

## IP NEGOTIATIONS MONITOR

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*The IP Negotiations Monitor summarizes the latest developments in multilateral and regional fora where intellectual property negotiations are taking place, and informs on upcoming meetings and events.*

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## WORLD TRADE ORGANIZATION (WTO)

### TRIPS Council

The TRIPS Council convened on **10-11 October 2013** in Geneva, Switzerland. The meeting addressed several issues including the latest proposal for plain packaging for tobacco products, the question of whether high import duties make medicines more difficult to obtain, the contributions of intellectual property in sport to innovation and economic growth, and “non-violation” cases.

Below is a summary of the key positions and outcomes from the Council’s meeting:

#### *Plain Packaging for Tobacco*

Ireland had published a new policy report,<sup>1</sup> which proposed compulsory plain packaging (using standard colours and typefaces instead of brand logos, usually with large health warnings) for cigarettes and other tobacco products, as a means to discourage smoking and improve health. Opposing the policy, the Dominican Republic, supported by Cuba, Honduras and Nicaragua expressed concerns that the Irish proposal could hurt their producers, and would violate countries’ right to market products using trademarks and geographical indications.

The EU argued that the TRIPS Agreement allows countries to take measures to protect public health. Furthermore, it was noted that plain packaging is recommended by the WHO Framework Convention on Tobacco Control. The EU’s position was supported by Australia, New Zealand, Canada, Norway, and Uruguay.

In March 2012, Ukraine had launched a legal challenge against an Australia bill on plain packaging, which has since been written into Australian law. This was followed by four additional complaints by Honduras, the Dominican Republic, Cuba and Indonesia. On September 25, 2013 the WTO’s dispute settlement body established panels for the Ukraine and Honduras cases, but no panellists have been appointed nor have there been any hearings.

#### *Intellectual Property and Health*

Two issues were discussed in the TRIPS Council on IP and health: 1) extension of the deadline for adoption of the protocol introducing Article 31 *bis* by amending the TRIPS agreement; and 2) annual review of the “paragraph 6” system.

WTO members agreed to extend the deadline for countries accepting the protocol, amending TRIPS on public health (Article 31 *bis*), for an additional two years. The amendment is based on a waiver<sup>2</sup> adopted by the Council in 2003, which would make it easier for poorer countries to obtain cheaper generic versions of patented medicines by setting aside the provisions outlined in Article 31 of the TRIPS Agreement. The provisions restrict the exportation of pharmaceuticals manufactured through compulsory licences to countries that are unable to produce them domestically. The amendment requires formal acceptance by two-thirds of the WTO membership to take effect.

The annual review of the “Paragraph 6 System” also took place during the meetings. Import tariffs on medicines were the central focus of the discussion. The US and the EU argued that tariff reductions on medicines presented an alternative policy measure to improve the access to medicines. Countering that argument, India and China observed that import tariffs could be used to stimulate local production. Developing countries restated their call for a workshop to provide more information on the Paragraph 6 system.

#### *Intellectual Property and Sport*

The meeting also featured discussions regarding the link between intellectual property and sports for the first time in the TRIPS Council. Proponents of this topic included Jamaica as well as Trinidad and Tobago. Pointing to their success in athletics and cricket both countries stressed that IP was an essential component of sports, noting that it had generated significant contributions to their economic development.

Other countries expressed concern that discussions about sports would distract members from more serious considerations relating to food security, access to medicines and tackling biopiracy. Venezuela, China, India, Bolivia, Cuba, Ecuador and Nepal also opposed discussions on sports. Some of these countries argued that the discussions might duplicate the work being carried out by the World Intellectual Property organization on broadcasting rights.

#### *Non-violation Complaints*

The TRIPS Council recommended the Ninth Session of the WTO Ministerial Conference to direct the Council to continue its examination of the scope and modalities for non-violation and

<sup>1</sup><http://www.dohc.ie/publications/pdf/TobaccoFreeIreland.pdf?direct=1>.

<sup>2</sup> The waiver which refers to the “Paragraph 6 System, finds its basis in Paragraph 6 of the 2001 DOHA declaration on TRIPS and Public Health. [http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_trips\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm).

situation complaints, make recommendations to the next session of the Ministerial Conference in 2015 and continue the moratorium until then. This recommendation was approved by the Ninth Session of the Ministerial Conference in Bali in December 2013. Thus, the moratorium has been extended until December 31, 2015.

Member states have historically disagreed about whether these complaints - used in disputes where countries have not violated an agreement or broken a commitment, but are accused of depriving another member of their expected benefits – are possible in intellectual property.

When TRIPS came into force, members issued a moratorium agreeing to prohibit the use of non-violation complaints under the Agreement. Since then the moratorium has been extended at every WTO ministerial conference.

The US and Switzerland have argued that non-violation complaints are possible in TRIPS, while most other countries have disagreed.

Members will discuss four possibilities to deal with the issue in 2014. They include:

- Banning non-violation complaints in TRIPS completely (as would happen if no further extensions are agreed)
- Allowing the complaints to be handled under the WTO's dispute settlement rules, as applies to goods and services cases
- Allowing non-violation complaints but subject to special "modalities" (i.e. ways of dealing with them)
- Extending the moratorium (or making it permanent)

### *Biodiversity*

There are two issues for consideration in the TRIPS Council in relation to IP and biodiversity: 1) the relationship between TRIPS and the Convention on Biological Diversity (CBD); and 2) introducing a requirement for mandatory disclosure of the source of genetic resources and associated traditional knowledge by patent applicants.

Members' positions remained largely unchanged in discussions regarding the relationship between the TRIPS Agreement and the UN Convention on Biological Diversity (CBD). The issue, which has been on the Council's agenda since 2002, is linked to developing countries' concerns about biopiracy as well as the misappropriation of genetic resources and traditional knowledge.<sup>3</sup> Following the Doha ministerial declaration,<sup>3</sup> which instructed the TRIPS Council to examine the relationship

between the TRIPS and the Convention on Biological Diversity, several developing countries submitted a proposal affirming the need to ensure a mutually supportive relationship between the two instruments.<sup>4</sup> Notably, the proposal highlighted the potential for conflicts between TRIPS and the CBD, regarding the patenting of biological resources. However, some developed countries have argued that the agreements are not conflictual.

The related discussions regarding the introduction of a mandatory disclosure requirement in the TRIPS Agreement can be traced back to 2006. At that time Brazil, China, Colombia, Cuba, Pakistan, Peru, Thailand and Tanzania submitted a proposal<sup>5</sup> requesting an addendum to Article 29 of TRIPS that would require patent owners to disclose the source of the genetic resources and related traditional knowledge used in their inventions. If the amendment is implemented, TRIPS would mirror the provisions in the CBD, which stipulate that benefits received from patented inventions should be shared with local communities. The CBD also calls for patent owners to obtain prior consent for the use of resources and knowledge in their inventions.

Since the initial proposal was submitted several countries including Indonesia, Egypt, Bangladesh, Ecuador, Switzerland, the EU and Sri Lanka, have put forward arguments in support of the proposed amendment to the Agreement. However, the Republic of Korea, the US, Japan, Canada and Australia have repeatedly expressed their opposition to "disclosure", arguing that the issue should be discussed at the World Intellectual Property Office. Furthermore it has been observed that a disclosure requirement may not be the best means to prevent inappropriate patenting as well as the misappropriation of genetic resources and traditional knowledge.

Within the context of the discussions on biodiversity, Bolivia, supported by Bangladesh, Ecuador and Venezuela also repeated their opposition to the granting of patents for life forms. The initial request for a ban on the patenting of all life forms was outlined in a proposal submitted by Bolivia in 2010. The proposal also calls for preventing anti-competitive practices, protecting the innovations of indigenous and local farming communities as well as prohibiting the granting of intellectual property rights over the latter's traditional knowledge.<sup>6</sup>

<sup>4</sup> See WTO document I/C/W/356: [http://www.wto.org/english/tratop\\_e/trips\\_e/art27\\_3b\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/art27_3b_e.htm).

<sup>5</sup> See WTO document I/C/W/474: [http://www.wto.org/english/tratop\\_e/trips\\_e/art27\\_3b\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/art27_3b_e.htm).

<sup>6</sup> See WTO document IP/C/545.

<sup>3</sup>[http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm).

