and document S/2006/815 was superseded by S/2010/263. Therefore, documents S/2006/814 and S/2006/815 contain the lists applicable to WIPO's exports. However, we note that the version of document S/2006/814 posted on the UN Resolution 1737 website includes the version of INFCIRC/254/Rev.7/Part 2 that purportedly supersedes S/2006/814. For the purposes of the analysis here, we use document S/2006/814 as posted on the UN's Resolution 1737 website (<http://www.un.org/sc/committees/1737/selecdocs.shtml>).

Category 4: Plants for the fabrication of nuclear reactor fuel elements, and equipment especially designed or prepared therefor

Examples: automatic pellet inspection stations for inspecting fuel pellets, automatic welding machines for welding end caps onto the fuel pins (or rods)

Category 5: Plants for the separation of isotopes of uranium and equipment, other than analytical instruments, especially designed or prepared therefor

Examples: gas centrifuges and assemblies, centrifuge rotating components, gaseous diffusion barriers, uranium oxidation systems

Category 6: Plants for the production or concentration of heavy water, deuterium, and deuterium compounds and equipment especially designed or prepared therefor

Examples: water-hydrogen sulfide exchange towers, blowers and compressors having certain characteristics, catalytic burners

Category 7: Plants for the conversion of uranium and plutonium for use in the fabrication of fuel elements and the separation of uranium isotopes as defined in sections 4 and 5 respectively, and equipment especially designed or prepared therefor

Examples: especially designed or prepared systems for the conversion of uranium ore concentrates to UO_3 , especially designed or prepared systems for the conversion of UO_3 to UF_6 , especially designed or prepared systems for the conversion of plutonium nitrate to oxide

(See S/2006/814 at 11-51(Annex B).)

The second list included in document S/2006/814 that we review is the Guidelines for the Transfer of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology. Below, we provide the categories that appear on this list, and examples of controlled items under each category.

Category 1: Industrial equipment

Examples: high density radiation-shielding windows, robots that are rad-hardened or certified for use with high explosives, certain types of machine tools

Category 2: Materials

Examples: Crucibles made of materials resistant to liquid actinide metals, certain types of tubes made of composite materials, certain types of aluminum alloys

Category 3: Uranium isotope separation equipment and components

Examples: Frequency changers or generators, certain types of lasers and oscillators, certain types of superconducting solenoidal electromagnets, mass spectrometers, electromagnetic isotope separators

Category 4: Heavy water production plant related equipment

Examples: specialized packings, turboexpanders, hydrogen-cryogenic distillation columns

Category 5: Test and measurement equipment for the development of nuclear explosive devices

Examples: photomultipliers, flash X-ray generators, electronic streak cameras, high speed pulse generators

Category 6: Components for nuclear explosive devices

Examples: Detonators and multipoint initiation systems, firing sets and equivalent high-current pulse generators, switching devices, neutron generator systems

As can be seen, the two lists in document S/2006/814 contain fairly specialized equipment used in the nuclear process. The two lists in document S/2006/814 do not include general purpose computers, monitors, document scanners, software, or other types of common commercially-available computer or electronic equipment. In particular, the goods WIPO caused to be exported to Iran do not appear in the lists in document S/2006/814. Therefore, document S/2006/814 would not have provided a basis for applying the prohibitions of paragraphs 3-5 of Resolution 1737 to the goods WIPO exported to Iran in January 2010.

The prohibitions and restriction of paragraphs 3-5 of Resolution 1737 also apply to certain goods listed in document S/2006/815. Document S/2006/815 contains a list of goods related to ballistic missile systems. The list is long, and includes a variety of categories of items used in ballistic missile systems, including: complete rocket systems; complete rocket subsystems (such as rocket stages); propulsion components (such as rocket engines); propellants; structural composites and composite production methods; instrumentation, navigation, and direction finding equipment; flight control equipment; avionics; launch support equipment; computers; modeling, simulation, and design integration equipment; stealth technology; and nuclear effects protection.

Two types of controlled equipment on the document S/2006/815 list appeared to be relevant to the equipment WIPO exported to Iran: computers (Category II, Item 13 on the list) and modeling, simulation, and design integration equipment (Category II, Item 16 on the list). Category II, Item 13 controls:

computers that are designed or modified for use in the systems specified in 1.A and are either (a) rated for continuous operation at temperatures from below -45°C to + 55°C or (b) rad-hardened.

The systems specified in 1.A are complete rocket systems (including ballistic missile systems and space launch systems) and complete unmanned aerial vehicle systems (such as cruise missile systems or drones) capable of delivering a 500 kg “payload” to a “range” of at least 300 km.

The computer equipment WIPO exported to Iran does not fall into Category II, Item 13 of document S/2006/815. The computer equipment WIPO exported to Iran was not “designed or modified” for use in a complete rocket system. Based on the information available to us, it was not rad-hardened. Moreover, the temperature range of operation for controlled computers is -49°F to 131°F; the operating temperature range of the HP Compaq dc7900 computer is 50°F to 95°F (10°C to 35°C) and the non-operating temperature range is -22°F to 140°F (-30°C to 60°C).²⁴ Neither of these temperature ranges meet the requirements of Category II, Item 13.

Category II, Item 16 controls:

specially designed hybrid (combined analogue/digital) computers for modeling, simulation or design integration of systems specified in 1.A or the subsystems specified in 2.A. (Note that only applies to computers with software specially designed for modeling, simulation, or design integration of the systems specified in 1.A or the subsystems specified in 2.A.)

Again, the systems specified in 1.A are complete rocket systems (including ballistic missile systems and space launch systems) and complete unmanned aerial vehicle systems (such as cruise missile systems or drones) capable of delivering a 500 kg “payload” to a “range” of at least 300 km. The systems specified in 2.A are complete subsystems useable in the systems in 1.A, including individual rocket stages, re-entry vehicles, or solid propellant rocket motors.

The computer equipment WIPO exported to Iran does not fall into Category II, Item 16 of document S/2006/815 for several reasons. The computers WIPO exported to Iran are not hybrid analog/digital computers; they are entirely digital computers. To the best of our understanding, they do not contain any software for modeling, simulation, or design integration for rocket systems or subsystems and are not “specially designed” for such purposes.

Paragraphs 3 and 4 of Resolution 1737 each contain “catch-all” provisions designed to potentially capture and control items not on the lists in documents S/2006/814 and S/2006/815. Paragraph 3(d) controls “any additional items, materials, equipment, goods and technology, determined as necessary by the Security Council or the

²⁴ See HP Compaq dc7900 specification sheet at 24 (available at http://h18000.www1.hp.com/products/quickspecs/13029_ca/13029_ca.PDF).

Committee established by paragraph 18 below (herein “the Committee”), which could contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapons delivery systems. Paragraph 4(b) controls “any other items not listed in documents S/2006/814 or S/2006/815 if the State determines that they would contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems.” Paragraph 4(c) controls “any further items if the State determines that they would contribute to the pursuit of activities related to other topics about which the IAEA has expressed concerns or identified as outstanding.”

We have found no indication that the Committee created by Resolution 1737 has added general purpose computer equipment to the list of goods and technology that could contribute to the Iranian nuclear program. Therefore, we believe it unlikely that paragraph 3(d) of Resolution 1737 would apply to WIPO’s exports to Iran.

It is not clear that the computer equipment WIPO exported to Iran would fall under paragraphs 4(b) or (c). Taking the U.S. as an example “State,” the U.S. generally would require an export license for the re-export of much if not all of the WIPO computer equipment and software to Iran, as much of it is U.S.-origin or contains a sufficient amount of U.S.-origin parts and technology (10 percent or more) to be subject to U.S. export controls. However, it is not clear that the U.S. specifically has made a determination that computer equipment of the type WIPO exported to Iran “would contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems,” or “would contribute to the pursuit of activities related to other topics about which the IAEA has expressed concerns or identified as outstanding.” On the one hand, it is arguable that the U.S.’s export restrictions are to a significant degree driven by its desire to thwart the Iranian nuclear program, and therefore the provisions of paragraph 4(b) or (c) of Resolution 1737 would apply to the exports of the computers because the U.S. would require an export license to export the computers to Iran. On the other hand, it is also possible to argue that if the U.S. has not made a specific finding that the computer equipment would contribute to Iranian nuclear activities -- such as by subjecting it to nuclear nonproliferation controls (NP) under the U.S. Export Administration Regulations (“EAR”)- - paragraphs 4(b) and (c) would not apply to WIPO’s exports.

A similar set of arguments as for paragraphs 4(b) and (c) of Resolution 1718 applies to Resolution 1696. As described previously, it is possible to interpret this resolution as sanctioning exports to Iran of goods made in violation of the laws of a Member state. Under this broad interpretation of Resolution 1696, it can be argued that WIPO’s exports of the computer equipment to Iran violated the UN sanctions, because WIPO exported the goods without obtaining a U.S. export license (as would be required if the goods are U.S.-origin and subject to the EAR, which is likely the case).

The narrower interpretation of Resolution 1696 is that it applies only to “materials, goods and technology” that a Member State has identified as items that “could contribute to Iran’s enrichment-related and reprocessing activities and ballistic missile programs.” For example, in the case of the U.S., it could be argued that dual-use items

that the U.S. has determined could be used in a missile or WMD program are those subject to nuclear nonproliferation controls (NP), chemical and biological controls (CB), or missile technology controls (MT) under the EAR. Items not controlled under the EAR as subject to NP, CB, or MT controls are those for which the U.S. has not made a determination that the items could be used in missile or WMD programs. The computer equipment WIPO exported to Iran would not be subject to NP, CB, or MT controls if the items were subject to U.S. export controls. Therefore, under the narrower interpretation of Resolution 1696, WIPO's export of the computer equipment to Iran would not violate the UN sanctions.

We believe that the Committee is best positioned to resolve the ambiguity of Resolution 1696 as well as to confirm that the computer equipment does not appear on any of the lists of controlled equipment. While we believe that the Committee is in the best position to make the final determination of whether WIPO's exports to Iran violated the UN sanctions, there certainly are credible arguments for why the U.S. has reached the following preliminary assessment:

Based on the information we have received so far, the WIPO-transferred items are not found on any of the UN Security Council sanctions control lists. Furthermore, although UN Security Council sanctions on Iran additionally prohibit the transfer of "any further items that a State determines could contribute" to Iran's nuclear-related or ballistic missile activities, based on the information we have received so far, in line with well-established U.S. practice and interpretation of UN Security Council resolutions, we do not consider the transfer to have violated this "catchall" provision.²⁵

B. DPRK

1. Sanctions Summary

The UN has imposed a series of sanctions on the DPRK in response to its several nuclear tests, its nuclear weapons program, and its missile program. As with Iran, these sanctions are intended to prevent the DPRK from obtaining equipment and technology that could contribute to the DPRK's weapons of mass destruction or ballistic missile programs. We summarize the relevant sections of the UN resolutions imposing the sanctions below.

UN Resolution 1695 was adopted by the Security Council in July 2006 in the wake of a DPRK missile test. Paragraph 3 of Resolution 1695 requires all UN Member States, "in accordance with their national legal authorities and legislation and consistent with international law, to exercise vigilance and prevent missile and missile-related items, materials, goods and technology being transferred to DPRK's missile or WMD programmes." Resolution 1695 did not include a list of goods that the Security Council

²⁵ U.S. Efforts to Address World Intellectual Property Organization (WIPO) Technical Assistance Projects. Bureau of International Organization Affairs, August 13, 2012(available at <http://www.state.gov/p/io/rls/other/196416.htm>).

had determined to be “missile and missile-related items, materials, goods and technology.”

The language of Resolution 1695 relies on the laws of UN Member States. One interpretation of this resolution is that items are subject to the UN sanctions if the Member state from which they are exported to the DPRK has determined that the items are related to missile technology and could be diverted to the DPRK missile program. Another, broader interpretation would be that any items that a Member state restricts for export to the DPRK are subject to the UN sanctions. This broader interpretation may be harder to justify, as many countries, including the U.S., prohibit the export to the DPRK of items that are unrelated to missile programs. Given Resolution 1695’s focus on missile and WMD programs, it may be that the better interpretation of the resolution is that it sanctions the export from a Member state to the DPRK of any items that the Member state restricts from export to the DPRK because they might contribute to the DPRK’s missile or WMD programs. Nevertheless, both interpretations of Resolution 1695 are plausible and have merit.

The UN Security Council adopted Resolution 1718 in October 2006, following a DPRK nuclear test. Paragraph 8(a) provides that “[a]ll Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of:

- (i) any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms, or related materiel including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below (the Committee);
- (ii) all items, materials, equipment, goods and technology as set out in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/816, as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to DPRK’s nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes; . . .

The resolution also bans the transfer of luxury goods.

