

**Council for Trade-Related Aspects
of Intellectual Property Rights**

**TRANSITIONAL REVIEW UNDER SECTION 18 OF THE PROTOCOL ON THE
ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

Report to the General Council by the Chair

1. At its meeting of 25, 26 and 28 October 2005, the Council undertook the fourth annual transitional review of the implementation by China of its WTO commitments pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432), and agreed that the Chair, acting on his own responsibility, would prepare a brief, factual report on the review to the General Council.
2. Written comments and questions in connection with the review were submitted in advance of the meeting by the European Communities, Japan and the United States. These submissions were circulated in documents IP/C/W/450, 451, 453 and 453/Add.1, respectively.
3. In a communication, dated 24 October 2005, China provided information as specified in Annex 1A to the Protocol. This submission was circulated as document IP/C/W/460.
4. An annex to this document contains the relevant part of the minutes of the Council's October meeting¹ that reflects the statements made under the review.

¹ To be circulated as IP/C/M/49.

ANNEX

ITEM C OF THE MINUTES OF THE COUNCIL'S MEETING OF 25-26 OCTOBER 2005
TO BE CIRCULATED AS IP/C/M/49²

C. TRANSITIONAL REVIEW UNDER SECTION 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

1. The Chairman recalled that paragraph 18 of China's Protocol on Accession required the TRIPS Council to review the implementation by China of the TRIPS Agreement each year for eight years and report the results of such review promptly to the General Council. He further recalled that paragraph 18 required China to provide relevant information, including information specified in Annex 1A, to the TRIPS Council in advance of the review. He informed the Council that the information submitted by China pursuant to the requirement, dated 24 October 2005, had been circulated as an advance copy of document IP/C/W/460. In addition, the Chinese delegation had made available as a room document a "White Paper" entitled "New Progress in China's Protection of Intellectual Property Rights". Questions and comments in connection with the transitional review had been submitted by the European Communities, Japan and the United States (documents IP/C/W/450, 451, 453 and 453/Add.1, respectively).

2. The representative of China, briefing the Council on China's implementation of the TRIPS Agreement and the relevant commitments since its last review, said that China had taken only two decades to establish an advanced intellectual property legislation framework, administrative network and enforcement mechanism, including the ratification of major international treaties and conventions for IPR protection. On average, this had taken developed economies over one hundred years to build up. Without the consistent efforts of the Chinese Government, it would have been impossible to fulfil this mighty task in such an efficient and effective way. China was fully aware that transparency and enforcement were essential to put the functions of a well-built IP legal system into full play. The Chinese Government had set up a national level IPR protection working group consisting of all judicial and administrative enforcement authorities involved in IPR protection. With concrete results achieved since August 2005, a one-year-long special campaign across the country for strengthened IPR protection had been further extended by the State Council to the end of this year.

3. Recognizing the legitimate concerns and the enormous interest of foreign governments and companies in China's IPR protection, the Chinese Government had built a new mechanism for regular communication and consultation with foreign-invested enterprises and trade associations, as well as with the governments of the Members concerned. He said that China had always attached great importance to the protection of intellectual property rights and had fulfilled its international commitments in a serious and positive manner. IPR protection was not a passive response to fulfil China's accession commitments, but resulted from an intrinsic need to foster a sound environment for trade, investment and research and development (R&D) in China, which would help to keep the rapid economic development of China more sustainable. China spared no effort in establishing a strong and effective IPR protection system which was in the interest of both China and other WTO Members. However, given the long journey to go before China could have a highly advanced IP protection system, as mentioned in the beginning of the statement, China hoped that Members would view the IPR situation of China from a more developmental and realistic perspective and continue their support and assistance during the process of improvement.

² The paragraph numbering of this excerpt will not correspond with that of the minutes of the TRIPS Council meeting but has been included for the convenience of users.

4. He said that, prior to the meeting, China had prepared a document containing the information requested by Annex 1A of China's Accession Protocol (IP/C/W/460), and also the *2005 White Paper on the New Progress in China's Protection of Intellectual Property Rights*, which had been made available as a room document. He hoped that these documents would put together a complete picture for Members to better understand the measures and achievements of China on IPR protection.

5. Turning to the responses to the written questions received from some Members, he said that there were three important cross-cutting issues regarding these questions. First, for all the statistical data falling within China's WTO obligations, he requested Members to refer to the information provided under Annex 1A prior to this meeting. There was, however, some information that China was unable to provide or would not provide due to legitimate reasons. He said that he would be happy to seek ideas from some of the Members after the meeting to learn how they compiled in their own countries some of the data, that they had asked from China.