## *Intellectual Property, Climate Change and Green Technology*

Ecuador repeated its call for an examination of whether intellectual property can serve to obstruct technology transfer and increase the cost of green technologies, based on the recommendations set forth in its proposal to the TRIPS Council in March, 2013.<sup>7</sup> Some of the recommendations outlined in the document include, a reaffirmation of the flexibilities in TRIPS regarding environmentally-sound technologies (ESTs), a review of Article 31 of the Agreement to determine which of its provisions may excessively restrict access to ESTs and an evaluation of reducing the length of time patents can be applied to green technologies.

Ecuador also asked members to consider issuing a declaration at the WTO Ministerial Conference in Bali highlighting the flexibilities available in the TRIPS Agreement, similar to the 2001 Doha Ministerial declaration on TRIPS and Public Health. The proposal has received support from Bolivia, Indonesia, Cuba and India.

While affirming the importance of the flexibilities under TRIPS, Brazil observed that other incentives for innovation are also important, as are the problems of low quality patents and finance.

The developed countries reiterated their position that intellectual property facilitates the transfer of technology. They also objected to the comparison of green technologies to pharmaceutical patents, noting that the former is a part of considerably more competitive industry.

### *Technology Transfer to Poorer Countries*

As a part of the Council's annual review of technology transfer,<sup>8</sup> fifteen developed countries, including the EU and seven of its member states individually, submitted detailed reports of their activities pursuant to Article 66.2 of the TRIPS Agreement. Article 66.2 requires developed countries to provide incentives to their enterprises to transfer technology to least developed countries (LDCs).

Since 2011 the LDC Group has been requesting that the Council formally adopt a standardized format for the presentation of future reports, as a means to improve their ability to efficiently assess

the programmes outlined therein. However, some developed countries have argued that a standardized format might be difficult to implement.

The LDC Group also noted that it was currently considering the possibility of engaging in the revision of the 2003 Decision which established the annual review. The aim of the revision would be to improve the presentation of the reports, fix the parameters as to what it is understood by "technology transfer", as well as establish a framework that takes into account the situation on the ground.

Highlighting the opposition that the LDC request for a standardized format had faced, India expressed concern that the reporting by developed countries was "ritualistic and non-serious". As a result, the Indian delegation urged developed countries to consult with the LDC members to find an "amicable solution" so that the goal of technology transfer could be realised.

In response both the EU and the US voiced their opposition to the statement made by India, noting that they had devoted significant time and resources in producing the reports and achieving the goal of technology transfer to the LDCs.

The Council also reviewed technical assistance that has been provided to developing countries by developed countries and intergovernmental organizations.

During the meeting it was noted that some members had not yet provided updated information on their technical cooperation activities, or had only recently submitted the information. Thus, it was agreed that these countries would be provided with the opportunity to present the information at the Council's next meeting.

### **Dispute Settlement: TRIPS Disputes**

#### *Indonesia Files Dispute against Australia over Tobacco Plain Packaging*

On September 20, 2013, Indonesia sent notification to the WTO Secretariat, requesting consultations regarding Australia's plain packaging requirements applicable to tobacco products and packaging. The move follows similar actions, which have been taken by Ukraine, Honduras, Dominican Republic and Cuba.

Challenging Australia's Tobacco Plain packaging Act of 2011 and the associated regulations, Indonesia claimed that the measures appeared to be inconsistent with Australia's obligations under

<sup>7</sup> See WTO Document IP/C/W/585 : <http://www.wto.org/wto/center.org.tw/SmartKMS/fileviewer?id=131645>

<sup>8</sup> See WTO Document IP/C/28. The decision to establish the annual review was adopted in 2003, following the DOHA Ministerial declaration, which instructed the Council to put a mechanism in place to ensure the monitoring and full implementation of the obligations in Article 66.2.

the WTO's Technical Barriers to Trade Agreement, TRIPS and the GATT 1994.

Several countries submitted requests to join the consultations. These countries include Brazil, Canada, Cuba, the Dominican Republic, the European Union, Guatemala, Honduras, New Zealand, Nicaragua, Norway, Ukraine, and Uruguay

### **Ninth WTO Ministerial Conference**

The WTO's ninth Ministerial Conference took place in Bali, Indonesia from **December 3 – 7 2013**.

WTO ministers in Bali endorsed the TRIPS Council's recommendation for an extension of the moratorium on non-violation and situation complaints. The decision issued by the Ministerial Conference also directed the Council to continue its examination of the potential scope and modalities of these kinds of complaints under TRIPS.<sup>9</sup>

### **Future WTO Meetings**

The TRIPS Council's next regular meeting is scheduled to take place from **25-26 February**.

## **WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)**

### **Program and Budget Committee (PBC): Twenty-First Session**

The WIPO Program and Budget committee held its twenty-first session from **9-13 September 2013** in Geneva, Switzerland. The meeting was chaired by Hisham Badr of Egypt.

The PBC is one of the main bodies in which member States carry out their oversight function of the WIPO Secretariat's activities in implementing the program and budget, as approved by member States.

The PBC discussed the Program Performance Report (PPR) for 2012, financial statements of 2012, status of payment of contributions, status of utilization of reserves, the proposed Program and Budget for 2014/15 biennium, progress reports on 4 projects (implementation of a comprehensive integrated enterprise resource planning (ERP) system, new conference hall project and new construction project, upgradation of the safety and

security of the existing WIPO buildings, and information and communication technology (ICT) capital investment project), progress report on implementation of the new WIPO language policy, audit and oversight report by the independent audit and oversight committee (IAOC), report of the selection panel for the appointment of new members of the WIPO IAOC, report of the director of the Internal Audit and Oversight Division (IAOD), report by the external auditor, review of WIPO governance, and progress report on the implementation of the Joint Inspection Unit's (JIU) recommendations.

The PBC carried out a very detailed review of the PPR. The PPR is a report by the Secretariat in which it carries out a self-assessment of its work in meeting the goals set out in the Program and Budget document that is devised every two years. From this review surfaced a number of areas for improvement, which the PBC requested be incorporated as an annex to the PPR in document WO/PBC/20/2. The PBC agreed to recommend the approval of the PPR to the Assemblies, with the following language: "The PBC, having reviewed the PPR, and recognizing its nature as a self-assessment of the Secretariat, recommended its approval to the General Assembly, subject to the comments, concerns and suggestions for improvement raised by Member States and reflected in the report of the PBC as well as annexed to the PPR (document WO/PBC/20/2)."

The PBC also recommended the Assembly to approve the Annual Financial Report and Financial Statements for 2012. The PBC further recommended the Assembly to take note of the information on status of payment of contributions and status on utilization of reserves. The PBC approved the proposed Program and Budget for the 2014/15 biennium subject to the following:

1. Increase the overall budgetary envelope to address implementation of the Language Policy in the amount of CHF 793'000 in program 27
2. Reinstatement of program 30 on SMEs and innovation with no change in the content for SMEs and innovation in Program 10
3. Agreement during the Assemblies on program 20 relating to external offices and
4. Reflection of certain agreed changes in the Financial Overview for program 1, 2, 3, 8, 9, 11, 15, 17, 23, 27 and 30.

The PBC also requested the Assemblies to decide on program 18 (IP and global challenges) and the issue of a Diplomatic Conference for DLT (program 2) and a diplomatic conference for the IGC texts (program 4).

<sup>9</sup>[http://wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/tempdocs\\_e.htm](http://wto.org/english/thewto_e/minist_e/mc9_e/tempdocs_e.htm).

The PBC recommended the Assemblies to approve the Program and Budget taking into consideration the above recommendations. The PBC further recommended the Assemblies to take note of the progress reports on 4 projects.

With regard to implementation of the WIPO language policy, the WIPO Secretariat proposed that the extension of the language policy to the Working Group documents be deferred and considered in the context of preparation for the Program and Budget 2016-17 due to the increase in cost and workload since the adoption of the language policy to provide language coverage in six official UN languages (Arabic, Chinese, French, Russian and Spanish).

The PBC also recommended the Assembly to take note of the report of the IAOC and approve the selection of three new members of the IAOC as recommended by the Selection Panel for the appointment of new members of the IAOC. The PBC recommended the Assembly to take note of the report of the director of IAOD and the report by the External Auditor.

During the 21st session of the PBC, the African Group circulated its proposal on Governance at WIPO, Document WO/PBC/21/20. The proposals extracted a number of Member States' submissions on improving WIPO Governance as contained in WO/PBC/17/2.Rev with a view to kick start and advance the discussion.