Paragraph 8(c) provides that “[a]ll Member States shall prevent any transfers to the DPRK by their nationals or from their territories, or from the DPRK by its nationals or from its territory, of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in subparagraphs (a)(i) and (a)(ii) above.” Paragraph 12 established a “Committee of the Security Council” consisting of all the members of the Security Council to determine additional items, materials, equipment, goods and technology whose export to the DPRK would be subject to the sanctions of paragraph 8 of Resolution 1718.

Resolution 1718, unlike Resolution 1694, provided a list of goods and technologies whose export to the DPRK would be sanctionable. It also empowered the Security Council to add items to that list. Resolution 1718 does not include a separate provision requiring UN Member States to prevent the export of goods or technology according to their respective national laws that would contribute to the DPRK nuclear program. This is different from Resolution 1695, which relies more closely on the national laws of UN Member States to define the scope of the sanctions.

In April 2009, the Committee adopted document S/2009/205, in which the Committee added some goods and technologies to the controlled list in document S/2006/815.

The UN Security Council adopted Resolution 1874 in June 2009 after another DPRK nuclear test. Paragraph 9 of the resolution provides that “the measures in paragraph 8(b) of resolution 1718 (2006) shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services, or assistance related to the provision, manufacture, maintenance or use of such arms or materiel.” Paragraph 10 states that the measures in paragraph 8(a) of resolution 1718 (2006) shall “also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms, except for small arms and light weapons and their related materiel, and *calls upon* States to exercise vigilance over the direct or indirect supply, sale or transfer to the DPRK of small arms or light weapons, and further *decides* that States shall notify the Committee at least five days prior to selling, supplying or transferring small arms or light weapons to the DPRK.” These provisions extended the sanctions of Resolution 1718 to the sale of smaller arms and armaments to the DPRK.

Paragraph 23 of Resolution 1874 extended the prohibitions of paragraphs 8(a), 8(b), and 8(c) of Resolution 1718 to the items listed on the documents INFCIRC/254/Rev.9/Part 1a and INFCIRC/254/Rev.7/Part 2a. These are lists of specified articles identified as nuclear-related equipment and technology.

2. Application of Sanctions to Transfers to the DPRK

WIPO caused the following items to be exported to the DPRK in January 2012:

- 1 HP Proliant DL360 G7 Server
- 1 HP Color LaserJet printer
- 1 HP DVD Burner
- 1 MS Windows Server Standard 2008 R2
- 1 McAfee SaaS Endpoint & Email Protection
- 1 HP D2600 Disk Enclosure
- 1 HP Smart Array RAID Controller
- 1 SonicWall NSA 2400MX firewall

(See Beijing Hymz Limited Invoice dated January 20, 2012.). We note that the ordering, shipping and summary documentation contains slight discrepancies on the model numbers and model names. This frequently occurs with constantly-evolving commercial computer equipment and peripherals. The slight variations in model numbers would not change our analysis as the models have functionally similar performance characteristics.

As in the analysis for Iran, we review the applicable sanctions and, particularly, the lists of goods to which those sanctions apply in order to determine whether the UN exports of the listed items to the DPRK violated UN sanctions.

The sanctions most applicable to the exports of the listed computer equipment to the DPRK are paragraph 8(a)(ii) of Resolution 1718, paragraph 23 of Resolution 1874, and paragraph 3 of Resolution 1695. The sanctions related to the export of battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems (paragraph 8(a)(i) of Resolution 1718) do not apply because the exports were of conventional commercial computer equipment. Similarly, paragraph 9 of Resolution 1874, which applies to “all arms and related materiel,” does not apply to WIPO’s export of commercial computer equipment. The commercial computer equipment WIPO exported does not constitute “arms” or “materiel.”

Paragraph 8(a)(ii) of Resolution 1718 prohibits a UN Member State from exporting goods listed in documents S/2006/814 and S/2006/815. The analysis of these lists in the preceding discussion of the exports to Iran also applies to the DPRK. As described previously, document S/2006/814 lists specialized equipment used in the nuclear process. It does not include general purpose computers or other types of common commercially-available computer or electronic equipment. All of the computer equipment WIPO exported to the DPRK is general, commercial computer equipment that is not specifically designed for use in the nuclear process. This equipment does not appear on the list in document S/2006/814. Therefore, document S/2006/814 would not have provided a basis for prohibiting WIPO’s export to the DPRK under paragraph 8(a)(ii) of Resolution 1718.

Similarly, the computer equipment WIPO exported to the DPRK does not appear in the list in document S/2006/815. As for Iran, the two relevant categories of the list of document S/2006/815 are Category II, Item 13 (“Computers”) and Category II, Item 16 (“Modelling-Simulation and Design Integration”). As to Category II, Item 13, none of the computer equipment WIPO exported to the DPRK was “designed or modified” for use in a complete rocket system. Moreover, to the best of our knowledge, none of this equipment was rad-hardened. As to Category II, Item 16, the computer equipment WIPO exported to the DPRK did not include hybrid analog/digital computers. Rather, WIPO exported only digital computers. Additionally, to the best of our understanding, none of the computer equipment included any software for modeling, simulation, or design integration for rocket systems or subsystems, or computers “specially designed” for such purposes. Because the equipment WIPO exported to the DPRK does not appear in the

list of document S/2006/815, that list would not have provided a basis for prohibiting WIPO's export to the DPRK under paragraph 8(a)(ii) of Resolution 1718.

The Committee made some additions and revisions to the list in document S/2006/815 in document S/2009/205, which the Committee adopted in April 2009. However, the Committee did not make any changes to the sections listing controls on computers (Category II, Item 13) or modeling and design simulation equipment (Category II, Item 16). As noted previously, the list in document S/2006/815 does not include general commercial computer equipment. Therefore, WIPO's exports to the DPRK of the computer equipment listed previously would likely not violate the sanctions based on the additions of items to the list in document S/2006/815.

As noted previously, paragraph 23 of Resolution 1874 extended the prohibitions of paragraphs 8(a), 8(b), and 8(c) of Resolution 1718 to the items listed in documents INFCIRC/254/Rev.9/Part 1a and INFCIRC/254/Rev.7/Part 2a. To determine whether Resolution 1874's sanctions apply to WIPO's exports to the DPRK, we review these two lists to determine whether the computer equipment appears on these lists.

The list in document INFCIRC/254/Rev.7/Part 2a appears to be the same list as the Annex of nuclear dual-use equipment in document S/2006/814.²⁶ As noted previously, the list of controlled goods and technology in the Annex of nuclear dual-use equipment in document S/2006/814 does not include general commercial computer equipment. Therefore, document INFCIRC/254/Rev.7/Part 2a would not provide a basis to conclude that WIPO violated the prohibitions of Resolution 1874.

The list in document INFCIRC/254/Rev.9/Part 1a is largely the same as the list in Annex B of document S/2006/814. The only changes made in moving from Annex B of document S/2006/814 to document INFCIRC/254/Rev.9/Part 1a were several changes to the section listing the controls on plants, equipment, and technology for the separation of isotopes. None of these changes relate to general commercial computer equipment. Therefore, because the list in Annex B of document S/2006/814 as described previously does not cover general commercial computer equipment, document INFCIRC/254/Rev.9/Part 1a does not cover general commercial computer equipment. As a result, paragraph 23 of Resolution 1874 would not apply to the computer equipment WIPO exported to the DPRK.

Finally, there is the question of the applicability of paragraph 3 of Resolution 1695 to WIPO's exports to the DPRK. This paragraph requires all Member states, "in accordance with their national legal authorities and legislation and consistent with international law, to exercise vigilance and prevent missile and missile-related items, materials, goods and technology being transferred to DPRK's missile or WMD programmes." It is possible to argue that this provision covers the exports of general commercial computer equipment to the DPRK. Much, if not all, of the computer

²⁶ Again, we note that the version of document S/2006/814 posted on the UN Resolution 1737 website includes INFCIRC/254/Rev.7/Part 2. For the purposes of the analysis here, we use document S/2006/814 as posted on the UN's Resolution 1737 website (<http://www.un.org/sc/committees/1737/selecdocs.shtml>).

equipment WIPO exported to the DPRK would have required a license under U.S. law for export to the DPRK if the DPRK sought the equipment itself. It would be possible to argue that this license requirement demonstrates that the U.S. has determined that exports to the DPRK are at risk of being diverted to WMD or missile programs. Based on this interpretation of Resolution 1695, WIPO's exports to the DPRK would be subject to Resolution 1695.

Alternatively, one could interpret Resolution 1695 to cover only those items that a Member State has specifically determined could be used in a missile or WMD program. For example, in the case of the U.S., it could be argued that dual-use items that the U.S. has determined could be used in a missile or WMD program are subject to nuclear nonproliferation controls (NP), chemical and biological controls (CB), or missile technology controls (MT) under the EAR. Items not controlled under the EAR as subject to NP, CB, or MT controls are those for which the U.S. has not specifically made a determination that the items could be used in missile or WMD programs. The computer equipment WIPO exported to the DPRK would not be subject to NP, CB, or MT controls if the items were subject to U.S. export controls. Therefore, under this interpretation of Resolution 1695, WIPO's export to the DPRK of the computer equipment listed previously would not violate Resolution 1695.

Once again, there are certainly strong arguments to back up the U.S. government's initial assessment that the transfers did not violate UN sanctions, but the Sanctions Committee is in the best position to resolve the ambiguity of Resolution 1695 and to confirm that the computer equipment does not appear on any of the lists of controlled equipment.

C. Exports to Other Countries Subject to UN Sanctions

WIPO caused computers and/or computer peripheral equipment to be sent to a number of other countries subject to UN sanctions. We review the sanctions on each of these countries below,²⁷ and analyze how they relate to WIPO's shipments.

1. Côte d'Ivoire

UN Security Council Resolution 1572, adopted in November 2004, imposed an initial 13-month arms embargo on Côte d'Ivoire. (*See* UN Resolution 1572 at ¶ 7.) The resolution included certain limited exceptions, such as protective, non-lethal clothing for humanitarian workers, UN personnel, and the media, and arms for a Member state extracting nationals from Côte d'Ivoire. The resolution also established an asset freeze and travel ban on individuals identified by the Security Council committee overseeing implementation of the sanctions as having committed human rights crimes or posed a threat to peace and the national reconciliation process in Côte d'Ivoire. (*Id.* at ¶¶ 9, 11.)

The arms embargo was continually renewed through April 30, 2012. (*See, e.g.*, UN Resolution 1946 at ¶ 1 (renewing the arms embargo through April 30, 2011); UN

²⁷ Copies of the sanctions resolutions are available at <http://www.un.org/sc/committees/>.

Resolution 1980 at ¶ 1 (renewing the arms embargo through April 30, 2012).) The asset freeze and travel ban were renewed through April 30, 2012 as well. (*See, e.g.*, UN Resolution 1946 at ¶ 6 (renewing the asset freeze and travel ban through April 30, 2011); UN Resolution 1980 at ¶ 10 (renewing the asset freeze and travel ban through April 30, 2012).)

The export embargo on Côte d'Ivoire did not cover commercial, non-military items, such as commercial computers and computer equipment.

We understand that WIPO exported desktop computers, laptop computers, power supplies, and other computer equipment to Côte d'Ivoire in June 2008. We do not believe this equipment was covered by the UN sanctions imposed on Côte d'Ivoire at that time. Therefore, we do not believe WIPO violated UN sanctions with its exports to Côte d'Ivoire. However, we cannot verify the recipients of the exports to Côte d'Ivoire, and, as a result, cannot say for certain whether the recipients were subject to the individual sanctions under the Côte d'Ivoire sanctions program. While it appears unlikely that the transfers would have violated the sanctions, it would be prudent to confirm that the transactions did not involve transfers to any individuals subject to the asset freeze and travel ban.

2. Democratic Republic of the Congo

The UN Security Council adopted Resolution 1493 in July 2003 in response to continued conflict in the eastern portion of the Democratic Republic of the Congo ("Congo"), particularly in North and South Kivu and Ituri, among a variety of armed groups. Paragraph 18 of Resolution 1493 prohibited UN Member states from providing general military or financial assistance to armed groups and movements in Congo. Paragraph 20 of Resolution 1493 instituted a one-year embargo on the supply of arms and material to foreign and Congolese armed groups and militias operating in the Congolese regions of North and South Kivu and Ituri, as well as any groups not party to the Global and All-inclusive Agreement on the Transition in the Democratic Republic of the Congo. This arms embargo was extended and continued in the form described in Resolution 1493 until May 2005.

In May 2005, the Security Council adopted Resolution 1596, which extended the arms embargo to any recipient in the Democratic Republic of the Congo. The resolution included a carve-out for the Congolese government, permitting the export to Congo of arms and material for use by units of the Congolese army and police, provided that those units had been integrated into the regular army or police, operated under the command of the Congolese Armed Forces or National Police, or were in the process of being integrated into the Congolese Armed Forces or National Police and were located outside North or South Kivu or Ituri. (*See* UN Resolution 1596 at ¶ 2(a).) The resolution also included carve-outs for arms shipped to UN forces or non-lethal protective equipment for humanitarian use. (*See* UN Resolution 1596 at ¶ 2(b), (c).) Resolution 1596 also imposed a travel ban and asset freeze on individuals identified as having violated the arms embargo. (*Id.* at ¶¶ 13-15.)

