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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

Meeting of 25-26 February 2014

The TRIPS Council met on **25-26 February 2014** in Geneva, Switzerland. During the meeting WTO member States continued their discussions on non-violation and situation complaints, plain packaging for tobacco products, intellectual property and biological diversity, intellectual property, climate change and green technology, technology transfer and technical cooperation. Member States also discussed university and technology partnerships under the agenda item of intellectual property and innovation.

Below is a summary of the key issues and outcomes of this meeting of the TRIPS Council:

Non-violation Complaints

Non-Violation complaints occur in the WTO when a member State challenges the legality of the measures taken by another country that has not explicitly violated an agreement or broken a commitment. In these complaints the challenging party asserts that it has been deprived of its expected benefits.

A moratorium on non-violation complaints – prohibiting their use – with respect to intellectual property has been in existence since the TRIPS agreement came into force. Member States have continued to disagree about whether these types of complaints should be allowed in intellectual property. The moratorium has been extended at every WTO Ministerial Conference. In December 2013, as per a recommendation by the TRIPS council, the Bali Ministerial Conference extended the moratorium on non-violation and situation complaints until December 31, 2015.

During this session of the TRIPS Council, member States reasserted known positions regarding non-violation complaints. Most member States are in favour of a permanent prohibition of non-violation complaints with regards to TRIPS Agreement. Notably, the US is against this solution.

Developing countries asserted that non-violation complaints could undermine the flexibilities enshrined in the TRIPS agreement. In particular, it was noted that the leeway granted to member States to implement measures in the public interest such as those relating to public health, nutrition and the transfer of technology, could be challenged.

Opponents of non-violation complaints have asserted that these types of complaints would tilt the balance of rights in the TRIPS Agreement in

favour of private IP rights holders to the disadvantage of users of the system. Furthermore, opponents have argued that the TRIPS Agreement is a sui generis system that is not about market access but pertains to the establishment of minimum standards for the protection of intellectual property.

Switzerland, a proponent of non-violation complaints, countered that these complaints could not be brought against member States implementing measures that seek to take advantage of TRIPS flexibilities.

The US, also a proponent of non-violation complaints, affirmed that WTO agreements guarantee that recommendations and rulings of the Dispute Settlement Body cannot add to or diminish the rights and obligations accorded in the TRIPS Agreement, as per article 3.2 of the WTO Dispute Settlement Understanding.

Plain Packaging for Tobacco

New Zealand provided members of the TRIPS Council with an update of its draft legislation, which will introduce mandatory plain packaging requirements for tobacco products. The EU and Australia have enacted similar legislations, and at the Council's last session, members discussed an Irish policy report, which proposes putting similar measures into place.

The Australian bill on plain packaging has been challenged by Ukraine, Honduras, the Dominican Republic, Cuba and Indonesia. These countries along with Zimbabwe and Nicaragua have expressed concerns that plain packaging measures could violate the TRIPS Agreement and would prevent poorer producers from using trademarks and geographical indications. Additionally, they noted that plain packaging measures could be counterproductive to addressing public health concerns by making counterfeiting cheaper and easier. The Dominican Republic also observed that such measures could set a "dangerous precedent" for other products deemed harmful, such as alcoholic beverages and processed foods with high sugar or fat content.

Last year the WTO's dispute settlement body agreed to establish panels for the Ukraine and Honduras cases. However, the panellists have not yet been appointed, nor have there been any hearings to date.

Biodiversity and Traditional Knowledge

The Council continued its discussions on IP and biodiversity, addressing three topics in conjunction: (1) the relationship between TRIPS and the UN Convention on Biological Diversity (CBD) (2) the review of Article 27.3 (b) of the

TRIPS Agreement on the patentability of life forms and (3) the protection of traditional knowledge and folklore.