The proposals were under the following pillars:

- (i) Improving the work of the Program and Budget Committee: the need for PBC to meet twice a year regularly, need to review HR issues,
- (ii) Improving the work of the Coordination Committee: need to clearly divide responsibilities between PBC and COCO; COCO to be empowered with executive functions.
- (iii) Improving the interaction between Member States and the Independent Advisory Oversight Committee (IAOC): establishment of a smaller PBC Working Group to consider IAOC/JIU recommendations; need for quarterly reports and meetings of IAOC.
- (iv) Improving interaction between Member States and the auditors: need for more regular and formal meetings
- (v) Establishing a fair and efficient mechanism to select Chair and Vice Chairs of WIPO Bodies: need to ensure quality, fairness and expertise and clear

selection process. The proposal also called for an inter-sessional meeting to be held in February 2014 with a view to present specific recommendations for PBC 22.

The PBC could not reach any agreement on any recommendation regarding review of WIPO governance. The PBC recommended the Assembly to consider this issue and take an appropriate decision.

The PBC invited the Assembly to consider the report on the progress in implementation of the JIU recommendations and take appropriate action.

### **Assemblies of the Member States of WIPO: Fifty-First Series of Meetings**

The Fifty-First Series of Meetings of the Assemblies of the member States of WIPO (the 2013 WIPO Assemblies) took place from **23 September to 2 October 2013** at the International Conference Center Geneva (CICG), with the participation of 186 member States and observers.

The WIPO Assemblies include the main decision making bodies of WIPO which are the General Assembly and the WIPO Coordination Committee, and the nineteen assemblies and other bodies of the member States of WIPO and of the Unions for various Treaties administered by WIPO. These meetings bring together WIPO's member States, allowing them to take stock of the progress in the organization's work and to discuss future policy directions.

Last year's session of the WIPO Assemblies had a particularly heavy agenda with a number of key issues forwarded to the Assemblies for decision making from the 21st session of the Program and Budget Committee (PBC) held in September which had ended in deadlock on a number of items, including the approval of the Program and Budget for the 2014/2015 Biennium and the establishment of new external WIPO offices. The Assemblies also had to decide, among other things, on whether to renew the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), whether to convene a Diplomatic Conference for the adoption of a Design Law Treaty (DLT), and also to take a number of decisions relating to the work program of the Standing Committee on Copyright and Related Rights (SCCR).

However, despite spending most of the time in informal consultations, the General Assemblies

were unable to reach consensus on all the agenda items. The Chair, Amb. Päivi Kairamo of Finland proposed the suspension of the WIPO General Assembly citing the inability to complete the business prior to the midnight of 2nd October. She announced that an Extraordinary Session would be convened in December where decisions on a number of outstanding issues will be required including the approval of WIPO's Program and Budget for the next two years.

The Assemblies had also opened with some controversy regarding the convening of the WIPO Forum 2013 with the theme "From Inspiration to Innovation: The Game-Changers" during the afternoon of the 2nd day of the Assemblies. There had been no prior Member State approval regarding the convening of this Forum. The Development Agenda Group (DAG) which is a group of developing countries in WIPO said that although parallel events were important, "they should not affect the substantive discussions among member states unless there is a decision on this subject." In similar vein, the African Group said that any such future forum should be held on the sidelines of the Assemblies.

The Assemblies decided that member states should continue informal consultations with the view of finalizing the definition of "Development Expenditure" for the next session of the PBC and in time, for the preparation for the Program and Budget in 2016/17. However, the proposal by the African Group and DAG on governance reforms in WIPO that was transmitted for discussion by the PBC was not adopted by the Assemblies.

The WIPO General Assembly called upon the CDIP to discuss implementation of the CDIP Mandate and the implementation of the coordination mechanism during its next two sessions and report to the General Assembly in 2014.

One of the decisions before the WIPO General Assembly of great consideration for developing countries was the renewal of the mandate of the IGC Committee which undertakes work in relation to IP, genetic resources, traditional knowledge and traditional cultural expressions. The General Assembly decided to renew the mandate of the IGC for the 2014/2015 biennium and instructed the IGC to hold three sessions in 2014 and to finalize the legal instrument(s) for the protection of GR, TK and TCE in 2014 when it reports to the GA. The IGC can also consider the need for additional meetings.

The schedule of meetings of the IGC would include:

- (i) The next IGC in February 2014 with a focus on Genetic Resources for five days;

- (ii) April 2014, a focus on Traditional Knowledge and Traditional Cultural Expressions for ten days;
- (iii) July 2014, a cross cutting session and stock taking for three days and
- (iv) September 2014 for the WIPO GA to finalize the text(s); take stock of and consider the text(s), progresses made and decide on convening a Diplomatic Conference.

At the beginning of the first meeting in February a meeting of Ambassadors/senior capital-based officials will be held "to share views on key policy issues relating to the negotiation, to further inform/guide the process". The IGC may decide to hold further such meetings during the sessions in April and July.

The WIPO General Assembly was called upon to make a decision on another WIPO norm setting activity and to decide whether to convene a diplomatic conference for the adoption of a Design Law Treaty in 2014. However no decision was reached by the General Assembly and this was deferred to the Extraordinary Session in December.

The WIPO General Assembly decided that the Standing Committee on Copyright and Related Rights (SCCR) should continue its current work. Currently the SCCR is considering norm setting processes on exceptions and limitations for libraries and archives, exceptions and limitations for educational, teaching and research institutions, and an international treaty for the protection of broadcasting organizations.

The WIPO General Assembly was unable to take any decision on the applicability of the coordination mechanism with the CDIP to the Committee on WIPO Standards (CWS).

The Assembly GA approved the recommendation of the PBC that the Secretariat continue to apply the measures to further reduce the number and average length of working documents; and to commence the six-language coverage known as the WIPO Language Policy, for the documentation for the Working Groups, in a "phased and cost effective manner", during the biennium 2014/2015.

The WIPO General Assembly also noted the procedural steps for the appointment of the new Director General in 2014 and approved the convening of the WIPO General Assembly on May 8 and 9, 2014. New Members were elected for the Executive Committees of the Paris and Berne Unions, the WIPO Coordination Committee and



the Program and Budget Committee. The General Assembly approved the convening of a Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications in 2015.

Member States also agreed to convene an extraordinary session of the Assemblies from **December 10-13, 2013 in Geneva.**

### **Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications: Thirtieth Session**

The Thirtieth Session of the SCT was held from **November 4-8, 2013** in Geneva, Switzerland.

The Committee's discussions focused on industrial designs and the potential Industrial Design Law Treaty (DLT) as well as trademarks in regards to protection of country names and Geographical Indications.

#### *Design Law Treaty*

The Committee's discussions on a possible design law treaty mirrored the discussions, which had taken place during the General Assembly in September. While there was a general consensus among member states regarding the establishment of the treaty, an agreement could not be reached on the issue of technical assistance and capacity building.

Developing countries reiterated their position that the treaty should include an article on technical assistance and capacity building, which would require mandatory action on the part of member states. However, some developed countries expressed a preference for a resolution, which would grant them more flexibility in providing technical assistance.

Since there was no agreement on this issue, the question of whether to proceed with a diplomatic conference was transmitted to the extraordinary session of the General Assembly.

#### *Trademarks*

The discussions on trademarks were predominantly focused on the protection of country names, for which a draft document had been issued.<sup>10</sup> Several delegations stressed the importance of continuing work on this issue.

Developing countries observed that country names were the strongest association with a country but that their protection was neither unified nor comprehensive. Some countries

<sup>10</sup>[http://www.wipo.int/edocs/mdocs/sct/en/sct\\_30/sct\\_30\\_4.pdf](http://www.wipo.int/edocs/mdocs/sct/en/sct_30/sct_30_4.pdf).

requested that the SCT begin work on a possible joint resolution. However other countries expressed doubts about the request and asked that further studies be conducted on the issue.

Delegations were subsequently invited to submit their proposals in writing to the Secretariat by the end of the year. The proposals are to be compiled into a working document for consideration in the SCT's next session.

#### *Geographical Indications*

The US submitted a new proposal (SCT/30/7)<sup>11</sup> to the SCT to reopen discussions on Geographical Indications (GIs).<sup>12</sup> The proposal includes a request for work exploring the feasibility of a filing system for GIs and asks the secretariat to carry out studies on national approaches to topics related to GIs. Although a large number of delegations broadly support work on GIs in the SCT, there was a marked difference of opinion regarding the US proposal.