6. Secondly, he reminded Members that questions should merely focus on the review of China's implementation of its WTO obligations during the past year, rather than seek a preview of China's performance in the years to come. He said that his delegation was unable to respond to questions purely speculating on future events under this mechanism.

7. Thirdly, he said that during the past four years of this review, his delegation had found an increasing number of questions not relevant to TRIPS from some Members. This had made the list of questions longer, but less relevant to the TRIPS Agreement or China's accession commitments. He requested these Members to re-assess the nature of those questions and to find a more appropriate forum for their discussion, e.g. bilateral consultations or the ongoing DDA negotiations.

8. Turning to answering relevant questions in detail, he said that the blame laid on China by some Members for being one of the top producers and exporters of counterfeit and infringing automotive parts was groundless. Notwithstanding, China's national IP protection working group had received some complaints about automotive parts counterfeiting and other infringements in some local areas, and had held a meeting in September 2005 to tackle the issue by requiring local governments to crack down on those illegal activities.

9. He encouraged Members to log onto official websites of the local governments to obtain local IPR "White Papers" and action plans on intellectual property or obtain them from the foreign affairs office or department of the local government.

10. Regarding administrative procedures that imposed requirements such as consularization/notarization of evidence from a foreign country, which was not necessarily on foreigners but on foreign evidence, China believed that those requirements were fair and reasonable, and consistent with WTO principles and the TRIPS Agreement.

11. In response to the request put to China by one Member to share the IP protection and enforcement provisions under discussion in its ongoing FTA or bilateral negotiations, he said that his delegation saw no legitimate reason or right behind this request. His delegation would like to request that Member to share the provisions under discussion in the Member's own ongoing bilateral or FTA negotiations after the meeting if possible.

12. In response to the question on the steps China was considering in order to accelerate the involvement of foreign associations in China's IPR environment, to encourage Chinese-foreign associations and to expand the scope of operations of foreign associations in China, he said that this was a question irrelevant to TRIPS and the transitional review.

13. Pursuant to the terms of its WTO accession, China had made great efforts to revise its legislative regime for all substantive IPRs, which had been and should be fully recognized by Members. However, he reminded Members that not all laws and regulations in China had to be revised and urged them to be more patient. When deemed necessary, further amendment of laws and regulations would take place in China, but that may not be done as abruptly as some Members had expected. Regarding the protection of copyright in certain fields, such as information networks, which was not covered by TRIPS yet, he asked Members to refer to the relevant provisions in the Copyright Law promulgated in 2001.

14. He said that the information regarding the Chinese National IPR Strategy could be found at www.nipso.cn.

15. Regarding the questions on private investigative firms, he referred Members to China's response at the last TRM, as China's position had not changed since then.

16. As to whether freight forwarders, distributors and landlords could also be subject to criminal liability in IPR cases, he said that that this depended on whether their activities constituted elements of a crime committed under the relevant laws and regulations. This response also pertained to similar questions on the percentage of IPR infringement cases transferred to criminal enforcement.

17. He said that the percentage of IPR infringement cases transferred to criminal enforcement had nothing to do with cost-recovery limitations either. However, some copyright infringements transferred to criminal procedures were defined as illegal operation crimes instead of IPR infringements, which certainly affected the statistical results, as some Members had mentioned in their written questions.

18. Regarding the request from one Member for China's administrative agencies to publish all administrative decisions, China had already expressed the view during the last TRM that this was not a legitimate request under the TRIPS Agreement or under China's other commitments, and China had no obligation to do so. He also confirmed that China's administrative agencies were providing written decisions with explanations for their enforcement decision and that their practice had improved during past years.

19. He confirmed that the General Administration of Customs was jointly working with the Ministry of Public Security to draft guidelines on criminal cases, arising from Customs seizure of infringing products in international trade. Setting standards for arrest was not the mandate of the Ministry of Public Security as one Member had put it, but the responsibility of the National People's Congress as well as the responsibility of the Supreme Court and the Supreme Procuratorate.

20. Regarding the question No. 21 from the USA, he said that China had no new information to provide since the last review.

21. Regarding the relationship between "identical" and "similar" trademarks, as defined in Chinese laws, he said that this relationship was the same as interpreted in the TRIPS Agreement. Regarding administrative penalties imposed in cases where registered trademarks were used on "similar goods", he confirmed that the understanding of the Member concerned was correct. He also confirmed that not only administrative penalties were applicable in cases of service marks infringement.