In March 2008, the UN adopted a new resolution regarding Congo, Resolution 1807. This resolution replaced the previous resolutions imposing arms embargos on Congo. Resolution 1807 imposed an arms embargo on all non-governmental entities and individuals operating in Congo. (See UN Resolution 1807 at ¶ 1.) The resolution lifted the arms embargo as to the government of the Democratic Republic of the Congo. (See UN Resolution 1807 at ¶ 2.) Under Resolution 1807, UN Member states could export arms and material, as well as military training and financial assistance, to the Congolese government. The resolution also continued the carve-outs for exports of arms to UN personnel in the Congo and non-lethal personal protective clothing for UN personnel, humanitarian workers, and the media. (See UN Resolution 1807 at ¶ 3.) Resolution 1807 also imposed a travel ban and an asset freeze on certain individuals identified as having violated the arms embargo on Congo, having committed human rights crimes, or being leaders of foreign or Congolese armed groups or militias. (See UN Resolution 1807 at ¶¶ 9, 11, 13.)

The UN Security Council renewed the sanctions of Resolution 1807 twice since its adoption. Resolution 1896, dated December 2009, renewed the arms embargo of Resolution 1807 until November 30, 2010. Resolution 1952, dated November 2010, extended the arms embargo through November 30, 2011. Resolution 2021, adopted in November 2011, extended the sanctions for another year, until November 30, 2012.

The arms embargo on the Democratic Republic of the Congo applies to exports of arms and materiel to non-governmental entities and individuals in the Congo. It does not apply to exports to the government of the Democratic Republic of the Congo. Moreover, the arms embargo does not impose restrictions on the export to the Congo of items that are not arms or war materiel.

We understand WIPO exported a server, computer workstations, computer laptops, and printers to the Congo in June 2008 and December 2011 for use by the Congolese patent office, an office of the Congolese government. These exports were likely not prohibited by the UN arms embargo, as the exports (1) did not involve arms or other war materiel, and (2) WIPO exported the goods to the Congolese government. However, we cannot verify that the individuals who received the equipment were not subject to the sanctions on individuals described above (such as the asset freeze and travel ban). While it appears unlikely that the transfers would have violated the sanctions, it would be prudent to confirm that none of the individuals on the UN lists were involved in the transfers.

3. Eritrea

UN Security Council Resolution 1907, adopted in December 2009, imposed an arms embargo on Eritrea. The resolution required Member states to prevent the sale of arms or materiel, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for military equipment, to Eritrea. (See UN Resolution 1907 at ¶¶ 5, 12.) The resolution also included a travel ban and asset freeze on individuals and entities identified by the Security Council committee overseeing the implementation of the sanctions. (*Id.* at ¶¶ 10, 13.) Individuals and entities could be

sanctioned by the committee for, among other actions, violating the arms embargo, providing support from Eritrea to armed opposition groups in the region, or harboring or facilitating terrorist attacks. (*Id.* at ¶ 15.) The Security Council reiterated the importance of strict implementation of the arms embargo on Eritrea in paragraph 8 of Resolution 2023, adopted in 2011. It also reemphasized its intention to apply the sanctions on individuals and entities meeting the criteria of paragraph 15 of Resolution 1907. (*See* UN Resolution 2023 at ¶ 9.)

We are not aware of any exports of computer equipment to Eritrea by WIPO. However, we note that exports of commercial computers and computer equipment would likely be permitted under the resolutions imposing the arms embargo on Eritrea, unless they were made to an individual or entity subject to sanctions.

4. Guinea-Bissau

The UN Security Council adopted Resolution 2048 in May 2012, imposing certain sanctions on Guinea-Bissau in the wake of a military coup in that country in April 2012. The resolution imposed a travel ban on certain individuals identified in the resolution or by a Committee created to implement the travel ban. The sanctions did not impose an embargo or export restrictions on Guinea-Bissau.

We understand WIPO equipment prior to the implementation of sanctions on Guinea-Bissau. The sanctions thus would not apply to the transfer.

5. Iraq

The UN Iraq arms sanctions go back more than two decades. UN Security Council Resolution 687, adopted in April 1991 after the First Gulf War and the liberation of Kuwait, required UN Member States to prevent the export of arms and war materiel, including conventional military equipment and spare parts; chemical and biological weapons and any equipment related to chemical and biological weapons manufacturing and development; ballistic missiles, related parts and production and repair facilities; and nuclear weapons or materials and equipment for the development and manufacture of nuclear weapons. (*See* UN Resolution 687 at ¶¶ 24(a), (b); 8; 12.)

In May 2003, following the second Gulf War and the demise of the regime of Saddam Hussein, the UN Security Council adopted Resolution 1483. Resolution 1483 lifted most UN trade controls on Iraq, but retained the prohibitions on sales of arms and war materiel by UN Member States to Iraq. (*See* UN Resolution 1483 at ¶ 10.) Resolution 1483 also imposed an asset freeze on former senior officials of the Saddam Hussein government, their families, and entities owned or controlled by them. (*Id.* at ¶ 23.)

Resolution 1546, adopted by the Security Council in June 2004, lifted the prohibitions on sales or supplies of arms to the Iraqi government or the multinational force maintaining stability and order in Iraq. (*See* UN Resolution 1546 at ¶ 21.) However, the remainder of the arms embargo on Iraq remained in place. Member states

could not sell arms or materiel to Iraqi parties other than the Iraqi government or the multinational force in Iraq.

Resolution 1957, adopted in December 2010, ended the prohibition on Iraq's development of chemical and biological stocks and missile stocks, and nuclear weapons under Resolution 687, following Iraq's accession to the Chemical Weapons Convention, the Hague Code of Conduct Against Ballistic Missile Proliferation, and had signed the Additional Protocol to the Comprehensive Safeguards Treaty with the International Atomic Energy Agency ("IAEA") and the Comprehensive Test Ban Treaty. However, none of the UN resolutions on Iraq passed in 2010 (Resolutions 1956, 1957, and 1958) lifted the prohibition on exports of weapons of mass destruction and related technology to Iraq. (See UN Resolution 1957, ¶ 1; UN Resolution 687, ¶ 24.) Nor did these resolutions lift the prohibition on exports of arms and materiel to parties other than the Iraqi government or the multinational force in Iraq. These prohibitions remain in place.

We understand that in July 2011, WIPO exported a server, a number of desktop and laptop computers, a number of printers, and an uninterruptable power supply to Iraq for use in the Iraqi patent office. The sanctions at that time permitted exports of most goods to Iraq, and permitted the export of arms and materiel to the Iraqi government. The items WIPO exported were commercial computer equipment. We believe that these exports likely did not violate the sanctions, because (1) the equipment exported was not arms or materiel, and (2) the Iraqi government was the end-user of the equipment.

We cannot confirm that the export to Iraq was not made to an entity subject to the asset freeze of Resolution 1483. While it appears unlikely that the transfers would have violated the sanctions, it would be prudent to confirm that the transactions did not involve transfers to any individuals or entities subject to the asset freeze under UN sanctions on Iraq.

6. Lebanon

In October 2005, the UN adopted Resolution 1636, following the completion of the UN's investigation into the assassination of former Lebanese Prime Minister Rafiq Hariri. Paragraph 3 of Resolution 1636 imposes an asset freeze and a travel ban on individuals designated by the commission investigating the Hariri assassination or the Lebanese government as suspected of involvement in the Hariri assassination. Resolution 1636 does not impose sanctions on Lebanon generally, and does not restrict exports to Lebanon.

We understand WIPO exported laptop computers, printers, and other computer equipment to Lebanon in September 2007, August 2009, November 2009, and December 2011. Resolution 1636 did not prohibit WIPO from exporting laptops or other equipment to Lebanon for use by the Lebanese patent office. We note that we do not have access to the specific individuals who received the equipment, and therefore cannot confirm with certainty that they are not among the individuals designated by the commission investigating the Hariri assassination or the Lebanese government as suspected of involvement in the Hariri assassination. While it appears unlikely that the transfers

would have violated the sanctions, it would be prudent to confirm that none of the individuals on the UN lists were involved in the transfers.

7. Liberia

In December 2003, the UN Security Council adopted Resolution 1521, imposing an arms embargo on Liberia. The resolution required Member states to prevent the export of arms and materiel, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for any such military equipment. (See UN Resolution 1521 at ¶ 2(a).) The arms embargo had certain limited exceptions, including exports to support the UN Mission in Liberia, certain military training and reform of the Liberian armed forces, non-lethal military equipment intended for humanitarian or protective use, and protective clothing for the UN mission, humanitarian workers, and members of the media. (*Id.* at ¶¶ 2(d), (e), (f), and (g).) Resolution 1521 also imposed a travel ban on former senior members of the government of Charles Taylor and their families, as well as members of the armed forces retaining links to Charles Taylor. (*Id.* at ¶ 4.)

UN Resolution 1532, adopted in March 2004, imposed an asset freeze on certain individuals associated with the former regime of Charles Taylor.

UN Resolution 1903, adopted in December 2009, revised and narrowed the arms embargo. Paragraph 4 imposed a 12-month prohibition on exports of arms and materiel to non-governmental entities and individuals operating in Liberia. (See UN Resolution 1903 at ¶ 4.) Resolution 1903 included similar exceptions to those under Resolution 1521. (*Id.* at ¶ 5.) The resolution also required countries to obtain approval from the UN committee administering the sanctions prior to exporting arms or materiel to the Liberian government. (*Id.* at ¶ 6.)

WIPO exported IT equipment to Liberia in 2011. The export of IT equipment included only commercial computer equipment and did not violate the arms embargo, which was limited to arms and materiel. However, we do not know the individuals who received the equipment, and cannot confirm that they were not subject to individual sanctions. While it appears unlikely that the transfers would have violated the sanctions, it would be prudent to confirm that the transactions did not involve transfers to any individuals subject to the individual sanctions.

8. Libya

In February 2011, in response to the outbreak of the Libyan civil war, the UN Security Council imposed an arms embargo on Syria with the adoption of Resolution 1970. This resolution required UN Member States to prevent exports of arms and material, including weapons, ammunition, military vehicles, and paramilitary equipment to Libya. (See UN Resolution 1970 at ¶ 9.) The resolution provided some exceptions to the arms embargo, including protective clothing for use by humanitarian groups, UN personnel, and the media, and non-lethal military equipment intended for humanitarian or protective use. The embargo did not include prohibitions on exports of goods that were

not arms or war materiel. Resolution 1970 also imposed an asset freeze and travel ban on certain specified individuals and entities. (*Id.* at ¶¶ 15, 17.)

In March 2011, the UN Security Council reaffirmed the need for strict implementation of the arms embargo on Libya, calling on UN Member States to undertake inspections of vessels in their territory if there were reasonable grounds to believe the vessel intended to violate the arms embargo by carrying arms or materiel to Libya. (*See* UN Resolution 1973 at ¶ 13.) Resolution 1973 also banned flights by Libyan nationals from overflying or landing in Member states and expanded the asset freeze. (*Id.* at ¶¶ 17-19.)

The UN Security Council adopted Resolution 2009 in September 2001 following the end of the civil war and the transition to a new government. Resolution 2009 partially lifted the arms embargo, allowing arms and related materiel to be provided to the Libyan authorities, provided the UN committee overseeing the implementation of the sanctions received notice of the export and did not object. (*See* UN Resolution 2009 at ¶ 13.) The remainder of the arms embargo remained in place. The asset freeze was partially lifted, and the ban on flights was lifted. (*Id.* at ¶¶ 14-21.)

We understand WIPO exported desktop computers, laptop computers, a server, a power supply, and several printers to Libya in May 2010. We further understand that there may have been a second shipment of IT equipment to Libya in June 2010. Both of these exports took place before the UN imposed the arms embargo on Libya. Nevertheless, the UN embargo on Libya covered only arms and materiel, and did not cover commercial computer equipment such as the equipment WIPO exported to Libya. Therefore, we believe it is likely WIPO's exports of computer equipment did not violate the UN sanctions. We note, however, that we do not know the individuals who received the equipment, and cannot confirm that they were not subject to individual sanctions, or if the sanctions would have applied at the time of the involvement of the individuals. While it appears unlikely that the transfers would have violated the sanctions, it would be prudent to confirm that the transactions did not involve transfers to any individuals subject to the individual sanctions at the date of the transfers.

9. Somalia

We understand WIPO did not undertake any exports to Somalia. We note that the UN imposed an arms embargo on Somalia under Resolution 733 in January 1992. Over time, several UN resolutions partially lifted the arms embargo for certain specified entities and operations. However, the UN sanctions on Somalia did not include a prohibition on the export of commercial computer equipment. Therefore, the sanctions would likely not cover exports of the types of computer equipment WIPO exported to other countries analyzed in this review.