Some member States expressed concern that the proposal was an attempt by the U.S to delay the work being carried out by the Lisbon Working Group. The working group has been considering extending its protection system on appellations of origin to include GIs, as a part of its efforts to attract more members to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. While the U.S is not party to the Agreement, it has opposed these efforts, asserting that they exceed the group's mandate. The US has also voiced its opposition to the diplomatic conference which will be held to finalize the revision to the Lisbon Treaty in 2015.

Other delegations asked that the US proposal be discussed in a later session of the SCT, so as to provide member States with more time for consideration.

The next meeting of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications will be held from **17-21 March 2014.**

### **Committee on Development and Intellectual Property (CDIP): Twelfth Session**

The Twelfth Session of Committee on Development and Intellectual Property (CDIP) was held from 18-21 November 2013 in Geneva.

<sup>11</sup>[http://www.wipo.int/edocs/mdocs/sct/en/sct\\_30/sct\\_30\\_7.pdf](http://www.wipo.int/edocs/mdocs/sct/en/sct_30/sct_30_7.pdf)

<sup>12</sup>Geographical indications identify a good originating in a territory, region or locality, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin.

Discussions in the committee focused on conducting an independent review to evaluate how the 2007 WIPO Development Agenda Recommendations have been implemented in the organization. The Independent Review is a component of the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities (Coordination Mechanism) adopted by the 2010 General Assembly to implement the CDIP mandate with the aim of mainstreaming the Development Agenda across WIPO bodies as well as to monitor and assess implementation of the WIPO Development Agenda.

During the eleventh session of the CDIP, the Development Agenda Group and the African Group had submitted a joint proposal (CDIP/11/8) on the terms of reference (ToR) of the independent review. Developed countries did not submit any proposal but submitted drafting suggestions during informal drafting group meetings in the twelfth session of the CDIP. Though there was consensus on the scope and purpose of the review, further work was required on the methodology and selection of experts. Members were unable to arrive at a consensus regarding the terms of reference (ToR) of the independent review. And it was agreed that the discussion on the ToR would be continued in the next session of the CDIP.

Other items deferred to the Committee's thirteenth session include an international conference on IP and development, the implementation of recommendations from the external review of WIPO's technical assistance, the 2013 WIPO General Assembly decision on CDIP matters, and the report by the director general on the implementation of the Development Agenda.

The next meeting of the Committee on Development and Intellectual Property will be held from **19-23 May 2014 in Geneva**.

### **Assemblies of the Member States of WIPO: Fifty-Second Series of Meetings**

Following the impasse at the Fifty-First Session of the Assemblies of the member states of WIPO, delegates reconvened in an extraordinary session of the Assemblies in Geneva from **10-12 December** to address the issues that remained unresolved at the end of the September Assemblies.

WIPO member States approved the Program and Budget for the 2014-2015 biennium during the session.

The extraordinary General Assembly also adopted a resolution<sup>13</sup> on the establishment of external

<sup>13</sup>[http://www.wipo.int/edocs/mdocs/govbody/en/a\\_52/a\\_52\\_6\\_prov\\_1\\_add\\_1.pdf](http://www.wipo.int/edocs/mdocs/govbody/en/a_52/a_52_6_prov_1_add_1.pdf)

offices in China and Russia. However no agreement was reached regarding the proposal for offices in Africa and the United States. Heading into the extraordinary session several member states had submitted a set of guiding principles<sup>14</sup> to facilitate a decision on the establishment of new offices. However the extraordinary Assembly could not reach a consensus on the guidelines.

With regard to governance at WIPO, the General Assembly issued a decision<sup>15</sup>, which asks the Secretariat to organize an information session with the UN Joint Inspection Unit regarding their report on management and administration at WIPO. The session is to be held before the 22nd session of the Program and Budget Committee. The decision also requests that member States submit proposals on Governance at WIPO, which will be discussed during the PBC's 22nd session.

The General Assembly could not issue a decision regarding the convening of a diplomatic conference for a design law treaty, as member States were unable to find common ground on the issue of technical assistance and capacity building. Another extraordinary session of the General Assembly will take place in May 2014 to consider the progress made on the draft text, and decide on convening a diplomatic conference in 2014.

Members were also unable to arrive at an agreement regarding a treaty for the protection of broadcasting organizations. Instead, the General Assembly issued a decision, which refers the question of a treaty back to the Standing Committee on Copyright and Related Rights, which met from 16-20 December.

The General Assembly similarly issued a decision requesting the Committee on WIPO Standards to continue further discussions on its outstanding issues, including the question of whether the committee should report on its activities in relation to the WIPO Development Agenda Recommendations.

### **Standing Committee on Copyright and Related Rights: Twenty-Sixth Session**

The Twenty Sixth Session of the WIPO Standing Committee on Copyright and Related Rights was held from **16-20 December in Geneva, Switzerland**. The session included discussions on a potential new treaty to protect broadcasting organizations, discussions on texts on exceptions and limitations to copyright for libraries and

<sup>14</sup>[http://www.wipo.int/edocs/mdocs/govbody/en/a\\_52/a\\_52\\_5.pdf](http://www.wipo.int/edocs/mdocs/govbody/en/a_52/a_52_5.pdf)

<sup>15</sup>[http://www.wipo.int/edocs/mdocs/govbody/en/wo\\_ga\\_44/wo\\_ga\\_44\\_3.pdf](http://www.wipo.int/edocs/mdocs/govbody/en/wo_ga_44/wo_ga_44_3.pdf)

archives, and for educational and research institutions and persons with other disabilities.

During the session India, Japan and the United States submitted proposals to instruct the committee's work in the area of a treaty for the protection of broadcasting organizations. The draft conclusion<sup>16</sup> issued by the committee, suggested that member States were moving closer to an agreement on the beneficiaries and scope of the instrument. However, several countries noted that the conclusion did not reflect many unresolved issues.

One notable area of disagreement relates to a possible extension of the scope of protection in the treaty to cover transmissions over the Internet, when originating from traditional broadcasters. India observed that this extension was beyond the mandate of the SCCR, which was instructed by the General Assembly to advance work on an international treaty to update the protection of broadcasting and cablecasting organizations in the "traditional sense". Other delegates observed that the mandate implied that more recent technological developments would be taken into account.

During the meetings members also discussed exceptions and limitations to copyright for libraries and archives with the aim of possibly establishing legal instruments. Developing countries have shown strong support for the creation of an international legal instrument, outlining exceptions and limitations for libraries and archives. Some countries have also drawn a parallel between the committee's current work on exceptions and limitations and the recently adopted Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or otherwise Print Disabled.

However, developed countries have stressed that current exceptions and limitations in the copyright system are sufficient. Furthermore most developed countries have noted that the issue would be better addressed by national legislation and not through international binding norms. Finally, they noted that the Marrakesh Treaty was in response to an exceptional situation and expressed concerns that further work on exceptions to copyright would weaken the international copyright system.

During the session the Committee also began discussions regarding a potential legal instrument(s) on exceptions and limitations to copyright for education, research, and persons with other disabilities. However, member states remained divided about whether the instrument

under consideration should take the form of a joint recommendation, model law or treaty.

As part of these discussions, delegates also reviewed the "Provisional working document towards an appropriate International Legal Instrument on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions",<sup>17</sup> which is to serve as the basis for future text-based work to be undertaken by the Committee in its 27th session.

In line with the Committee's work on this issue, the Secretariat was asked to update the regional studies on limitations and exceptions for educational, research and teaching institutions as well as examine the possibility of commissioning a study on copyright and related rights limitations and exceptions for persons with disabilities other than blindness, visual impairment, or print disabilities.

### **Standing Committee on the Law of Patents: Twentieth Session**

The Standing Committee on the Law of Patents (SCP) held its 20<sup>th</sup> session from **27-31 January 2014** in Geneva, Switzerland.

The discussions were focused on exceptions and limitations to patent rights, patents and health, quality of patents, client-patent advisor privilege, and patents and transfer of technology. The objective of discussions in the SCP is to develop a work program for the SCP on patent law related issues.