22. He said that, in view of the difference in nature between administrative and criminal liability, the judicial interpretation promulgated in December 2004 did not stipulate a relationship between the number of administrative violations and criminal liability. The offender would only be prosecuted under criminal liability when the degree of violation reached the statutory standard for criminality.

Since a well-known mark was a type of registered mark with a higher commercial value, its infringement would cross the line of criminality more easily. In this connection, setting no specific provision for well-known marks would not hamper its protection by the criminal code. According to the judicial interpretation promulgated in December 2004, the three-times standard was an *elevated* one compared to the relevant provisions for illegal publications, rather than a *more relaxed* one as some Members had alleged in their questions. The mention of "illegal income" in the judicial interpretation was a follow-up provision of the criminal code, which China had no plans to amend.

23. For all the technical questions regarding the calculation of the value of counterfeit or pirated goods, he referred Members to the judicial interpretation issued jointly by the People's Supreme Court and the People's Supreme Procuratorate in December 2004. He said that the Chinese National People's Congress had no plans to amend the Criminal Code or other IP laws at this moment, although in-depth research and study in this field would continue.

24. Regarding elementary, high school and "State Plan" textbooks, he said that Article 23 of China's Copyright Law also applied to foreign right holders and that China had so far not received any complaints from any right holders.

25. Regarding China's implementation of Article 10.2 of the TRIPS Agreement, he referred Members to Article 14 of China's Copyright Law. Regarding censorship standards and procedures, content review processes and the import and distribution regulations of audiovisual products, he asked Members to convey these TRIPS non-relevant concerns to the competent committees or councils in the WTO, for example the Committee on Market Access.

26. Regarding the legal requirements on upper thresholds of statutory damages or the duration of prescription of administrative punishment stipulated by the Chinese law, he said that China believed that these were not inconsistent with the TRIPS Agreement. The laws concerned had been made and promulgated in the context of the situation in China and China had no plan to change them at this moment.

27. He said that fines for penalties for the infringement of copyright were decided by the judicial authorities, based upon the facts of the case, which was consistent with principles of the TRIPS Agreement.

28. Regarding protecting the legitimate owners of trademarks against unauthorized third-party applications, he referred Members to Articles 13, 14, 30, 31 and 41 of the Trademark Law.

29. He said that as of the end of 2004, it had taken, on average, 20 months from the date of a trademark application to the date of a decision made by the examiner.

30. He said that in 2004, 153 well-known trademarks had been recognized by: (a) administrative proceedings at the CTO; (b) the Trademark Review and Adjudication Board (TRAB); or (c) any other administrative agency, 28 of which were foreign trademarks. In 2005, 79 such marks had been recognized, among which five were foreign well-known trademarks under the CTO.

31. Regarding brands that were the subject of anti-piracy efforts in each city, he asked Members to log on to the official websites of the cities concerned, such as www.baic.gov.cn in Beijing and www.sgs.gov.cn in Shanghai. In order to place their brands on the anti-piracy lists, companies could submit their applications to the relevant local authorities, such as those in Shanghai or Beijing.

32. Regarding the potential legal responsibility of the landlord in certain cases, he referred Members to Article 50.2 of the implementing regulations of the Trademark Law. China's Trademark Law provisions on the infringement of trademarks were also applicable to operators of wholesale and

retail markets nationwide. As regarded notices on anti-piracy efforts issued in Beijing and Shanghai, he said that no other cities in China had plans to issue similar notices at this moment.

33. He said that, in conformity with China's accession commitments, the relevant rules of the State Administration of Industry and Commerce of China and the Administration for Quality Supervision, Inspection and Quarantine (AQSIQ) provided protection for GIs. The amendment of the Trademark Law in 2001, as agreed to in the accession report, contained a specific provision on the protection of GIs.

34. Regarding the detailed procedures of application for the recognition of a well-known mark, he referred Members to the www.ctmo.gov.cn, as well as to the provisions on the recognition and protection of the well-known trademarks.

35. He confirmed that China was not drafting and had no plan to draft a "highly well-known marks" pamphlet.

36. Regarding allegedly design-infringing goods displayed at an exhibition, he said that, although such an act of display would not immediately be deemed as a violation of Article 11 of the Chinese Patent Law, the act of making, prior to the act of display, could be considered a violation of the design right, i.e. a violation of Article 11.