10. Sudan

Sudan is subject to a UN arms embargo in response to the Sudanese civil war and the atrocities in Darfur. UN Resolution 1556, dated July 2004, required UN Member

States to prevent the export of arms and materiel, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for any such equipment to non-governmental entities in Sudan. (See UN Resolution 1556 at ¶ 7.) The resolution also prohibited training in any of this equipment. (See UN Resolution 1556 at ¶ 8.) Resolution 1556 excepted from this embargo supplies authorized by the UN in conjunction with UN peacekeeping efforts, supplies of non-lethal military equipment for humanitarian use, protective use, or use by human rights monitors, and protective clothing for UN personnel, human rights monitors, and the media. (See UN Resolution 1556 at ¶ 9.)

Resolution 1591, adopted in March 2005, extended the arms embargo on Sudan to all parties to the N'Djamena Ceasefire Agreement, which called for the cessation of hostilities in Darfur. (See UN Resolution 1591 at ¶ 7.) The Sudanese parties to the N'Djamena Ceasefire Agreement were the Government of Sudan; the Sudanese Liberation Movement/Army; and the Sudanese Justice and Equality Movement. (The Agreement was also signed by the Chadian mediator and the African Union.²⁸) Therefore, Resolution 1591 extended the arms embargo on Sudan to include the Sudanese government. The exceptions to the arms embargo of Resolution 1556 remained in place under Resolution 1591. (*Id.*) Resolution 1591 also imposed a travel ban and asset freeze on certain individuals identified by the commission created to oversee implementation of the sanctions (*Id.* at ¶¶ 3(c)-(g).)

We understand that WIPO exported workstations, printers, and scanners to Sudan in February 2008, April 2010, and August 2011 for use in Sudan's patent office. These exports likely did not violate the UN sanctions, as this equipment is not arms or war materiel, and therefore would not be subject to the arms embargo the UN imposed on Sudan. However, we are not aware of the specific individuals who received the equipment WIPO exported to Sudan. We cannot state with certainty whether the equipment was provided to individuals identified by the commission implementing the Sudan sanctions as subject to the sanctions. While it appears unlikely that the transfers would have violated the sanctions, it would be prudent to confirm that none of the individuals on the UN lists were involved in the transfers.

D. Implications of U.S. Law and UN Privileges and Immunities

Most of the equipment exported to the DPRK and Iran would have been subject to U.S. jurisdiction under the U.S. Export Administration Regulations either because it was manufactured in the U.S. or contained U.S.-origin content in an amount sufficient to trigger U.S. jurisdiction. All, or almost all, of the equipment subject to U.S. jurisdiction would have triggered the need for an export license if exported by any person, whether a U.S. person, or non-U.S. person, unless an exemption applied. Current U.S. policy generally would not authorize export licenses for the DPRK and Iran for this equipment. Indeed, some of the equipment was subject to some of the higher-level dual-use controls, and would require an export license to many destinations, not only the DPRK and Iran.

²⁸ See Humanitarian Cease Fire Agreement on the Conflict in Darfur, dated April 8, 2004 (available at <http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docid=14149>).

For example, the DPRK received as part of the WIPO assistance program a SonicWall firewall and network security device that is subject to a very high level of U.S. licensing requirements for dual-use items.²⁹ The equipment is subject to national security, anti-terrorism and encryption controls under U.S. law. Some of the equipment was obtained from IT suppliers based in China for the DPRK due to the DPRK's "... national purchasing constraints" which only authorized purchases from certain pre-approved vendors.³⁰

The DPRK and Iran could not have purchased much of this equipment directly from third-party vendors. These countries could only have gained access to the specific items delivered through an organization that invoked the privileges and immunities protections such as WIPO.

WIPO takes the position that "as an international organization, is not bound by US national law in this matter."³¹ WIPO conducts its activities in all countries based on this approach. For example, when its personnel travel, they travel on UN passports rather than on national passports. This reflects a longstanding practice, although WIPO does not have an overall summary memorandum of the details or extent of these privileges and immunities.

UN privileges and immunities are based on the Convention on the Privileges and Immunities of the United Nations ("the Convention"). The Convention provides:

The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

...

The United Nations, its assets, income and other property shall be . . . exempt from . . . prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country.

²⁹ SonicWall NSA 2400MX Firewall, U.S. export classification 5A002 ENC Restricted (available at http://www.sonicwall.com/downloads/Export_Classification_Control_Matrix.pdf). Delivered on January 17, 2012 and installed on February 13, 2012.

³⁰ Memorandum from the WIPO Director, Infrastructure Division dated August 12, 2011 entitled "Patent Databases Upgrade Project for the Invention Office of the Democratic People's Republic of Korea – Purchase of Equipment."

³¹ Memorandum from WIPO Legal Counsel to the Director General dated March 28, 2012 entitled "Security Council Sanctions Against the DPRK and the Legality of the Technical Assistance Computer Purchase", p. 1.

(See Convention at §§ 3, 7.) The UN interprets the Convention to mean that the privileges and immunities apply to UN personnel. WIPO takes the position, as outlined in the International Organizations Immunities Act, that it is not legally required to obtain export licenses under the applicable national law(s) where WIPO is the exporter and the export is made for official WIPO purposes.

The issue of whether U.S. export licenses are required for UN activities has been examined in detail in other contexts, and strong arguments can be made to support the WIPO position, but also to argue that third parties, and particularly contractors, do not enjoy the same privileges and immunities as WIPO itself. A 2008 study of the UNDP's purchasing for the DPRK noted that

Under the Convention on the Privileges of the UN, the UNDP and its employees are immune from the enforcement of export control laws. At the same time, however, UNDP contractors, such as vendors and distributors, are not so clearly covered by UN privileges and immunities.³²

This is consistent with some references in the WIPO files for where the UNDP imposed an obligation on contractors to obtain the necessary export licenses.

Only the U.S. can make the determination of whether the UN privileges and immunities ultimately would exempt WIPO from enforcement of U.S. export control laws and whether these privileges and immunities would extend to the UNDP contractors and WIPO contractors that carried out the exports. International organizations often give due deference to national export control laws of Member States in the same way that international organizations regularly tacitly operate in a manner that is consistent with local applicable law. This clearly did not occur here. While much of the equipment is generally available on the worldwide market, some of the equipment would not have been available to the DPRK or Iran absent the WIPO program.

³² Confidential Report on the United Nations Development Programme Activities in the Democratic People's Republic of Korea 1999-2007, External Independent Investigative Review Panel, May 31, 2008 at 190; *see also* 192-93 (available at <http://web.undp.org/dprk/nemethreport.shtml>).

IV. Recommendations for Improvement in Procedures in Operations with Countries Subject to UN Sanctions

At the outset, we note that the UNDP faced criticism for the similar provision of equipment to the DPRK from 1999 to 2007. This prompted a detailed report completed over eight months by a distinguished panel of Miklos Nemeth, former Prime Minister of Hungary, Chander Mohan Vasudev, Executive Director at the World Bank, and Mary Ann Wyrsh, Former United Nations Deputy High Commissioner for Refugees and former Deputy Commissioner, U.S. Immigration and Naturalization Service.³³ The panel recommended a number of changes to the UNDP procedures for dealing with procurement of products subject to export licenses and destined for sensitive destinations. If these recommendations had been in place at WIPO, or if a procedure had been in place at WIPO to ensure that UNDP, which assisted with some of the equipment procurement, had implemented these procedures, it is unlikely that WIPO would have proceeded as it did in this case.

We have drawn heavily from this report on the UNDP recommendations (in some cases almost verbatim), as well as from a few individual UN agencies that responded to a survey for a request of best practices and procedures for dealing with sanctioned countries. We also drew from our previous reviews of the implementation of compliance plans in international organizations.

To WIPO's credit, it initiated important reforms and procedural changes as a result of the controversy over the transfers to Iran and the DPRK, and prior to the completion of this Review. Our recommendations take these views into account.

Recommendations

- Recognize the Obligations Imposed by Other UN Organizations, Particularly the Relevant Sanctions Committees. WIPO has an extraordinarily important mandate and a challenge in keeping its 185 Member States satisfied. It also is insulated from some of the pressures on other UN agencies because of the funding it receives through contributions from companies rather than from direct contributions by Member States. It operates with UN immunities but without the broad mandate and multi-agenda responsibilities of the full UN. This gives it almost unprecedented autonomy.

The risk in focusing on its mission to the exclusion of other issues is that WIPO can miss important priorities in other UN agencies and changes in the foreign policy and national security of Member States. This occurred here. It is difficult to overstate the importance of the UN Sanctions Committees as they are charged with using sanctions

³³ Confidential Report on the United Nations Development Programme Activities in the Democratic People's Republic of Korea 1999-2007, External Independent Investigative Review Panel, May 31, 2008. Chapter 4 at 190-221 (available at <http://web.undp.org/dprk/nemethreport.shtml>).

to help prevent wars, death, and destruction. WIPO would benefit greatly from carrying through with its new commitments to check programs for sanctions compliance prior to execution. This should include not only checking the country sanctions lists but also the lists of prohibited individuals and entities.

WIPO's new policy in requiring the review of all technical assistance programs for restrictions under UN sanctions, and referral to the relevant Sanctions Committee when appropriate, is an important first step for ensuring that WIPO's mission is executed in the context of the overall international situation and particularly, in recognition of UN sanctions.

- Implement Sanctions Compliance in a Systematic Manner and Throughout the WIPO Functions. WIPO has implemented new requirements to check on sanctions compliance in advance of program implementation through the distribution of legal memoranda and directives. This is a good first step, but it would benefit from some of the "best practices" in other UN agencies by incorporating these procedural requirements into procurement, payment and travel procedures. These is especially important because sanctions change rapidly. WIPO programs can stretch over several years, and would need to be checked at each stage of implementation, travel, shipment and payment.
- Undertake Due Deference to Member States' National Laws for the Transfer of Equipment and Technology. WIPO takes the position that it is not subject to national laws, including the laws of countries which would otherwise control equipment and technology transfers. Other international organizations have the same privileges and immunities, yet often will take into account national laws on technology transfers to sensitive countries, end-users and end-uses out of respect for the views of their Member States.

Even if WIPO convinces Member States that the UN's privileges and immunities apply to its activities as well as to its vendors (which Member States in the past have questioned), there is a broader issue of whether it is prudent to make deliveries to countries of equipment that would not otherwise legally be able to obtain the equipment directly.

WIPO has now suspended all IT equipment deliveries, but will continue to deliver software and other technical assistance. We recommend it consider carefully, as other international agencies do, any transfers of technology that the recipient governments would be prohibited from obtaining under Member States' national laws if the recipient governments sought the technology directly. Otherwise, WIPO will constantly stand accused of being a conduit for the circumvention of Member States' controls.

- Provide Training in Export Compliance. WIPO is not a procurement agency and little of its work involves direct technology transfers. Nevertheless, WIPO personnel would benefit from training and familiarization with the export control requirements of the U.S., European Union, and other locations from which WIPO may cause

equipment or technology to be exported, or that are the country of origin of the equipment and technology that WIPO may export. As identified in the previous UNDP report, it will be especially important to focus this review on destinations of heightened concern. Smaller organizations, and those with a less impressive worldwide mandate, devote staff and resources to export compliance. WIPO would benefit from such an investment. This would include receiving training on any restrictions on equipment transfers and technology from Member States. If WIPO sought to invoke its privileges and immunities to transfer equipment that would otherwise violate international regimes or the national laws of Member States, WIPO should at least be aware of the risks it runs in advance of the transfers, and know when it may need to consult with Member States in advance of transfers.

We recommend that all senior personnel and those charged with equipment and technology transfers, whether on a regional desk, in procurement, or in program offices, receive internal awareness training. Those responsible for actual equipment transfers deserve to receive outside training to complement their substantive expertise.

- Consider Structural Changes Including Appointment of a Chief Compliance Officer and Export Compliance Official. Given the brief time for this review, we could not undertake a full-scale assessment of the management structure of WIPO, nor have we been briefed nor reviewed the planned whistle-blower policy. We recognize that WIPO is implementing new procedures for risk management and internal controls, and has a relatively new Chief Ethics Officer. Based on our experience with other international organizations, and the recommendations of previous UN reviews of equipment transfers to sensitive countries, we recommend that WIPO go further and consider establishing a compliance function or augment the Ethics Office to include the compliance function.

The compliance function could be narrowly tailored to focus on exports and reexports, or could follow the direction of many international organizations of having a senior official who can serve as the ultimate resource for compliance responsibilities within the organization, whether it be for equipment and technology transfers or other assistance programs. At a minimum, we recommend designating an individual to manage WIPO's export compliance responsibilities, and providing the individual with the funding, training and authority to serve as an in-house resource and provide oversight for export compliance functions.