The session included a seminar on exceptions and limitations to patent rights, during which the Secretariat presented information received from member states<sup>18</sup>, on how exceptions are being implemented as they relate to:

- i. Private and or non-commercial use
- ii. Experimental use and or scientific research
- iii. Preparation of medicines
- iv. Prior use
- v. Use of articles on foreign vessels, aircrafts and land vehicles

The seminar also included a presentation led by WIPO's Chief Economist, Carsten Fink on the effectiveness of exceptions and limitations when addressing development concerns and how

<sup>16</sup>[http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_26/sccr\\_26\\_conclusions.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_26/sccr_26_conclusions.pdf)

<sup>17</sup> See WIPO Document SCCR/26/4 Prov: [http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_26/sccr\\_26\\_4\\_prov.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_26/sccr_26_4_prov.pdf).

<sup>18</sup> See documents SCP/20/3 – 7, prepared by the secretariat: [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=30925](http://www.wipo.int/meetings/en/details.jsp?meeting_id=30925).

national capacities affect the use of exceptions and limitations.

Following the presentation several countries shared their experiences in implementing exceptions and limitations in the five aforementioned areas, noting difficulties encountered and potential solutions.

The 20<sup>th</sup> session of the SCP also featured a presentation by the IP and Global Challenges Program. The presentation highlighted patent-related aspects of the program's activities, as a means to increase member States' awareness of its work in this area.

Under the agenda item on Patents and Health several member States also shared their national experiences in the use of health-related patent flexibilities.

### *Future Work*

Member States agreed that regarding the committee's future work on exceptions and limitations, the Secretariat will prepare a document on exceptions as they are implemented in member States in relation to: obtaining regulatory approval, exhaustion of rights, compulsory licensing and government use, and farmers' and breeders' use.

The SCP's future work will also include activities regarding the quality of patents and opposition systems. In this area, studies will be conducted on the inventive step and sufficiency of disclosure. The Secretariat will also carry out an information sharing session on international work sharing and collaboration among patent offices.

In the realm of patents and health, a feasibility study will be conducted on the disclosure of International Nonproprietary Names (INNs) in patent applications and patents. Additionally, for the SCP's twenty-first session, the Secretariat will prepare a study on "the role of patent systems in promoting innovative medicines, and in fostering the technology transfer necessary to make generic and patented medicines available in developing countries/least developed countries."

With regard to the committee's work on the confidentiality of communications between clients and their patent advisors, it was agreed that the Secretariat will publish on its website<sup>19</sup>, a more accessible version of the document<sup>19</sup>, which compiles member States' experiences in this area. Additionally, a half-day seminar will be held in the committee's next session on the confidentiality of advice from patent advisors and

practical experiences of clients as well as patent advisors.

Finally, for the committee's work on the transfer of technology, the Secretariat will collect more practical examples and experiences on "patent-related incentives and impediments" to technology transfer from members and SCP observers. Particular attention will be given to examples coming from developing countries.

### **Future WIPO Meetings**

The Twenty-Sixth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore will be held from **3-7 February** in Geneva, Switzerland.

The Ninth session of the Advisory Committee on Enforcement will be held from **3-5 March** in Geneva, Switzerland.

The Thirty-First session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications will be held from **17-21 March** in Geneva, Switzerland.

The Twenty-Seventh Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore will be held from **24-31 March** in Geneva, Switzerland.

### **INTERNATIONAL UNION FOR THE PROTECTION OF PLANT VARIETIES (UPOV)**

#### **UPOV Council Forty-Seventh Session**

The Forty-Seventh Ordinary Session of the UPOV Council was held on the **24<sup>th</sup> October 2013** in Geneva, Switzerland.

One notable outcome of the session was the release of Plant Variety Protection Statistics. It was stated that, "a total number of 56 members of the Union now offer protection to all plant genera and species (53 in 2012), with 15 members of the Union offering protection to a limited number of plant genera and species."<sup>20</sup>

The Council also noted that there had been a 4.6 percent increase in the number of titles in force, as well as a 1.1 percent increase in the number of applications for plant variety protection.

<sup>19</sup>[http://www.wipo.int/edocs/mdocs/patent\\_policy/en/scp\\_20/scp\\_20\\_ref\\_summaryscp\\_20\\_9.pdf](http://www.wipo.int/edocs/mdocs/patent_policy/en/scp_20/scp_20_ref_summaryscp_20_9.pdf).

<sup>20</sup><http://www.upov.int/export/sites/upov/news/en/pressroom/pdf/pr95.pdf>.

## **Administrative and Legal Committee Sixty-Eighth Session**

The Sixty-Eighth Session of the Administrative and Legal Committee was held on **October 21 2013** in Geneva, Switzerland.

During the session the committee approved the establishment of a working group to develop proposals for a UPOV similarity search tool for variety denomination purposes.

## **Future UPOV Meetings**

The UPOV Administrative and Legal Committee will reconvene on **10 April 2014 in Geneva, Switzerland**.

The next UPOV Council meeting will take place on **11 April 2014 in Geneva, Switzerland**.

## **WORLD HEALTH ORGANIZATION (WHO)**

### **Annual Meetings of WHO Regional Committees**

The Annual meetings of the WHO Regional Committees were held from **September 2<sup>nd</sup> to October 30<sup>th</sup> 2013**. During the meetings, the committees set policy objectives and approved the budget and programmes for each of the six WHO regions (Africa, South-East Asia, Europe, America, Western Pacific, and Eastern Mediterranean).<sup>21</sup>

### **Second Meeting of the Member State Mechanism on Substandard/spurious/falsely-labelled/falsified/counterfeit Medical Products**

The Second Meeting of the Member State Mechanism on Substandard/spurious/falsely-labelled/falsified/counterfeit (SSFFC) Medical Products was held from **28-29 November 2013** in Geneva, Switzerland.

During the meeting, the Steering Committee of the Member State Mechanism submitted its report, which included a draft work plan.<sup>22</sup> Some of the issues to be tackled by the committee, as outlined in the work plan include, strengthening and capacity building of national and regional regulatory authorities and quality control laboratories, cooperation and collaboration among national and regional authorities, education and awareness, as well as the identification of actions,

activities and behaviours that result in SSFFC medical products.

The meeting also included an examination of the Report of the Open-ended Working Group to Identify the Actions, Activities and Behaviours that Result in Substandard/Spurious/Falsely labelled/Falsified/Counterfeit Medical Product.<sup>23</sup>

## **WHO Executive Board**

The World Health Organization (WHO) Executive Board met for its 134<sup>th</sup> session from 20-25 January 2014.

A notable outcome of the meeting was the adoption of a resolution on access to essential medicines.<sup>24</sup> The resolution, which was based on a proposal put forward by China, Libya, and the Republic of South Africa, urges member states to take a number of actions to ensure the access to essential medicines. These measures include, among others: improving national essential medicine selection policies; identifying key barriers to access to essential medicines; and considering as appropriate, adapting national legislation to make full use of the provisions contained in the TRIPS Agreement, including the flexibilities recognized by the Doha Ministerial Declaration on the TRIPS agreement and Public Health and other WTO instruments related to TRIPS.

Members of the board also agreed on the agenda for the Sixty Seventh World Health Assembly (WHA), which is to be held from 19-24 May 2014. Some of the topics to be discussed include the proposed framework for engagement with non-State actors and the financing dialogue on program and budget. Both topics are linked to current discussions regarding reform at the World Health Organization.

Among other issues, regulatory strengthening as well as anti-microbial drug resistance will be addressed at the Sixty-Seventh Assembly. The Executive Board also reviewed the report of the Second Meeting of the Member State mechanism on substandard/spurious/falsely labelled/falsified/counterfeit medical products, which met in Geneva on 28-29 November 2013. The report, which includes a non-exhaustive list of activities that result in SSFFC medical products, will be transmitted to the WHA for consideration.

During the Executive Board meeting, members also examined the follow-up report<sup>25</sup> of the

<sup>21</sup><http://www.who.int/mediacentre/events/2013/regional/en/index.html>.

<sup>22</sup> [http://apps.who.int/gb/ssffc/pdf\\_files/A\\_MSM2\\_2-en.pdf](http://apps.who.int/gb/ssffc/pdf_files/A_MSM2_2-en.pdf)

<sup>23</sup> [http://apps.who.int/gb/ssffc/e/a\\_msm2.html](http://apps.who.int/gb/ssffc/e/a_msm2.html).