37. He confirmed that Article 12 of the Chinese Patent Law conferred on the patentee the right to grant licences, regardless of whether the patentee was a foreign or a Chinese company.

38. He confirmed that the Standing Committee of the National People's Congress had no plans to amend legislation to provide additional protection for products, the marketing of which required an authorization.

39. Regarding novelty, he said that the current Chinese laws and regulations regarding the novelty requirement were consistent with the TRIPS Agreement and China had no plans to amend them.

40. Regarding the powers of administrations, he said that the copyright, trademark and patent laws all had specific provisions in this regard. In an effort to provide adequate remedies for IPR holders and to provide significant deterrents to violators, the different administrations executed their powers in compliance with the laws governing them. According to the Chinese Patent Law, the patent administrative authorities did not have the power to impose sanctions such as confiscation or fining the patent infringer. Pursuant to Article 53 of the Trademark Law, once the Administration for Industry and Commerce had determined that the fact of infringement had been established, it was obliged to order the infringer to immediately cease the infringing activity and to confiscate and destroy the goods involved, the tools used to manufacture these goods and counterfeit representations of registered trademarks and could also impose a fine. These provisions were in complete compliance with the TRIPS Agreement. In actual enforcement, administrations at all levels penalized the acts of trademark infringement by strictly following the law. This was a significant deterrent to the infringers. There was no provision on confiscating illegal income and revoking commercial licences in the trademark law or its implementing regulations.

41. Regarding undisclosed information, he said that Article 51 of the Administrative Rules on Drug Registration provided that, while the new drug was being examined, the technical requirements for it would not be lowered because it had already been on sale in overseas markets. SFDA, the Chinese Food and Drug Agency, had established a stringent confidentiality preserving system to prevent information submitted by the applicant from being disclosed. Reviewers had to register when consulting any document and access for each reviewer was restricted to documents within his/her job

duty. So far no leakage of submitted information by the staff of SFDA had been found and no complaint in this regard had been received from any applicant. He invited drug patent owners to log on to SFDA's website (www.sfda.gov.cn) to check whether the drug had been applied for by other parties. The regular SFDA procedure on patent disputes was that a patent owner would submit a request to the SFDA. SFDA would then notify other applicants asking them to explain within 40 days whether they had infringed that patent, otherwise their application would be refused.

42. Regarding the cancellation of trade names similar to well-known trademarks, he said that at present, the Implementation Rules of Trademark Law, the Regulations on Registration of Enterprise Names and the Regulations on Affirmation and Protection of Well-known Trademarks could be applied to this matter.

43. He said that such laws as Counter Unfair Competition Law and Product Quality Law could be applied to the protection of indications of source. As to the amendment of the Counter Unfair Competition Law, he said this process had started in 1997 and had been added to the legislation plan by the Standing Committee of the People's Congress in 2003. The National Administration of Industry and Commerce was responsible for drafting the amendment which was currently in the public consultation process.

44. The representative of Japan thanked the Chinese delegation for its comprehensive responses and said that he was encouraged by China's commitment to improve the protection of intellectual property rights as a national policy priority. During the transitional reviews from 2002 to 2004, Japan had raised questions regarding, among others, the improvement of enforcement in judicial procedures, the protection of well-known marks and the improvement of patent examination procedures. Regarding the improvement of enforcement procedures, his delegation appreciated China's considerable efforts to improve enforcement by issuing new judicial interpretations and conducting a nationwide campaign to strengthen the protection of intellectual property rights. In terms of the protection of well-known marks, Japan appreciated the implementation of the "Provisions on the Determination and Protection of Well-known Marks" in 2003, as well as the publication of lists of well-known marks and the recognition of some Japanese company names as well-known marks in China. With regard to patent examination procedures, it was appreciated that the State Intellectual Property Office (SIPO) had been making efforts to improve the procedures. However, despite these efforts by the Chinese authorities, the level of protection remained unsatisfactory.

45. A recent survey conducted by the Japanese Government had shown that significant problems continued to exist in intellectual property protection and enforcement in China. The survey, entitled "Field Survey for Infringement of Intellectual Property Rights in China", published on 23 June and available from the METI's website, www.meti.go.jp, indicated that Japanese industry regarded the application of administrative sanctions against IPR infringement and the way in which Chinese governmental authorities addressed the cases as insufficiently effective and that, as a result, repeated infringement was rampant. At least a half of the Japanese companies which had made use of remedial procedures in China had experienced repeated infringement. Therefore, IPR enforcement in China was insufficient to deter further infringements, and IPR infringement in China continually caused serious damage to the industry of Japan and that of other countries, including that of China itself.