No matter how competent individual program officers may be in trying to stay abreast of individual export control requirements, an export compliance officer, and particularly one supported by a Chief Compliance Officer, would be in the best position to assure export compliance. An individual in this position may be better able to remain attuned to changes in world events that would necessitate a modification of programs or delivery plans.

- Enhance End-Use and End-User Checks. WIPO has a laudable history of ensuring that the equipment and technology it provides is used for the purposes intended, and

has committed to conduct end-use and end-user checks to the equipment delivered. It should also consider tapping the expertise of other UN or independent agencies in countries with limited access, such as the DPRK and Iran, where it is difficult to follow-up and the risk of diversion is great. If sister agencies such as the UNDP are not prepared to conduct such checks even if properly reimbursed for their time and expertise, this should serve as a “red flag” as to whether the program should proceed in these countries. No one should be under any illusions that a country such as the DPRK could not move the computer equipment or divert or enhance its computational power in between end-use checks, but at least enhanced end-use checks would raise the cost of any diversion.

- Require Contractors to Obtain Any Necessary Export Licenses and Confirm That There are No Country of Origin Restrictions or Restrictions Imposed by the Manufacturers for Delivery to Countries. The application of privileges and immunities to contractors is not clear and in some past cases has been rejected by UN Member States even in cases where UN Member States are prepared to recognize the privileges and immunities of UN staff, or for activities where UN staff actually used the equipment. The UNDP has from time-to-time included in its procurement the obligation of contractors to obtain the necessary export licenses. Had such an obligation been included in the DPRK and Iran WIPO equipment contracts, the transactions would not have proceeded, because the contractors would not have been able to obtain permission to re-export the equipment to Iran or the DPRK. WIPO would expect the contractors to ensure that they obtained necessary customs and import clearance for equipment transfer. Export clearance deserves no less of a priority.
- Ensure Clear Lines of Responsibility with Implementing Agencies. WIPO is not a procurement agency. It relies on the expertise of other UN agencies to help deliver some of its equipment. Especially for deliveries to sensitive countries, there is a risk that the implementing agency may take the position that WIPO has the responsibility for vetting the equipment and technology deliveries for compliance, but WIPO may believe the responsibility lies with the implementing agency.
- Enhance Transparency and Reporting. WIPO has traditionally been concerned about too much transparency in its programs for fears that Member States will micromanage its technical assistance programs. This desire must be balanced against the risk in executing programs that are contrary to the wishes of Member States, and the risk of failing to take into account changes in the foreign policy and national security risks faced by Member States.

Member States have called for specific reporting initiatives, and WIPO has committed to populating its current databases of technical assistance programs and making them available to Member States in a more timely and comprehensive manner. WIPO would benefit from the examples set by other UN agencies, such as the UNDP, in providing full transparency to its programs and posting all programs publicly. We recognize that this may lead to micromanaging by Member States, but

any transfers that are contrary to the expectations of Member States will inevitably lead to more even more micromanagement.

- Require Destruction or Return of the Equipment Upon Completion of Use in Cases Where the Equipment Could Not be Purchased by the Country Directly. Much of the equipment transferred to Iran and the DPRK could not have been obtained by the countries directly because of restraints under the laws of the countries of manufacture for the equipment, or the development of technology embodied in the equipment. We recommend that WIPO implement procedures to require the return of equipment, or verifiable confirmation of its destruction, when the equipment is no longer used for the WIPO programs in countries where the countries could not purchase the equipment directly.
- Seek a Uniform View on the Application of Member States' Export Control Restrictions Across UN Agencies. Past published references to the views of the UN Legal Affairs Office supported the position that transfers to UN personnel in support of UN programs would not be subject to national laws, but transfers to governments where the equipment is not used by UN personnel could under certain circumstances be subject to restrictions.³⁴ This analysis and information is somewhat dated, and we recommend verifying with the appropriate UN legal offices the current position regarding the need for permission from Member States for the export of equipment otherwise subject to the jurisdiction of Member States.

* * *

³⁴ Confidential Report on the United Nations Development Programme Activities in the Democratic People's Republic of Korea 1999-2007, External Independent Investigative Review Panel, May 31, 2008. Chapter 4 at pp. 192 and 220

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APPENDIX 1

Terms of reference for the conduct of an independent external review into WIPO's technical assistance with countries that are the subject of UN sanctions

Background

The World Intellectual Property Organization (WIPO) is a Specialized Agency of the United Nations dedicated to the use of intellectual property (patents, copyright, trademarks, designs, etc.) as a means of stimulating innovation and creativity.

In accordance with the Convention establishing WIPO, the Organization promotes the development of measures designed to facilitate the efficient protection of intellectual property throughout the world and offers its cooperation to States requesting legal-technical assistance in the field of intellectual property (article 4(i) and (v) of the Convention establishing WIPO). In order to reach its objectives, WIPO's strategic direction, budget and activities are determined, *inter alia*, through its Program and Budget approved by the Member States.

Intellectual Property for Development lies at the core of Strategic Goal III, Facilitating the Use of IP for Development, and Strategic Goal IV, Coordination and Development of Global IP Infrastructure, under the WIPO Strategic Framework and Program Structure of Program and Budget 2010-2011. Program 15 of the Program and Budget has the objective to develop and strengthen national IP institutions through provision of modernization services, to enable them to participate in the global IP infrastructure and to maximize their benefits from the access and use of its collective resources.

Some World Intellectual Property Organization (WIPO) member states, as well as reports in the press, have questioned the provision of standard IT equipment to countries that are the subject of UN sanctions. Such equipment was part of WIPO's IP office modernization program 15 mentioned above, which assists IP offices in updating their IT systems in order to process national and international patent and trademark applications more efficiently. In response to these concerns, the Director General has decided to launch an external and independent review into the previously mentioned provision of IT equipment.

This document establishes the terms of reference for the conduct of this independent and external review into WIPO's technical assistance with countries that are the subject of UN sanctions, with special reference to the Democratic People's Republic of Korea (DPRK) and the Islamic Republic of Iran (Iran).

Scope

For activities conducted in countries that are the subject of UN sanctions, with special reference to DPRK and Iran, WIPO would request the services of an external contractor to establish:

- 1/ the nature and extent of the technical assistance activities related to the provision of IT equipment that occurred with the said countries;
- 2/ the conformity of these activities with the Program and Budget authorized by Member States; and
- 3/ the compliance of these activities with the UN sanctions regime applicable to various States.

The review will make recommendations to improve procedures in operations with countries that are the subject of UN sanctions.

APPENDIX 2

Historical Technical Assistance Program Summary DPRK 2000-2005

(Available at www.wipo.int/tad/en/docs/wipo_eds_inf_1_rev.pdf, Annex 1, pp. 112-114)

WIPO



WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WIPO/EDS/INF/1 Rev.
ORIGINAL: English
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INFORMATION ON WIPO'S DEVELOPMENT COOPERATION ACTIVITIES
(JANUARY 2000 – JUNE 2005)

prepared by the Secretariat

1. During the June 2005 session of the Inter-sessional Intergovernmental Meeting on a Development Agenda for WIPO (IIM), the Secretariat had indicated that it would provide information on the development cooperation activities carried out in the recent years. The present document provides a factual account of the activities carried out over the period January 2000 to June 2005. The annexes contain a listing of those activities, by country/territory/organization and by year, for easy reference for the reader wishing to know about the work done. The information contained in this document will form part of a larger database, which will be accessible on the WIPO website.

2. The cooperation for development program of WIPO aims at establishing or strengthening intellectual property offices or related institutions; providing legal advice and assistance; promoting indigenous innovative, inventive and creative activities; training government officials and representatives of the private sector; disseminating patent information and promoting awareness of intellectual property. These activities primarily seek to support developing countries and countries with economies in transition to maximize the use and effectiveness of IP as a tool for social, economic and cultural development. While implementing its programs, WIPO also bears in mind the United Nations (UN) Millennium Development Goals.

3. Over the past few years, however, there has been a major shift in the focus and priorities of these activities. While continuing the primary task of providing general legal and technical assistance to developing countries and countries with economies in transition, efforts have increasingly been made to assist countries in two priority areas. The first priority area is to help these countries to create intellectual property assets and realize real benefits from these assets. This shift in direction has taken place mainly in response to expressed needs and demands of Member States. The WIPO Economic Development Sector was established in early 2004 to reflect the emphasis put on the economic and development, including social, dimensions of intellectual property. It seeks to transform the economic development objectives of intellectual property into reality and to ensure that the countries concerned benefit from modern scientific and technological advances in the field of health, environment, communication and nutrition. Furthermore, in the past few years, specialized divisions have been geared to lay more stress on the development aspects, to steer it towards targeted results and to conduct analytical and research work. Some of these divisions are the WIPO Worldwide Academy; Traditional Knowledge Division; Least Developed Countries Division; Small and Medium-Sized Enterprises Division; Intellectual Property and Economic Development Division and the Intellectual Property and New Technologies Division.

4. The second priority area is in providing legal and general advice on using flexibilities in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and WIPO treaties. With the conclusion of the TRIPS Agreement, many Member States requested WIPO to assist them in implementing TRIPS obligations, as well as other WIPO treaties. A number of Member States, engaged in bilateral or regional trade-related negotiations, also sought advice from WIPO on issues not contained in existing multilateral agreements. Furthermore, legislative and policy support was also directed at enabling policy-makers to make informed decisions on the use of options and flexibilities, available in the international legal framework, in their national policies and strategies. For this, developing countries and countries with economies in transition were also advised regarding accession to treaties, which support their public policy concerns and socio-economic development objectives, particularly in the field of public health, access to knowledge and education.

5. Activities under the different programs are identified in consultation with the Member States, cooperating institutions and the intended beneficiaries, and to the extent possible, experts, consultants and speakers are utilized from developing countries and countries with economies in transition. WIPO conducts human resource development activities and organizes meetings, seminars and workshops in Member States, at the request of the government or institution concerned and the program is finalized in consultation with them. The participants are encouraged to share their experiences and, at the end of the event, to evaluate the program. The evaluation exercise is useful in designing future activities. In order to optimize resources, activities and projects are coordinated with other bilateral, multilateral and international organizations, involved with intellectual property and economic development issues.

6. The tables in the annexes contain the following details on activities, taken up in accordance with the relevant program and budget, approved by the Member States for the period 2000 to June 2005.

(i) Meetings organized in different developing countries/countries with economies in transition/territory. These are meetings relating to different aspects of intellectual property. The subject of the meeting, topics covered and the participation varied with the expressed needs. The information includes the names of the requesting authority; joint organizers; number of participants and countries represented (Annex 1).

(ii) Projects for automation of intellectual property offices. This includes advisory and technical services to assist these countries in utilizing appropriate information technologies; automation of business processes and administrative work of intellectual property offices; provision of technical advice; knowledge transfer for the execution and deployment of automation projects and training of intellectual property office staff. The information contains the names of the requesting authority; equipment supplied; software developed; number of missions undertaken to execute the project and number of staff members trained (Annex 1).

(iii) Expert Missions to Member States for specific tasks. The information contains the names of countries/territory where the experts were sent; purpose of the mission; the requesting authority and country of origin of the expert (Annex 1).

(iv) Study visits of officials. The information contains details relating to the names of the requesting authority and the subject of activity (Annex 1).

(v) Meetings organized at WIPO headquarters in Geneva. These are mainly activities relating to norm-setting; information technology projects; genetic resources, traditional knowledge and folklore; and cooperation for development. In the case of norm-setting activities, the objective of supporting the participation of these countries is to ensure that all relevant concerns are heard and taken into consideration. In order to facilitate the discussion process and to make it more broadly representative, WIPO finances the participation of some officials from developing countries and countries with economies in transition in such meetings. WIPO also finances the participation of officials from these countries to attend meetings seeking to develop an international consensus on intellectual property protection of traditional knowledge, traditional cultural expressions and on the IP aspects of genetic resources. The information in the Annex contains the number of sponsored officials, with the names of countries, who have attended meetings of the Standing Committee on Patents (SCP), Standing Committee on Copyright and Related Rights (SCCR), Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT), Standing Committee

on Information Technology (SCIT), Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGCTKF) and the Permanent Committee on Cooperation for Development Related to Intellectual Property (PCIPD) (Annex 2).

(vi) Activities co-sponsored with and implemented in industrialized countries. This includes training and other programs organized by WIPO in partnership with different industrialized countries. The costs for these programs were jointly shared with these countries, which also hosted the activities (Annex 3).

(vii) Legislative advice provided to Member States. WIPO's legislative advice falls into four broad categories, namely, submission of draft laws to Member States; comments on draft laws prepared by Member States; legal advice in general; and advisory visits. Over the years, this legislative advice has moved from merely assisting WIPO and WTO developing country Members with implementation compliance with WIPO treaties and the TRIPS Agreement, to helping Members use the current international standards for promoting national goals of economic and social development, through the flexibilities which are available. Information relating to this advice has been provided in Annex 4. A few details relating to the names of the requesting authority, subject matter and number of missions undertaken to provide the advice are also contained in Annex 1.