<sup>24</sup> [http://apps.who.int/gb/ebwha/pdf\\_files/EB134/B134\\_R16-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/EB134/B134_R16-en.pdf).

<sup>25</sup> See CEWG Follow-up Report:

[http://apps.who.int/gb/ebwha/pdf\\_files/EB134/B134\\_26-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/EB134/B134_26-en.pdf).

Consultative Expert Working Group on Research and Development: Financing and Coordination (CEWG).

In its 2012 report to the WHA, the CEWG had recommended that formal intergovernmental negotiations begin for a binding global instrument for research and development and innovation for health.<sup>26</sup> However the resolution on the CEWG adopted by the WHA at its 66<sup>th</sup> session (WHA66.2)<sup>27</sup> did not include this recommendation. Instead the Assembly requested the Director General to (1) establish a global health research and development observatory within the Secretariat in order to monitor and analyze relevant information on health research and development; (2) review existing mechanisms in order to assess their suitability to perform the coordination function of health research and development; and (3) explore and evaluate existing mechanisms for financial contributions to health research and development and, if there is no suitable mechanism, to develop a proposal for effective mechanisms, and a plan to monitor their effectiveness independently.

The CEWG's follow-up report highlights work that has been done to date, pursuant to the WHA resolution (WHA66.2). It states that the Secretariat has begun the process of establishing the Global Health Research and Development Observatory, and proposes the establishment of a global research and development advisory body as well as an annual research and development stakeholder conference. The report also includes an assessment of the existing mechanisms, such as the Global Fund, to coordinate health research and development. However, it notes that the Secretariat has not yet developed a proposal for new mechanisms.

The Executive Board also reviewed the reports of the Global Technical Consultative Meeting of Experts on the Identification of Health Research and Development Demonstration Projects, and the Global Technical Consultative Meeting of Member States on the Identification of Health Research and Development Demonstration Projects. Both meetings, which took place from 3-5, December 2013, were held pursuant to the request outlined in the WHA66.2 resolution to facilitate the implementation of health research and development projects and to convene a technical consultative meeting in the identification of these projects. The Executive Board is to provide guidance for the implementation of a few projects, in order to report back to the Sixty-eighth World Health Assembly in May 2015.

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<sup>26</sup> See CEWG 2012 Report:

[http://apps.who.int/gb/ebwha/pdf\\_files/WHA65/A65\\_24-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA65/A65_24-en.pdf).

<sup>27</sup>[http://www.wpro.who.int/health\\_research/WHA66.22\\_CEWG.pdf](http://www.wpro.who.int/health_research/WHA66.22_CEWG.pdf).

## Future WHO Meetings

The Sixty-Seventh World Health Assembly (WHA) will take place from **19-24 May 2014**.

The next Annual meetings of WHO Regional Committees will be held from **September 1<sup>st</sup> to 22 October 2014** in Geneva, Switzerland.

## FOOD AND AGRICULTURE ORGANIZATION (FAO)

### International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

*Fifth Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*

The fifth session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) was held during 24-28 September 2013 in Muscat, Oman. Over 450 delegates from almost 100 countries attended the meetings.

During the session it was noted that new efforts were required to generate long-term funding for the Treaty's benefit-sharing fund.

Delegates also discussed at length, the rights and interests of small farmers. They agreed to devote particular attention to increasing awareness, building capacity and promoting the access of farmers and local and indigenous communities to the genetic resources they need to continue their production of vital food crops.

During the session, delegates also spoke of a number of initiatives, to promote the conservation and sustainable use of local and locally adapted crop varieties as well as underutilized crops, and to strengthen the in situ and on-farm conservation of their genetic resources. The initiatives discussed include technology transfer and a public-private partnership for pre-breeding.<sup>28</sup>

## Future ITPGRFA Meetings

The Commission on Genetic Resources for Food and Agriculture (CGRFA) Fifteenth Regular Session will be held from **19-23 January 2015** in Rome, Italy.

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<sup>28</sup> <http://www.planttreaty.org/news/fifth-session-international-treaty-governing-body-concludes-upbeat-note>.

## CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

### Expert Meeting on Article 10 of the Nagoya Protocol on Access and Benefit-sharing

The Expert Meeting on Article 10 of the Nagoya Protocol on Access and Benefit-sharing was held from **17-19 September 2013** in Montreal, Canada.

Under Article 10 of the Nagoya Protocol, the Parties are required to consider both the need for and modalities of a global multilateral benefit-sharing mechanism (GMBSM).

GMBSM aims to realize the fair and equitable sharing of benefits, which originate from the utilization of genetic resources and traditional knowledge associated with genetic resources that occur in trans-boundary situations, or for which it is not possible to grant or obtain prior informed consent.<sup>29</sup>

As a non-negotiation meeting, the participating experts attempted to arrive at a shared understanding on issues related to Article 10, and highlighted potential areas of commonalities among themselves. These included, among others, the assertion that discussions on a GMBSM should be guided by the language of Article 10 and should not undermine State sovereignty, as well as the assertion that GMBSM was not intended to replace the bilateral nature of the Nagoya Protocol but to supplement it. There also was convergence on the issue of capacity building, which was noted to be an important element in the implementation of the Protocol.

### Future CBD Meetings

The Third meeting of the Ad Hoc Open-ended Intergovernmental Committee for the Nagoya Protocol on Access and Benefit-sharing will be held from **24-28 February 2014** in **Pyongyang, Republic of Korea**.

## UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

### Conference of the Parties to the UNFCCC

The nineteenth session of the Conference of the Parties (COP) to the UNFCCC was held from **11-23 November 2013** in Warsaw, Poland.

During the COP it was noted that governments had completed their work on the Climate Technology Centre and Network (CTCN).<sup>30</sup> The CTCN was created with the mandate of “promoting the accelerated, diversified and scaled-up transfer of environmentally sound technologies for climate change mitigation and adaptation, in developing countries, in line with their sustainable development priorities”.<sup>31</sup>

It was also noted that the CTCN is now ready to respond to requests from developing countries for advice and assistance on the transfer of technology. As such, developing countries have been encouraged to set up focal points to accelerate and facilitate this goal.

### Technology Executive Committee (TEC)

#### *The seventh meeting of the Technology Executive Committee*

The seventh Meeting of the Technology Executive Committee (TEC) met from **4-7 September 2013** in Bonn, Germany.

The results of technology needs assessments (TNAs) carried out by non-Annex 1 developing countries to the convention were the key focus of the meetings.<sup>32</sup> An in-session workshop on this issue was also conducted by the committee.

The workshop included a presentation on the preliminary findings of the third synthesis report on the technology needs of non-Annex 1 countries. The presentation contained information on the priority technologies needed by developing countries in both the mitigation and adaptation to climate change. It was noted that the energy sector, followed by agriculture, forestry and other land use sectors, as well as the waste sector were the most prioritized mitigation sectors for the countries that participated in the TNAs. Financial and economic barriers were the most frequently identified obstacles in regards to adaptation.

The workshop also included discussions on the implementation of the TNAs results.

Some participants, pointed out that the results of the TNAs could be useful for the work of bodies such as the Green Climate Fund (GCF) as well as the Climate Technology Centre and Network (CTCN).<sup>33</sup>

<sup>29</sup> <http://www.cbd.int/doc/meetings/abs/absem-a10-01/official/absem-a10-01-03-en.doc>.

<sup>30</sup> [http://unfccc.int/files/press/news\\_room/press\\_releases\\_and\\_advisories/application/pdf/131123\\_pr\\_closing\\_cop19.pdf](http://unfccc.int/files/press/news_room/press_releases_and_advisories/application/pdf/131123_pr_closing_cop19.pdf).

<sup>31</sup> <http://www.unep.org/climatechange/ctcn-new/AboutUs/tabid/155769/language/en-US/Default.aspx#wedo>.

<sup>32</sup> [http://unfccc.int/parties\\_and\\_observers/items/2704.php](http://unfccc.int/parties_and_observers/items/2704.php).

<sup>33</sup> <http://www.twinside.org.sg/title2/climate/info.service/2013/climate130902.htm>.

## Future UNFCCC Meetings

The Eighth TEC Meeting will be held during **5-7 March 2014** in Bonn, Germany.

The Bonn Climate Change Conference - the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) will hold the fourth part of its second session from **10-14 March 2014** in Bonn, Germany.

## UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

### Commission of Science and Technology for Development (CSTD)

The CSTD is a subsidiary body of the Economic and Social Council (ECOSOC) which provides the General Assembly and ECOSOC with high-level advice on relevant science and technology issues. UNCTAD is responsible for the substantive servicing of the Commission.<sup>34</sup>

#### *Second meeting of the Working Group on Enhanced Cooperation (WGEC)*

The second meeting of the Working Group on Enhanced Cooperation (WGEC) was held from **6-8 November 2013** in Geneva, Switzerland.

The meeting's activities focused on a review of responses to the working group's questionnaire on various aspects of enhanced cooperation. The questionnaire, which was the outcome of the working group's first meeting, was sent to members of the working group and member states. The questionnaire received 69 responses, which have been made available online.<sup>35</sup>

During the meeting members of the working group discussed the responses to the questionnaire, engaged in a mapping exercise to identify the key issues that had been raised and attempted to find existing mechanisms, where the issues are being addressed.

It was decided that a further analysis of the responses was necessary before recommendations could be drafted. It was also decided that the group would carry out its mapping exercise, remotely (via email) by an ad hoc 'Correspondence group of the WGEC' (CGWGEC), to be completed by the end of January 2014.

India proposed a draft framework for the recommendations and for the final outcome

document of the Working Group. The framework will be discussed at the WCGE's third meeting in Geneva from 24-28 February 2014.

#### *The CSTD 2013-2014 Inter-Sessional Panel*

The 2013-2014 Inter-sessional Panel of the UN Commission on Science and Technology for Development (CSTD) took place in Washington DC, from **2-4 December 2013**.

The panel's discussions focused on two themes which will be discussed in the Commission's seventeenth session:

- i. Science, technology and innovation for the post-2015 development agenda
- ii. Information and communications technologies (ICTs) for inclusive social and economic development

The panellists called for further application of UNCTAD Science, Technology, and Innovation Policy (STIP) Reviews as a means to assist nations to achieve inclusive growth, reduce poverty, and create employment opportunities. They also observed that ICTs are key enablers of development, and noted that their absence is a key impediment.

Finally, the panellists stressed the need for post-2015 development strategies to place adequate emphasis on information and communication technology, to stimulate advances in science and technology that can help less-advanced countries boost their economics and raise living standards.

The panel's recommendations and findings will be discussed at the 17th session of the CSTD.

## Future CSTD Meetings

The Commission on Science and Technology for Development will hold its seventeenth session from **12-16 May 2014** in Geneva, Switzerland.

The **Third meeting of the Working Group on Enhanced Cooperation (WGEC)** will be held from **24-28 February 2014** in Geneva, Switzerland.

## INTERNATIONAL TELECOMMUNICATION UNION (ITU)

### Telecommunication Development Advisory Group (TDAG): Eighteenth Meeting

The Telecommunication Development Advisory Group (TDAG) meets between the World Telecommunication Development Conferences (WTDC) to advise the Director of the Telecommunication Development Bureau (BDT) on the implementation of the WTDC Action Plan.

<sup>34</sup> <http://unctad.org/en/Pages/cstd.aspx>.

<sup>35</sup> <http://unctad.org/en/Pages/CSTD/WGEC-Responses.aspx>.



TDAG's eighteenth meeting was held from **11-13 December 2013** in Geneva, Switzerland.

### Future ITU Meetings

The **WSIS+10 High-Level Event** will be held from **13-17 April 2014** in Sharm el-Sheikh, Egypt.

ITU's sixth World Telecommunication Development Conference (WTDC) will take place in Dubai, United Arab Emirates, from **March 30, to April 10, 2014**. The meeting's theme will be "Broadband for Sustainable Development".

## WORLD CUSTOMS ORGANIZATION (WCO)

### Fourth WCO Technology & Innovation Forum

The 2013 World Customs Organization (WCO) Technology and Innovation Forum took place from 12-14 November 2013 in Buenos Aires, Argentina. The forum was organized in collaboration with the Federal Administration of Public Revenues of Argentina.

Under the theme of "Leveraging Technologies to Build Efficient, Secure, Transparent and Resilient Global Supply Chains", the Forum facilitated information sharing and co-operation between the public and private sector on emerging technologies and innovations used by customs administrations and other border agencies.

Discussions during the forum covered the following topics:

- The future of borders
- The use of surveillance and enforcement technologies
- Building resilience in global supply chains
- Good practices in the use of technologies to address emerging and evolving risks

Delegates asserted that technology was an "omnipresent cornerstone underpinning innovation and Customs modernization". They also supported the creation of a specialized Technology and Innovation Working Group under the auspices of the WCO.<sup>36</sup>

## INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN)

### Eighth United Nations Internet Governance Forum (IGF)

The 8<sup>th</sup> Meeting of the Internet Governance Forum (IGF) was held from 22-25 October 2013 in Bali,

<sup>36</sup>[https://www.eiseverywhere.com/file\\_uploads/228f37b0b2a2df04e00a85ffff499b2e\\_TI\\_SummaryReport\\_mp.pdf](https://www.eiseverywhere.com/file_uploads/228f37b0b2a2df04e00a85ffff499b2e_TI_SummaryReport_mp.pdf).

Indonesia. It included widespread participation from more than 1,500 representatives of governments, civil society and the private sector, hailing from 111 countries, with over a hundred remote participants.

The issue of "surveillance" was a central focus during the forum. "Restoring trust" in the Internet, was a recurring theme in the discussions and workshops. Several countries expressed concern about the security and privacy of their digital communications.

In the meeting's closing ceremony, participants reaffirmed their belief in the maintenance and strengthening of a multi-stakeholder approach to discussing governance on the Internet, as opposed to a government-led multilateral approach."<sup>37</sup>

Representatives from the governments of Turkey, Brazil, and Mexico announced their intentions to host future IGF meetings: in 2014, 2015 and 2016 respectively.<sup>38</sup>

### 48th Meeting of ICANN

The 48<sup>th</sup> Meeting of ICANN was held from 17-21 November 2013 in Buenos Aires, Argentina and marked the organization's 15 year anniversary.

The meetings in Buenos Aires included discussions on multi-stakeholder internet governance, with the goal of having "a broad discussion of all stakeholders and sectors directly linked to Internet governance from governments, business, academia and civil society".

New generic top-level domains (gTLDs) were another topic discussed during the meetings. The new gTLD program will allow the creation of new domain names beyond the traditional ".com", ".edu" and ".org". Twenty-four new gTLDs have been added to the existing twenty two.

The protection of geographical indications, proved to be an area of deep contention during the meetings. European and Latin American countries have requested protection for .vin and .wine in the new gTLD round. However, voicing their opposition to the request, the US, Australia, New Zealand and Canada have pointed to the lack of international agreements on this topic.<sup>39</sup>

During the meetings it was also announced that there would be a high-level panel, jointly

<sup>37</sup><http://www.intgovforum.org/cms/2013/IGF2013%20Press%20Release%20END%20FINAL%2020131025.pdf>.

<sup>38</sup><http://www.intgovforum.org/cms/Chair's%20Summary%20IGF%202013%20Final.Nov1v1.pdf>.

<sup>39</sup> <http://www.ip-watch.org/2013/11/19/icann-jumps-into-internet-governance-talk-fight-over-domains-for-gis/>.

organized with the World Economic Forum and the University of Southern California-Annenberg Foundation. The panel will address the future of internet governance. Panellists will include, among others, the UN Special Rapporteur for the Freedom of the Press, the former chair of the UN Internet Governance Forum and the “father of the internet” Vint Cerf.

The 49<sup>th</sup> ICANN meeting will be held from 23-27 March 2014 in Singapore.<sup>40</sup>

## **TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP)**

The Trans-Pacific Partnership (TPP) Negotiation has been underway since 2010. The TPP is a proposed trade agreement being negotiated among the governments of Australia, Brunei, Chile, Canada, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. Most recently, Taiwan and the Republic of Korea have expressed interest in joining the negotiations.

The anticipated agreement aims to enhance trade and investment between the countries as well as promote innovation and competitiveness, economic growth and development, and support the creation and retention of jobs.<sup>41</sup>

The TPP negotiations, which have largely taken place in a shroud of secrecy, have been widely criticized for its lack transparency.

### **19<sup>th</sup> Round of TPP Negotiations**

The 19<sup>th</sup> round of TPP negotiations took place on 22-30 August 2013 in Bandar Seri Begawan, Brunei. The negotiations included a ministerial meeting of the TPP countries. The ministers' involvement was viewed as a means to advance the discussions, for which an agreement is expected at the end of the year.