46. He underlined the importance of enhancing the criminal prosecution of IPR infringements, especially of repeat offenders, as his delegation had emphasized in document IP/C/W/451, and said that his delegation was looking forward to a significant improvement of IPR enforcement by China, including effective additional measures to address any act of infringement.

47. The representative of the European Communities, while thanking China for its update on its efforts to improve IP protection in China, said that the statement had not been as detailed and comprehensive as he had hoped and that some of the questions his delegation had asked in document IP/C/W/450 had not been answered.

48. While his delegation took note with satisfaction of the progress made in Chinese IP enforcement, it remained concerned by the high level of counterfeiting in China. He urged China to actively pursue its efforts towards a fully effective IP enforcement system and said that his delegation was committed to continue to work bilaterally with the Chinese authorities to improve the situation. In this respect, he informed the TRIPS Council that the first meeting of the EU-China joint IP working group, that had been held the previous week in Beijing, had proved useful and encouraging and that it was important that continued progress was made in that framework.

49. The representative of the United States thanked China for the answers to Members' questions and said that her delegation found the TRM mechanism to be a useful addition to other multilateral and bilateral forums for discussing IPRs, including the concerns of China, the United States and other countries.

50. Her delegation appreciated China's efforts to improve its IPR enforcement and protection environment, including the growth of China's Trademark Office and Patent Office and the increasing docket of the Chinese courts and enforcement agencies, the credit for which belonged to a large part to Vice Premier Wu Yi and her staff. However, although China had committed itself to address a number of problems in its IPR regime and to significantly reduce IPR infringement levels, IPR infringement in China remained rampant and deterrent processes were necessary to bring this problem under control. The magnitude of IPR infringement in China was harming the interests of right holders in China and around the world. In this respect, her delegation had welcomed China's President Hu Jintao's statement on 13 September 2005 that "China will continue to step up its efforts to protect intellectual properties. And we will certainly enhance our effort in fighting all kinds of violations in this regard".

51. She said that IPR protection had also become critical to the community of China's own right holders, as could be seen in the areas of trademarks, plant varieties and design and utility model patents where Chinese applications dominated. In other areas, such as invention patents, domestic applications were increasingly likely to dominate in the near future.

52. Her delegation welcomed China's commitment to accede to the WIPO Internet treaties, which, in view of over 100,000,000 Internet users and rapid broadband deployment in China, was important to all copyright owners, including Chinese writers, composers, publishers, recording studios, movie makers and software developers. The United States welcomed the increased transparency of the National Copyright Administration in this drafting process and hoped that accession would proceed smoothly.

53. The United States also welcomed the State Intellectual Property Protection Office's and other agencies' efforts to improve provisions for the transfer of cases from the non-deterrent administrative process to criminal prosecution, as currently such transfers constituted only a tiny percentage of overall administrative cases, and the efforts to clarify the possibility that exporters could face criminal liability.

54. Unfortunately, however, the situation was deteriorating in certain areas such as squatting on foreign trademarks and designs, where whole industrial designs were now being imitated under the cover of design patents which were not examined, and for which there were no deterrent remedies against squatting. In addition, the Internet and trade shows increasingly provided vehicles for widespread imitation and infringement, including export of counterfeit and pirated goods in physical

form or through uploading movies, software, books, and music. As China had become a factory to the world, Chinese counterfeit products were found throughout the world and across every conceivable sector, whether or not the holder of the rights in these products had a factory or presence in China.

55. At last year's TRIPS Council, her delegation had noted several continuing problems in China's enforcement environment, including: local protectionism, institutional deficiencies, over-reliance on weak administrative remedies, and concerns about the compatibility of China's criminal enforcement system with TRIPS requirements. Although some steps had been taken, such as the Ministry of Public Security's Mountain Eagle campaign regarding criminal enforcement of trademarks, more remained to be done.