(viii) Human Resources Development Activities. These are activities organized by the WIPO Worldwide Academy for teaching, training and research in intellectual property. The programs meet with the requirements of different target audiences – inventors and creators, business managers and IP professionals, policy makers and government officials of IP institutions, diplomats and representatives, students and teachers of intellectual property and the civil society. Information relating to the activities organized by the Academy is in Annex 5.

(ix) Activities implemented in Cooperation with Intergovernmental Organizations (IGOs) and Non-Governmental Organizations (NGOs). These are mainly activities implemented in cooperation with IGOs and NGOs. In order to optimize use of resources and maximize the benefits of the synergies thus created, WIPO promotes interfacing with IGOs and NGOs involved with intellectual property and economic development issues. In a number of cases, memoranda of understanding (MOU) and cooperation agreements have been signed, institutionalizing cooperation between WIPO and IGOs. Information relating to the organization of such activities has been provided in Annex 6.

[Annexes follow]

Democratic People's Republic of Korea

Year:	Activity:	Details:	
2000	Other Items	Activity	WIPO medal awards for 3 Inventors
2000	IP Office Automation & WIPONET	Requested by Equipment supplied	DPRK 50 used PCs
2000	Other Expert Missions	Requested by Subject Expert from	Trademark Office of DPRK Advisory mission on trademarks SAIC-China
2000	Other Expert Missions	Requested by Subject Expert from	Trademark Office of DPRK Advisory mission on trademarks SAIC-China
2000	Study visits	Requested by Participant Count Subject Institutions Visited	Trademark and Industrial Design Department, DPRK 4 Trademarks, industrial design and patent training SAIC, SIPO of China; French National Institute of Intellectual Property in Paris and WIPO Headquarters
2000	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO National Seminar on Trademarks DPRK Government Trademarks and Industrial Design Department of DPRK 50 Local participants
2001	Other Expert Missions	Requested by Subject Expert from	The Invention Office of DPRK Advisory mission on automation & computer system SIPO-China
2001	Other Expert Missions	Requested by Subject Expert from	The Invention Office of DPRK Advisory mission on patent information service SIPO-China
2001	IP Office Automation & WIPONET	Requested by Office Equipment supplied Software developed	DPRK Invention Office 1sun server enterprise 250 hardware provision of relevant software as well
2002	IP Office Automation & WIPONET	Requested by Office Equipment supplied	DPRK Invention Office Reshipment of sun server
2002	Other Items	Activity	WIPO medal awards for 4 Inventors
2002	Study visits	Requested by Participant Count Subject Institutions Visited	Invention Office and Academy of Science, DPRK 6 On-job training for examiners, computer/patent experts SIPO, China
2002	Other Expert Missions	Requested by Subject Expert from	The Invention Office of DPRK Expert mission on automated administration & computer system WIPO and SIPO, China
2003	IP Office Automation & WIPONET	Requested by Office Equipment supplied	DPRK Trademark and Industrial Design Dept Replacement of workstations, ROMARIN and DVD

Democratic People's Republic of Korea

Year:	Activity:	Details:	
2003	Meetings Organized	Title	WIPO National Seminar on Effective Use of the PCT and Patent Information to Support Technological Development
		Requested by	DPRK Government
		Joint Organizers	Invention Office of DPRK
		Participant Count	60
		Participant Countries	Local participants
2003	Meetings Organized	Title	WIPO National Seminar on Effective Utilization of the Patent Cooperation Treaty (PCT)
2004	IP Office Automation & WIPONET	Requested by	DPRK
		Office	Trademark and Industrial Design Dept.
		Equipment supplied	3 PCs Compaq350/450 Mhz; 3 Monitors Nokia 447 F 17", cables; 3 Printers HP LJ 1100
		Software developed	Operating system softwar Microsoft Windows NT
2004	IP Office Automation & WIPONET	Requested by	DPRK
		Office	Trademark and Industrial Design Dept.
		Equipment supplied	WIPONET hardware: PC workstation
		Software developed	WIPONET software

Democratic People's Republic of Korea

Year:	Activity:	Details:	
2003	Meetings Organized	Title	WIPO National Seminar on Effective Use of the PCT and Patent Information to Support Technological Development
		Requested by	DPRK Government
		Joint Organizers	Invention Office of DPRK
		Participant Count	60
		Participant Countries	Local participants
2003	Meetings Organized	Title	WIPO National Seminar on Effective Utilization of the Patent Cooperation Treaty (PCT)
2004	IP Office Automation & WIPONET	Requested by	DPRK
		Office	Trademark and Industrial Design Dept.
		Equipment supplied	3 PCs Compaq350/450 Mhz; 3 Monitors Nokia 447 F 17", cables; 3 Printers HP LJ 1100
		Software developed	Operating system softwar Microsoft Windows NT
2004	IP Office Automation & WIPONET	Requested by	DPRK
		Office	Trademark and Industrial Design Dept
		Equipment supplied	WIPONET hardware: PC workstation
		Software developed	WIPONET software

APPENDIX 3

Historical Technical Assistance Program Summary Iran 2000-2005

(Available at www.wipo.int/tad/en/docs/wipo_eds_inf_1_rev.pdf, Annex 1, pp. 185-188)

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WORLD INTELLECTUAL PROPERTY ORGANIZATION

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prepared by the Secretariat

1. During the June 2005 session of the Inter-sessional Intergovernmental Meeting on a Development Agenda for WIPO (IIM), the Secretariat had indicated that it would provide information on the development cooperation activities carried out in the recent years. The present document provides a factual account of the activities carried out over the period January 2000 to June 2005. The annexes contain a listing of those activities, by country/territory/organization and by year, for easy reference for the reader wishing to know about the work done. The information contained in this document will form part of a larger database, which will be accessible on the WIPO website.

2. The cooperation for development program of WIPO aims at establishing or strengthening intellectual property offices or related institutions; providing legal advice and assistance; promoting indigenous innovative, inventive and creative activities; training government officials and representatives of the private sector; disseminating patent information and promoting awareness of intellectual property. These activities primarily seek to support developing countries and countries with economies in transition to maximize the use and effectiveness of IP as a tool for social, economic and cultural development. While implementing its programs, WIPO also bears in mind the United Nations (UN) Millennium Development Goals.

3. Over the past few years, however, there has been a major shift in the focus and priorities of these activities. While continuing the primary task of providing general legal and technical assistance to developing countries and countries with economies in transition, efforts have increasingly been made to assist countries in two priority areas. The first priority area is to help these countries to create intellectual property assets and realize real benefits from these assets. This shift in direction has taken place mainly in response to expressed needs and demands of Member States. The WIPO Economic Development Sector was established in early 2004 to reflect the emphasis put on the economic and development, including social, dimensions of intellectual property. It seeks to transform the economic development objectives of intellectual property into reality and to ensure that the countries concerned benefit from modern scientific and technological advances in the field of health, environment, communication and nutrition. Furthermore, in the past few years, specialized divisions have been geared to lay more stress on the development aspects, to steer it towards targeted results and to conduct analytical and research work. Some of these divisions are the WIPO Worldwide Academy; Traditional Knowledge Division; Least Developed Countries Division; Small and Medium-Sized Enterprises Division; Intellectual Property and Economic Development Division and the Intellectual Property and New Technologies Division.

4. The second priority area is in providing legal and general advice on using flexibilities in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and WIPO treaties. With the conclusion of the TRIPS Agreement, many Member States requested WIPO to assist them in implementing TRIPS obligations, as well as other WIPO treaties. A number of Member States, engaged in bilateral or regional trade-related negotiations, also sought advice from WIPO on issues not contained in existing multilateral agreements. Furthermore, legislative and policy support was also directed at enabling policy-makers to make informed decisions on the use of options and flexibilities, available in the international legal framework, in their national policies and strategies. For this, developing countries and countries with economies in transition were also advised regarding accession to treaties, which support their public policy concerns and socio-economic development objectives, particularly in the field of public health, access to knowledge and education.

5. Activities under the different programs are identified in consultation with the Member States, cooperating institutions and the intended beneficiaries, and to the extent possible, experts, consultants and speakers are utilized from developing countries and countries with economies in transition. WIPO conducts human resource development activities and organizes meetings, seminars and workshops in Member States, at the request of the government or institution concerned and the program is finalized in consultation with them. The participants are encouraged to share their experiences and, at the end of the event, to evaluate the program. The evaluation exercise is useful in designing future activities. In order to optimize resources, activities and projects are coordinated with other bilateral, multilateral and international organizations, involved with intellectual property and economic development issues.

6. The tables in the annexes contain the following details on activities, taken up in accordance with the relevant program and budget, approved by the Member States for the period 2000 to June 2005.

(i) Meetings organized in different developing countries/countries with economies in transition/territory. These are meetings relating to different aspects of intellectual property. The subject of the meeting, topics covered and the participation varied with the expressed needs. The information includes the names of the requesting authority; joint organizers; number of participants and countries represented (Annex 1).

(ii) Projects for automation of intellectual property offices. This includes advisory and technical services to assist these countries in utilizing appropriate information technologies; automation of business processes and administrative work of intellectual property offices; provision of technical advice; knowledge transfer for the execution and deployment of automation projects and training of intellectual property office staff. The information contains the names of the requesting authority; equipment supplied; software developed; number of missions undertaken to execute the project and number of staff members trained (Annex 1).

(iii) Expert Missions to Member States for specific tasks. The information contains the names of countries/territory where the experts were sent; purpose of the mission; the requesting authority and country of origin of the expert (Annex 1).

(iv) Study visits of officials. The information contains details relating to the names of the requesting authority and the subject of activity (Annex 1).

(v) Meetings organized at WIPO headquarters in Geneva. These are mainly activities relating to norm-setting; information technology projects; genetic resources, traditional knowledge and folklore; and cooperation for development. In the case of norm-setting activities, the objective of supporting the participation of these countries is to ensure that all relevant concerns are heard and taken into consideration. In order to facilitate the discussion process and to make it more broadly representative, WIPO finances the participation of some officials from developing countries and countries with economies in transition in such meetings. WIPO also finances the participation of officials from these countries to attend meetings seeking to develop an international consensus on intellectual property protection of traditional knowledge, traditional cultural expressions and on the IP aspects of genetic resources. The information in the Annex contains the number of sponsored officials, with the names of countries, who have attended meetings of the Standing Committee on Patents (SCP), Standing Committee on Copyright and Related Rights (SCCR), Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT), Standing Committee

on Information Technology (SCIT), Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGCTKF) and the Permanent Committee on Cooperation for Development Related to Intellectual Property (PCIPD) (Annex 2).

(vi) Activities co-sponsored with and implemented in industrialized countries. This includes training and other programs organized by WIPO in partnership with different industrialized countries. The costs for these programs were jointly shared with these countries, which also hosted the activities (Annex 3).

(vii) Legislative advice provided to Member States. WIPO's legislative advice falls into four broad categories, namely, submission of draft laws to Member States; comments on draft laws prepared by Member States; legal advice in general; and advisory visits. Over the years, this legislative advice has moved from merely assisting WIPO and WTO developing country Members with implementation compliance with WIPO treaties and the TRIPS Agreement, to helping Members use the current international standards for promoting national goals of economic and social development, through the flexibilities which are available. Information relating to this advice has been provided in Annex 4. A few details relating to the names of the requesting authority, subject matter and number of missions undertaken to provide the advice are also contained in Annex 1.

(viii) Human Resources Development Activities. These are activities organized by the WIPO Worldwide Academy for teaching, training and research in intellectual property. The programs meet with the requirements of different target audiences – inventors and creators, business managers and IP professionals, policy makers and government officials of IP institutions, diplomats and representatives, students and teachers of intellectual property and the civil society. Information relating to the activities organized by the Academy is in Annex 5.

(ix) Activities implemented in Cooperation with Intergovernmental Organizations (IGOs) and Non-Governmental Organizations (NGOs). These are mainly activities implemented in cooperation with IGOs and NGOs. In order to optimize use of resources and maximize the benefits of the synergies thus created, WIPO promotes interfacing with IGOs and NGOs involved with intellectual property and economic development issues. In a number of cases, memoranda of understanding (MOU) and cooperation agreements have been signed, institutionalizing cooperation between WIPO and IGOs. Information relating to the organization of such activities has been provided in Annex 6.