This round of the TPP saw negotiators working on texts covering market access, rules of origin, investment, financial services, intellectual property, competition, and environment.

In its statement on the 19<sup>th</sup> round, the Office of the US Trade Representative (USTR) indicated that progress had been made on the packages providing access to each other's markets for goods, services, investment, financial services, temporary entry, and government procurement. The statement also affirmed that both joint and bilateral negotiations had been successful in “identifying creative and pragmatic solutions to

many issues and further narrowing the remaining work”.<sup>42</sup>

The 19<sup>th</sup> round of negotiations also included a meeting with 150 stakeholders from across the TPP region.

### **TPP Chief Negotiators Meetings**

The Chief negotiators for the TPP Agreement countries met from 19-24 November 2013 in Salt Lake City, Utah, US.

After six days of intensive discussions, the TPP negotiators managed to resolve a number of key issues regarding intellectual property, cross-border trade in services, temporary entry, environment, market access, state-owned enterprises, investment, financial services, sanitary and phytosanitary issues, government procurement, labour, e-commerce, legal issues, technical barriers to trade and rules of origin.<sup>43</sup>

Shortly before the negotiations in Utah, WikiLeaks released a copy<sup>44</sup> of the entire chapter on intellectual property currently under negotiation. The IP provisions in the chapter have been widely denounced by many civil society and advocacy groups as being excessively restrictive. Much of the text is devoted to enforcement and critics have argued that if adopted, the proposal could restrict innovation and erode civil liberties. A number of United States Congress people have also expressed concern that the TPP provisions on intellectual property would undermine the access to affordable medicine in the developing countries.<sup>45</sup>

### **TPP Ministerial Meeting**

TPP trade ministers met from **7-10 December 2013** in Singapore for the TPP Ministerial Meeting. The meeting aimed to conclude the negotiations and finalize the agreement.

Negotiators noted that they had been able to “identify potential “landing zones” for the majority of key outstanding issues in the text”.<sup>46</sup> However, after the four-day gathering TPP members failed to produce an agreement.

<sup>40</sup> <http://singapore49.icann.org/en/>.

<sup>41</sup> <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/united-states-trans-pacific-partnership>.

<sup>42</sup> <http://www.ustr.gov/19th-TPP-Round-Summary>.

<sup>43</sup> <https://www.dfat.gov.au/fta/tpp/>.

<sup>44</sup> <https://wikileaks.org/tpp/static/pdf/Wikileaks-secret-TPP-treaty-IP-chapter.pdf>.

<sup>45</sup> <http://infojustice.org/wp-content/uploads/2011/08/Ten-Representatives-on-TPP-08022011.pdf>.

<sup>46</sup> <https://www.dfat.gov.au/fta/tpp/131210-tpp-leadership-statement.html>.

## FREE TRADE AGREEMENTS

### EU- US FTA (Transatlantic and Investment Partnership)

The U.S and the E.U concluded the second round of their trade and investment negotiations for the Transatlantic and Investment Partnership (TTIP) on **November 15<sup>th</sup>** in Brussels. The negotiations are the basis for what will be the biggest trade deal in the world. Initially planned for October, round two of the talks was postponed as a result of the U.S government shut down.

During the week-long meeting negotiators discussed investment rules, trade in services, energy and raw materials. The discussions also focused on regulatory related matters such as regulatory coherence, technical barriers to trade and sectoral approaches. The parties are said to have found common ground on these issues, paving the way for text-based negotiations in the rounds to come.<sup>47</sup>

#### *Third Round of Negotiations*

The third round of TIPP talks took place from **16-20 December 2013** in Washington D.C.

Negotiations in this round focused on market access, regulatory aspects and trade related rules. In an unprecedented move the EU and US also devoted a day to responding to questions from more than 50 stakeholders. In the past the talks have been criticized for their lack of transparency.

Critics have also argued that the enhanced regulatory cooperation in the agreement could lower the standards of protection on health, environmental and food safety measures.

In his statement after the meetings, chief E.U negotiator, Ignacio Garcia Bercero stressed that the, "TTIP is not and will not be a deregulation agenda."<sup>48</sup> At the end of the third round of talks he also expressed optimism about the progress that had been made.

#### *Future TTIP Negotiations*

The fourth round of talks is scheduled to take place from **10-14 March 2014 in Brussels**.

### EU – Thailand FTA

The second round of the EU-Thailand negotiations on a comprehensive free trade agreement (FTA) was held from **16-20 September** in Chiangmai, Thailand.

During the negotiations, which are still in their early stages, delegations discussed a number of issues, including intellectual property, goods, rules of origin, services and investment, trade remedies and trade and sustainable development.

Notably, both parties have agreed that intellectual property right protection can and should co-exist with the access to medicines. Both sides have also agreed that the agreement will be buttressed by technical cooperation.<sup>49</sup>

Commentators have noted that Thailand appears to be rushing into the agreement with the EU to address the anticipated losses that will occur when the benefits it receives under the EU's Generalised System of Preferences (GSP) come to end in early 2015. A particular concern is the effect that the FTA will have on the access to medicines in Thailand, as the EU has requested an extension for patents from 20 years to 25- 30 years.

#### *Third Round of Negotiations*

The third round of the trade talks, which took place in Brussels from **9-13 December 2013** included discussions on services as well as investment and dispute settlement.

### EU - Vietnam Free Trade Agreement

The EU and Vietnam carried out the fifth round of negotiations for a free trade agreement (FTA) from **4-8 November, 2013** in Hanoi, Vietnam.

The bilateral talks which began in 2012, aim to achieve an agreement on goods, services and investment. The negotiations also seek to eliminate tariffs and non-tariff barriers, as well as address other trade-related issues, such as public procurement, regulatory issues, competition, and trade and sustainable development.

During this round, the parties conducted detailed discussions on market access offers for goods and for government procurement. The negotiations also included discussions on a so-called "Green Tech Annex", which addresses non-tariff barriers affecting trade and investment in the renewable energy sector. The issue has been identified as being of significant importance to both parties.<sup>50</sup>

#### *Sixth Round of Negotiations*

Round six of the negotiations took place from **13-17 January 2014** in Brussels.<sup>51</sup>

<sup>47</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=988>.

<sup>48</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1007>.

<sup>49</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=964>.

<sup>50</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=984>.

<sup>51</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=984>.

Customs and trade facilitation, technical barriers to trade, and anti-trust and mergers were the focus of the discussions in this round. It was noted that particular progress had been made in these areas.

The talks also addressed sustainable development, as it relates to forest management and trade in forest products, climate change, and on Multilateral Labour Standards.<sup>52</sup>

### *Seventh Round of Negotiations*

The seventh round of negotiations will be held in Hanoi, Vietnam from **17-21 March 2014**.

## **NATIONAL DEVELOPMENTS**

### **Brazil Patent Reform**

A parliamentary report addressing the need for patent reform in Brazil was launched on October 9, 2013 in Brasilia, Brazil. The launch was attended by high level government officials and international experts.

The report which is entitled, "Brazil's Patent Reform: Innovation Towards National Competitiveness"<sup>53</sup>, contains proposals for legislative reforms that would incorporate TRIPS flexibilities into Brazil's domestic law, as a means to improve the access to generic medicines.

Other specific proposals in the report include:

- Eliminating patent term extensions and data exclusivity
- Restricting patents on new forms and new uses
- Tightening the inventive step requirement
- Adopting a government use procedures
- Clarifying the role that Brazil's drug regulatory agency, plays in the patent examination system

The report has been praised by academics and civil society actors an important step towards improving the access to medicines.

Médecins Sans Frontières (MSF) welcomed the high-level report, hoping that it would "spur the Brazilian Parliament to support legislation that would reform Brazil's patent law to improve access to affordable medicines".<sup>54</sup>

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<sup>52</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1014>

<sup>53</sup> [http://infojustice.org/wp-content/uploads/2013/09/Brazilian\\_Patent\\_Reform.pdf](http://infojustice.org/wp-content/uploads/2013/09/Brazilian_Patent_Reform.pdf).

<sup>54</sup> <http://www.msfacecess.org/about-us/media-room/press-releases/msf-welcomes-brazil-parliamentary-committee-recommendation-reform>.