56. Although the Chinese Government's on-going efforts had had some positive results, there were indications that the system remained non-deterrent. For example, while China was the second largest market for computers in the world, its software market was only the 25th largest. Sales of legitimate movies and music were also artificially low due to a high piracy level. Seizures of Chinese origin goods by foreign customs authorities remained high – over 60 per cent of all seizures in the United States alone – and widespread retail sales of counterfeit and pirated goods could be witnessed in any major Chinese city. These retail sales had been effectively decriminalized by the December 2004 Judicial Interpretation, and relegated to this ineffective administrative system. Her delegation continued to be concerned about the apparent lack of criminal remedies available for certain offences, especially in the critical area of copyright protection, where basic structures of a deterrent criminal remedy were not in place. Her delegation also believed that there should be a criminal remedy against exports of counterfeit goods.

57. The criminal IPR system was especially important to right holders with limited resources, such as SMEs, because they may not otherwise have an understanding of China's IPR system; lacked the capacity to post people in China to handle the local administrative and civil systems; and were confronted with large scale commercial counterfeiting and piracy affecting their traditional markets.

58. She noted that the basic underpinning of TRIPS was rule of law and that criminal procedures required decisions in writing, based on evidence, with a right to counsel, applied by independent judges trained in law, with a right of appeal, according to a clear process, based on proportionate sentencing standards, and other supporting legal structures. A non-deterrent administrative system could not achieve these purposes and could easily become self-serving and prejudicial against foreign rights, particularly when local laws required discriminatory treatment in favour of domestic right holders.

59. In this year's TRM, her delegation had pointed to specific local statutes that provided enhanced enforcement or allocation of resources for local companies and had also inquired about other mechanisms that could be described as promoting interests of Chinese right holders or potential right holders over those of other Members. In this regard, she noted her delegation's concern that much of China's enforcement efforts appeared to be directed in favor of China's own companies. For example, according to the data for 2004, over 98 per cent of China's administrative copyright cases had been on behalf of Chinese right holders, while approximately only 10 per cent of all administrative trademark cases had been undertaken on behalf of foreigners.

60. While China's responses to these questions were appreciated, her delegation noted that not all questions had been fully answered and no responses had been received to the questions regarding GIs and famous brands, as well as to most of the questions posed with regard to copyright. Her delegation was looking forward to hearing further answers from the Chinese delegation in this multilateral forum as well as in their bilateral discussions.

61. The representative of Canada thanked China for the information provided and said that his delegation acknowledged China's ongoing efforts in designing and passing legislation and regulations to deal with IP rights and enforcement. He informed the Council that last week Canada had hosted a Chinese delegation from the National Copyright Administration and other departments for a study visit to review copyright legislation and enforcement issues, which had allowed a useful exchange of information between officials engaged in policy, legal, administrative and enforcement activities.

62. In addition to the well-known economic consequences, his delegation had increasing concerns over the public health and safety aspects of counterfeits and fakes and therefore urged China to continue to place a priority on improving IP enforcement. His delegation was looking forward to continuing to work with China on this and other IP issues.

63. The representative of China thanked Members that had made reasonable and sound comments on China's IPR protection. With regard to those Members that had made critical comments, he expressed his hope that a careful study of his speech could bring about a better and more realistic understanding of the challenges and difficulties the Chinese Government was facing in dealing with IP protection. He said that it was unfortunate that there were few reasonable and rational in-depth explorations of the reasons for IP infringement problems, which were a prevailing phenomenon across the world and the reasons for which, in his view, would ultimately be found to be economic.

64. He noted that IPR infringement activities in China were increasingly being organized by foreign investors or criminals who sought to profit from these illegal activities. One of these cases, that had been concluded earlier this year in Shanghai, concerned an American citizen who had set up a 3-Dollar DVD website (registered in Russia) and had conducted his illegal piracy activity in China. This American citizen had now been punished in accordance with the well-designed Chinese IPR laws and regulations.

65. He urged those Members who had submitted questions to study the responses in detail and to read the "White Paper" his delegation had submitted. His Government had been breaking its back fighting against domestic IP infringement and, instead of pointing the finger at the Chinese Government, Members should offer their help and support in this fight. He expressed his hope that, if Members would take a more developmental perspective on the Chinese IPR situation, they would stand shoulder to shoulder with the Chinese Government to fight against this phenomenon of IPR infringement, not only in China but across the world.

66. Turning to the Council's reporting obligation to the General Council, the Chairman suggested that the Council follow the same procedure as the previous year, namely that the Chairman, acting on his own responsibility, would prepare a brief, factual report. The content of the cover page to the report would be similar to that of the report submitted by the Council in 2004 and the part of the minutes reflecting the discussions held under this agenda item would be attached.

67. The Council took note of the statements made and agreed to proceed as suggested by the Chair.