[Annexes follow]

Iran (Islamic Republic of)

Year:	Activity:	Details:	
2000	Other Items	Activity	WIPO medal award for 1 Inventor
2000	Other Expert Missions	Requested by Subject Expert from	Iran - Registration Office for Companies & Industrial Property (ROCIP) Evaluation & Execution of Automation Project of IP Office WIPO
2000	Other Expert Missions	Requested by Subject Expert from	Iran - ROCIP Mission on Patent Classification WIPO
2000	Other Expert Missions	Requested by Subject Expert from	Iran - ROCIP Mission on Trademark Classification WIPO
2000	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO National Seminar on the Implications of the TRIPS Agreement ROCIP, Registration Organization for Deeds & Properties - Iran Iranian Chamber of Commerce, Industries and Mines; UNDP 250 Local participants
2000	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO Regional Symposium on the TRIPS Agreement for the Judiciary and Enforcement Agencies Registration Department for Companies & IP (ROCIP), Registration Organization for Deeds & Properties - Iran Iranian Chamber of Commerce, Industries and Mines local:160 foreign:30 total:190 Bangladesh 2, Bhutan 2, Brunei Darussalam 2, China 2, Fiji 2, India 2, Indonesia 2, Mongolia 2, Nepal 2, Pakistan 2, Philippines 2, Republic of Korea 2, Sri Lanka 2, Thailand 2, Viet Nam 2
2001	Other Items	Activity	WIPO medal awards for 2 Inventors
2001	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO National Workshop on Enforcement of IPRs for Customs Officials ROCIP, Registration Organization for Deeds & Properties - Iran Islamic Republic of Iran Customs Administration - Iran 70 Local participants
2001	Other Expert Missions	Requested by Subject Expert from	Iran - ROCIP Participate in Tripartite Review Meeting of the UNDP Project IRA/97/008 with IP Office & UNDP WIPO
2001	IP Office Automation & WIPONET	Requested by Office Equipment supplied Software developed	Registration Department for Companies & IP (ROCIP), Registration Organization for Deeds & Properties - Iran ROCIP 2 servers, 14 PC workstations, 2 computers, 6 printers, 1 scanner Software for Patent & Trademarks
2001	Other Items	Requested by Subject Office	Iran - Registration Office for Companies & Industrial Property (ROCIP) English Language Training Course for 1 year for Staff of IP Office under UNDP Project IRA/97/008 Registration Office for Companies & IP (ROCIP)

Iran (Islamic Republic of)

Year:	Activity:	Details:	
2001	Other Items	Requested by	Iran - ROCIP
		Subject	Provision of equipment for English Language Laboratory (headphones, taperecorders & microphones)
		Office	ROCIP
2001	Other Items	Requested by	Iran - ROCIP
		Subject	Provision of photocopy machine
		Office	ROCIP
2002	Other Items	Activity	WIPO medal awards for 2 Inventors
2002	Meetings Organized	Title	WIPO International Conference on IP & Electronic Business
		Requested by	ROCIP, Registration Organization for Deeds & Properties - Iran
		Joint Organizers	Min. of Commerce - Iran
		Participant Count	local:350 foreign:17 total:367
		Participant Countries	Bhutan 1, Brunei Darussalam 1, Cambodia 1, China 1, Democratic People's Republic of Korea 1, Fiji 1, Indonesia 1, Laos 1, Malaysia 1, Mongolia 1, Myanmar 1, Nepal 1, Pakistan 1, Philippines 1, Republic of Korea 1, Sri Lanka 1, Viet Nam 1
2002	Meetings Organized	Title	WIPO Asian Regional Training Workshop on Technology Management & Commercialization of Inventions & Research Results
		Requested by	Ministry of Science, Research and Technology of the Islamic Republic of Iran, Iranian Research Organization for Science and Technology
		Joint Organizers	JPO
		Participant Count	local:100 foreign:35 total:135
		Participant Countries	Bangladesh 2, Bhutan 2, Brunei Darussalam 1, Cambodia 2, China 2, Fiji 1, India 2, Indonesia 2, Laos 1, Malaysia 2, Maldives 1, Mongolia 2, Myanmar 1, Nepal 2, Pakistan 2, Philippines 2, Republic of Korea 2, Sri Lanka 2, Thailand 1, Tonga 1, Viet Nam 2
2002	Other Expert Missions	Requested by	Iran - ROCIP and the Ministry of Science, Research and Technology
		Subject	Assistance to establish Master degree programme on IP in Tehran and Beheshty Universities
		Expert from	WIPO
2002	Other Expert Missions	Requested by	Iran - Min. of Culture & Islamic Guidance of the Islamic Republic of Iran
		Subject	Expert Assembly to review the rights of book publication
		Expert from	WIPO
2002	Other Items	Requested by	Iran - ROCIP
		Subject	Provision of equipment for simultaneous interpretation in multi languages including microphones, headphones, control panels, 8 loudspeakers, 5 wireless microphones for speakers, 1 set of overhead system fo
		Office	ROCIP
2002	Meetings Organized	Title	WIPO National Workshop for Customs Officials on the Enforcement of IPRs
		Requested by	ROCIP, Registration Organization for Deeds & Properties - Iran
		Joint Organizers	Islamic Republic of Iran Customs Administration - Iran
		Participant Count	100
		Participant Countries	Local participants

Iran (Islamic Republic of)

Year:	Activity:	Details:	
2003	Meetings Organized	Title	Interregional Seminar on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
		Joint Organizers	WIPO Government
		Participant Count	2 (from Africa)
		Participant Countries	2 (from Africa) Ghana and Kenya
2003	Study visits	Requested by	Registration Department for Companies & IP (ROCIP), Registration Organization for Deeds & Properties - Iran
		Participant Count	5
		Subject	Study Visit of five members of Drafting IP Law Committee
		Institutions Visited	WIPO Headquarters, Geneva
2003	Meetings Organized	Title	WIPO National Seminar on Copyright & Related Rights
		Requested by	Min. of Culture & Islamic Guidance - Iran
		Joint Organizers	University of Tehran
		Participant Count	200
		Participant Countries	Local participants
2003	Other Expert Missions	Requested by	Iran - Min. of Culture & Islamic Guidance of the Islamic Republic of Iran
		Subject	Discussions with authorities and private sector on Copyright & Related Rights
		Expert from	WIPO
2003	Meetings Organized	Title	WIPO National Seminar on the Patent Cooperation Treaty (PCT) & Innovative & Inventive Activity
		Requested by	ROCIP, Registration Organization for Deeds & Properties - Iran
		Joint Organizers	Iranian Research Organization for Science & Technology (IROST)
		Participant Count	100
		Participant Countries	Local participants
2003	Meetings Organized	Title	WIPO Interregional Seminar on IP & Genetic Resources, Traditional Knowledge and Folklore, Isfahan
		Requested by	ROCIP, Registration Organization for Deeds & Properties - Iran
		Joint Organizers	The Iranian Handicrafts Organization
		Participant Count	local:100 foreign:14 total:114
		Participant Countries	Bangladesh 1, Bhutan 1, Cambodia 1, Fiji 1, India 1, Indonesia 1, Laos 1, Malaysia 1, Nepal 1, Pakistan 1, Philippines 1, Republic of Korea 1, Sri Lanka 1, Viet Nam 1
2003	Meetings Organized	Title	WIPO National Seminar on the Patent Cooperation Treaty (PCT)
		Participant Count	60
2003	Other Expert Missions	Requested by	Iran - Min. of Science & Technology
		Subject	Drafting of International Patent Applications
		Expert from	WIPO; Germany
2003	Study visits	Requested by	ROCIP, Registration Organization for Deeds & Properties - Iran
		Participant Count	2
		Subject	Training on the Madrid System
		Institutions Visited	WIPO Headquarters, Geneva

Iran (Islamic Republic of)

Year:	Activity:	Details:	
2003	IP Office Automation & WIPONET	Requested by Office Equipment supplied	ROCIP ROCIP 1 set of equipments for simultaneous interpretation in multi languages including microphones, headphones, control panels, 8 loudspeakers, 300 sets of wireless headphones for participants, 5 wireless microphones for speakers, 1 set of overhead system for Audiovisual purposes, 1 projection portable screen
2003	Other Items	Requested by Subject Office	Iran - Ministry of Science & Technology Provision of Books and Publications Faculties of Law of Tehran & Shaid Beheshti Universities
2004	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO National Seminar on the Madrid System of International Registration of Marks ROCIP, Registration Organization for Deeds & Properties - Iran Iranian Chamber of Commerce, Industry & Mines 260 Local participants
2004	Other Expert Missions	Requested by Subject Expert from	Iran - Registration Office for Companies & IP (ROCIP) Training on Implementation of Madrid System WIPO
2004	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO National Seminar for Professors of the Law Faculties of Universities in Tehran ROCIP, Registration Organization for Deeds & Properties - Iran. Min. of Science, Research & Technology. Faculty of Law of the University of Tehran - Iran National Institute of Industrial Property (INPI) of France 280 Local participants
2004	Other Expert Missions	Requested by Subject Expert from	Iran - Registration Office for Companies & IP (ROCIP) Training on Industrial Designs Administration WIPO
2004	Meetings Organized	Title Requested by Joint Organizers Participant Count Participant Countries	WIPO National Seminar on the Use of Technological Information contained in Patent Documentation as a Tool for Development ROCIP, Registration Organization for Deeds & Properties - Iran. Min. of Science, Research & Technology - Iran Research Institute of Petroleum Industry (RIPI) 160 Local participants
2005	Other Expert Missions	Requested by Subject Expert from	Iran - Registration Office for Companies & IP (ROCIP) Discussion with the authorities WIPO
2005	Study visits	Requested by Participant Count Subject Institutions Visited	ROCIP, Registration Organization for Deeds & Properties - Iran 2 Management study visit of 2 high-ranking officials IP Office of Singapore and other IP related institutions

APPENDIX 4

WIPO Equipment Shipments Under Technical Assistance Programs 2011

(Information Provided by WIPO Staff)

Equipment provided to 28 countries/offices under all WIPO budgets (including FIT [Funds-in-Trust])

Transportation/Delivery costs are included. Other assistance, such as digitization contracts, is not included.

<i>Office</i>	<i>Status</i>	<i>Value</i>	<i>Fundin g</i>	<i>Description</i>
Algeria		12 130	FIT	Scanner, printer
Botswana		15 999	WIPO	Scanner, printer, server
Cambodia		11 344	FIT	Network equipment, scanner, storage
Cameroon OAPI		35 190	FIT	Network equipment, workstations, printers, scanner, storage
Chile		10 693	WIPO	Server
Congo	UN Sanct	27 750	FIT	Server, workstations, laptops, printers
Cuba	US Embargo	46 221	WIPO	Workstations, printers
DPRK	UN Sanct	53 111	WIPO	Server, network equipment, storage, printer
Egypt		12 950	FIT	Scanner, printer
Ghana		17 830	WIPO	Scanner, printer
Guinee Bissau		15 374	FIT	Generator
Iraq	UN Sanct	16 008	WIPO	Server, workstations, laptops, printers
Lao		12 310	FIT	Server, scanner, storage
Lebanon	UN Sanct	4 460	WIPO	Laptops
Lesotho		5 890	FIT	Server
Madagascar		9 110	FIT	Server
Maldives		4 505	FIT	Workstations, printers, laptops
Mozambique		5 110	WIPO	Server
Namibia		13 460	FIT	Server, scanner, printer
Nigeria		12 675	FIT	Server, printer
Palestine	Non-state	4 360	WIPO	Laptops
Qatar		3 254	WIPO	Workstation, printer
Sao Tome		3 660	FIT	Workstations
Sri Lanka		5 614	WIPO	Server
Sudan	UN Sanct	8 475	WIPO	Workstations, printers, scanner
Tanzania		8 110	FIT	Server
Tunisia		12 000	WIPO	Server, laptops
Uganda		5 390	FIT	Server
Grand Total		392 982		Approx 50% FIT funding

APPENDIX 5

WIPO IT Equipment Transfers to the DPRK and Iran

WIPO Technical Assistance Programs 2006-2012

(Summary Sheets Provided by WIPO Staff)

WIPO Procurement Activities of IT equipment for DPR Korea, as from 2006

	Country	PO. N°	Amount	Description of equipment	Purchased from		Shipping Agencies	UNDP assistance	Eqpt Serial N°	Receipt confirmed
					Geneva / Local / Elsewhere	Geneva / Local / Elsewhere				
2007	DPR Korea (DTID) - Delivery February 2008	071048	US\$28'814.30 (First installment)	1 HP Proliant ML350 Sever with softs and accessories, 1 APC Smart UPS 1500VA, 1 HP LaserJet P3005DN, 1 HP ScanJet 4010, 1 Cisco catalyst 3560 48 ports, 7 HP Compaq DC 7700 with softs & accessoires, 7 APC Smart UPS 750VA	Beijing (China)	Chinese forwarder/transporter	Full assistance - for the whole process	-	Email 27.03.08	
2008	DPR Korea (DTID) - Delivery Nov.9, 2008	081201	CHF28'500 (Second installment)	13 HP dc7800 Business Desktop SFF+soft + accessories, 13 APC Back-UPS 650VA, 1 HP Proliant ML370 G5 + Soft + accessories, 1 APC Smart UPS 1000VA, 1 HP Compaq Business 6710b Notebook + soft + accessories, 1 HP LaserJet P3005DN, 1 HP ScanJet 5590p	Geneva (Switzerland)	Geneva Airfreight Company	Only for the local airport custom clearance and delivery of the eqpt to the beneficiary office	On delivery bill	Email 10.11.2008	
2011	DPR Korea (Invention Office) - Delivery Jan.17, 2012 and installation completed Febr. 13, 2012	WIPO #016824	US\$52'638.00	1 HP Proliant DL360 G7 Server, 1HP DVD-Burner, 1 MS Windows Server Standard 2008, 1 HP D2600 disk array, 1 HP Smart Array P411/512 BBWC 2-ports, 1 APC Smart-UPS 3000VA/2700 Watts, 1 SonicWall NSA 2400MX firewall, 1 HP Color LaserJet CP6015xh Printer, 4 HP Color LaserJet cartridges	Beijing (China)	Chinese forwarder/transporter	Full assistance - for the whole process	-	Certificate 20.01.2012	

WIPO Procurement Activities of IT equipment for Iran (Islamic Republic of), as from 2006

	Country	PO. N°	Amount	Description of equipment	Purchased from		Shipping Agencies	UNDP assistance	Eqpt Serial N°	Receipt confirmed
					Geneva / Local / Elsewhere	Geneva / Local / Elsewhere				
2006	Iran Islamic Republic of (ROCIIP) - Delivery April 2006	060283	CHF10'788	1 HP Cpq 6120 15" TFT notebook, 3 HP Cpq dc7600 CMT, P4 & accessories, 3 APC Back UPS 650VA, 3 HP LaserJet 1320	Geneva (Switzerland)	Geneva Airfreight Company	Only for the local airport custom clearance and delivery of the eqpt to the beneficiary office	-	Letter 20.07.2006	
2007	Iran Islamic Republic of (ROCIIP) - Delivery March 2008	071119	CHF25'892	2 HP Proliant ML570 G4 Tower Server, 6 HP HDD 146G, 2 APC Smart UPS 1500VA, 2 Microsoft Windows Server STD, 2 MS Windows Server 2003 CAL 2003, 2 MS Office 2007, 2 HP ScanJet G4010	Geneva (Switzerland)	Geneva Airfreight Company	Only for the local airport custom clearance and delivery of the eqpt to the beneficiary office	On "liste de colisage"	Letter 02.03.2008	
2009	Iran Islamic Republic of (ROCIIP) - Delivery Jan.8, 2010	091483	Euros 27'221	20 HP Compaq 7900dc Desktop with softs & accessories, 20APC Back-UPS 650VA, 3 Fujitsu fi 5530 c2 document scanner	Svendborg (Denmark)	Geneva Airfreight Company	Only for the local airport custom clearance and delivery of the eqpt to the beneficiary office	On delivery bill		

APPENDIX 6

**WIPO IT Equipment Transfers to the Countries Subject to UN Sanctions Other
than the DPRK and Iran**

WIPO Technical Assistance Programs 2007-2012

(Summary Sheet Provided by WIPO Staff)

Provision of IT equipment within its Cooperation for Development activities for the countries listed below (as from 2007)

Year	Country	Beneficiary office	WIPO PO N°	Amount	Description of equipment	Purchasing from	
						Geneva / Local / Elsewhere	
2008 (Delivery June)	COTE D'IVOIRE	Office Ivoirien de la Propriété Industrielle (OIP)	080780	8'225 CHF	3 HP DC7800 Business Desktop + UPS Smart 650VA + MS Office 2007 SMB Edition, 1 HP Compaq Business Notebook 6710b, + UPS Smart 650 VA + MS Office 2007 SMB Edition + Carrying case, 1 Infocus Work Big IN36, 3000ANS) Lumens XGA 1024x768, 1 Acco Nobo Ecran de Projection 200x200 cm	Geneva (Switzerland)	
2008 (Delivery June)	COTE D'IVOIRE	Centre national de la recherche agricole (CNRA)	080771	3'280 CHF	2 HP d7800 Business Desktop, 2 APC Back-UPS 650VA, 2 Microsoft Office 2007 SMB Edition,	Geneva (Switzerland)	
2008 (Delivery June)	COTE D'IVOIRE	Institut national polytechnique Houphouët- Boigny	080772	3'280 CHF	2 HP d7800 Business Desktop, 2 APC Back-UPS 650VA, 2 Microsoft Office 2007 SMB Edition,	Geneva (Switzerland)	
2008 (Delivery June)	DEMOCRATIC REPUBLIC OF CONGO	Ministère de l'Industrie et des PME - Kinshasa	080782	11'925 CHF	4 HP dc7800 Business desktop, 1 HP Compaq Business Notebook 6710b, 1 Infocus Work Big IN36 Projector with screen, 1 HP ScanJet 5590 Digital Scanner, 1 HP LaserJet Monochrome M3027 MFP printer/copier/scanner	Geneva (Switzerland)	
2011 (Delivery December)	DEMOCRATIC REPUBLIC OF CONGO	Ministère de l'industrie Kinshasa Gombe	002241	20'750 CHF	1 HP Proliant ML350 G6 tower server, 1 APC Smart-UPS 1000VA, 5 Compaq 8000 Elite SFF, including softs and accessories, 5 APC Back-UPS 650VA, 2 HP Business Notebook ProBook 6560b, with softs and accessories, 1 HP LaserJet Enterprise 600 M6021, 4 HP LaserJet P2035, 3 HP ScanJet 5590 Digital Scanner, 1 Infocus Work Big IN1100 DFLP projector,	Geneva (Switzerland)	
2011 (Delivery July)	IRAQ	Industrial Property Department (IPD) - Central Organization for Standardization & Quality Control (COSQC)	012011	13'008 CHF	2 HP Compaq 8000 Elite SFF + softs + accessories, 1 HP ScanJet 5590 Digital, 1 HP Proliant ML350 G6 Tower Server + softs 1 accessories, 1 APC Smart UPS 1000VA, 1 Infocus WorkBig Projector + screen, 2 HP ProBook 4320s 13.3"+ softs + accessories, 2 HP LaserJet Pro M1536dnf MFP Print/Copy/Scan/Fax	Geneva (Switzerland)	
2007 (Delivery September)	LEBANON	Ministry of Culture	070795	13'060 CHF	4 HP dc7700 Business Desktop, 4 Maxxtro 2.0 Multimedia Speakers, 4 Microsoft Office 2007 SMB Edition, 2 HP Compaq nx6320 Business Notebook, 2 Microsoft Office 2007 SMB edition, 4 HP LaserJet P2015, 4 APC Smart UPS 750VA/500W	Geneva (Switzerland)	

Year	Country	Beneficiary office	WIPO PO N°	Amount	Description of equipment	Purchasing from	
						Geneva / Local / Eiswhere	
2009 (delivery August)	LEBANON	Intellectual Property Protection Department - Ministry of Economy and Trade	090767	19768 Euros	2 HP Proliant ML350 G5 SAS LFF 5U server, 2 MS Windows server 2008 STD, English, OEM, incl. 5 CALs, 2 MS Windows server 2008 Device CALs, OEM, English, 5 Clients	Svendborg (Denmark)	
2009 (delivery November)	LEBANON	Intellectual Property Protection Department - Ministry of Economy and Trade	091169	5730 Euros	1 HP LaserJet M5035xs MFP Printer, 5 HP Toner Cartridge Black for M5035 Printer, HP eCarePack 3 years on-site service	Svendborg (Denmark)	
2011 (delivery December)	LEBANON	Intellectual Property Protection Department - Ministry of Economy and Trade	017320	3'460 CHF	2 HP Business Notebook ProBook 6560b,	Geneva (Switzerland)	
2011 (delivery November)	LIBERIA	Liberia Industrial Property Office (LIPO)	091096	16'655 CHF	5 HP Compaq dc7900 Business Desktop, 5APC Back-UPS 650VA, 1 Server HP Proliant ML350 G6, 1 APC Smart UPS 1000VA, 1 HP LaserJet P3005N Printer, 1 HP ScanJet 8300 Flatbed Scanner, 1 HP 6730b Business Notebook English Keyboard, 1 Infocus WorkBig IN35W DLP Projector and 1 Projecta ProView Mobile Screen 160x160cm	Geneva (Switzerland)	
2010 (delivery May)	LIBYA	National Bureau for Research and Development (NBRD)	000171	17'076 Euros	5 HP Elite 8000 SFF with softs and accessories, 5 APC Back-UPS 650VA USB Serial, 2 HP 6730b Business Notebook, 1 HP Proliant ML350 T06 SFF Server, 1 APC Smart UPS 1000VA, 1 HP LaserJet P3015dn Printer, 4 HP LaserJet P2055d, 3 HP ScanJet 5590 Scanner, 1 Infocus IN2114 DLP Portable projector, 1Multibrackets Projection Screen	Svendborg (Denmark)	
2007-2008 (Delivery February 2008)	SUDAN	Intellectual Property Academy of the University of Khartoum	071109	25785 CHF	10 HP Compaq dc 7800 workstations, 10 APC UPS Smart sc620VA, 1 HP Proliant ML350 server, 1 UPS Server 1000VA, 1 HP network P3005dn printer, 2 HP local P2015d printers, 1 HP scanner G4010	Geneva (Switzerland)	
2010 (Delivery April)	SUDAN	Registrar General of Intellectual Property Department, Ministry of Justice	000547	17'511 CHF	4 HP dc7900 Business desktop, 4 HP Back UPS 650 VA, 1 HP Proliant ML 350 server G6, 1 Microsoft SQL server standard edition, 1 APC Smart UPS 1000VA, 1 HP LaserJet Entreprise printer P3015dn, 2 HP scanjet 7650N network scanner, 2 HP colorJet printer CP2025	Geneva (Switzerland)	
2011 (Delivery August)	SUDAN	Department of Technical Affairs Planning and Research Directorate, Ministry of Interior	013628	4'975 CHF	3 HP Compaq 8000 Elite SFF, 3 APC Back-UPS 650VA USB Serial, 1 HP ScanJet 5590 Scanner, 3 HP LaserJet (Pro P1102W	Geneva (Switzerland)	

APPENDIX 7

Methodology and Acknowledgments

We conducted our review on-site in the WIPO offices commencing on August 6, 2012 (Stig Edqvist) and August 13, 2012 (John P. Barker).

We wish to acknowledge the cooperation we received from WIPO staff members, as well as members of the Executive Committee of the WIPO Staff Association, each of whom consented to interviews.

We especially appreciate the assistance of the Internal Audit and Oversight Division (IAOD). The dedicated work of the Director and his staff greatly facilitated our work.

We adhered to the required time schedule. Due to time and staffing constraints, we were not able to seek or review all e-mails and documents on the WIPO IT system, review all financial flows, nor speak with those outside of WIPO including the relevant Sanctions Committees to review in detail the exports and raise the question of whether the relevant sanctions covered the exports. We instead focused our interviews on the WIPO personnel most central to the issues identified under the Terms of Reference, and sought what we could identify as the most relevant correspondence and e-mails. A longer time period with additional staff might have permitted the review of all correspondence for the individuals involved, but we focused on efforts on the areas of greatest importance and greatest risk to WIPO in the time frame available.

The IAOD staff surveyed on our behalf UN agencies for “best practices” for dealing with sanctioned countries. Most agencies did not have the chance to respond within the three weeks available to provide the agency responses. Some agencies had specific procedures for transactions in countries subject to UN sanctions, while many did not. More responses may follow after the conclusion of this Review. WIPO may wish to factor into the recommendations any further responses received after completion of this Review.

We understand that the UNDP implemented a number of procedures after its 2008 review of activities in the DPRK to address equipment exports. Our mandate did not extend to assessing the implementation of those procedures, but WIPO may wish to gain a more detailed understanding of UNDP’s procedures as a possible example of measures WIPO could implement.

APPENDIX 8

Biographies of Panel Members

Stig Edqvist has served for more than 30 years in Sweden's National Bureau of Investigation. During this time, he served as the head of the murder investigation/assassination of the Swedish Prime Minister Olaf Palme from 1997 to February 2012. Since December 2000, he was appointed to lead the National Disaster Victim Identification as DVI Commander in Sweden. His service included dealing with disasters in Italy, Indonesia, and Thailand. He also served in the International Criminal Tribunal for the former Yugoslavia, Office of the Prosecutor. He currently serves in Pristina, Kosovo, as Team Leader for the War Crimes Investigation Unit in the European Rule of Law Mission.

John P. Barker is an attorney in Washington, DC. He previously served in the U.S. Department of State as the Deputy Assistant Secretary for Nonproliferation Controls, and prior to that, as the Deputy Assistant Secretary for Export Controls. He assisted in the preparation of the export control analysis for the 2008 United Nations Development Programme External Independent Investigative Review Panel of Activities in the DPRK.