The discussions on the relationship between TRIPS and the CBD in the Council stem from the concerns of developing countries regarding the misappropriation of biological resources and their associated traditional knowledge, commonly referred to as “biopiracy”. Based on these concerns, developing countries submitted a proposal- most recently updated in 2011- calling for an amendment to the TRIPS agreement. If implemented, the amendment would take the form of an addendum to Article 29 of TRIPS, requiring the mandatory disclosure of the source and country of origin of biological resources and the traditional knowledge used in inventions.¹ The proposal also emphasized the need to ensure a mutually supportive relationship between the TRIPS Agreement and the CBD, which calls for benefits received from patented inventions to be shared with local communities.

Member States’ positions remained unchanged during the discussions on this topic. Developing countries including Brazil, China, Bolivia, Bangladesh, Peru, South Africa, Cuba, Venezuela, India, Indonesia, the African Group and the Group of Least Developed Countries maintained the need for mandatory disclosure. Developed countries continued to oppose this proposal.

In regards to the discussions on the review of Article 27.3 (b) on the patenting of life forms, Bolivia, which submitted a proposal on this matter in 2010, repeated its call to amend the TRIPS Agreement to prohibit the patenting of life forms.² This was supported by Ecuador and the LDC Group.

For several years developing countries have been requesting that the CBD Secretariat be allowed to brief the TRIPS Council on the Nagoya Protocol on Access and Benefit Sharing. At its previous session the Council requested that consultations be carried out with a view of arriving at a decision on the matter. However, member States have still been unable to reach a decision. The US pointed out that the Nagoya Protocol had not yet entered into force and that only a few of countries calling for the CBD briefing had acceded to the Protocol or signed it.

The Council agreed to request that the chair continue consultations on this issue.

¹See WTO document IP/C/W/59.
http://www.wto.org/english/tratop_e/trips_e/art27_3b_e.htm.

² See WTO document IP/C/554.

Intellectual Property, Climate Change and Green Technology

Discussions in the TRIPS Council on this topic have been based on a proposal submitted by Ecuador in 2013.³ The proposal calls for an examination of whether intellectual property can serve to obstruct technology transfer, increase the cost and affect the accessibility of green technologies for developing countries. It also recommends that the Council reaffirms the flexibilities in TRIPS regarding environmentally-sound technologies (ESTs), initiate a review of Article 31 of the Agreement to determine which of its provisions may excessively restrict access to ESTs, and evaluate the possibility of reducing the term for patents on green technologies. The proposal received the support of Cuba, El Salvador, India, China, South Africa, Brazil and Benin.

Developed countries including the EU, Japan, Switzerland, the US and Australia have continued to assert that intellectual property does not create a barrier to technology transfer. They noted that other factors such as technological capabilities, proper infrastructure and a reliable regulatory regime are also important in facilitating technology transfer. This position was also supported by Chile, who expressed concern that the recommendations in Ecuador’s proposal could undermine incentives for innovation.

During the meeting Ecuador noted that it was ready to prepare a revised document, as additional information from further studies could be included in its proposal.

Technology Transfer and Technical Cooperation

This session of the TRIPS Council also included a follow up to the annual review of Article 66.2 of the TRIPS Agreement, which took place during the Council’s last meeting in 2013. Article 66.2 addresses technology transfer to least developed countries (LDCs).⁴ It stipulates that developed countries should provide incentives for the transfer of technology to least developed countries (LDCs). During the annual review of this article, developed countries provide a report of the activities they have undertaken to fulfil their obligations.

Angola reminded the delegates that since 2011 the LDC Group had been calling for the Council to

³ See WTO Document IP/C/W/585 :
<http://www.wto.org.tw/SmartKMS/fileviewer?id=131645>.

⁴ 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.

adopt clear standardized parameters in the reports to improve the evaluation of the implementation of Article 66.2. However, this proposal has met opposition from some developed countries that have argued that establishing a standardized format for the reports might be difficult to implement.

The meeting also included a follow up to the Council's annual review of technical cooperation and capacity building provided to developing countries by developed countries as per Article 67 of TRIPS.

During the discussions Togo made note of its priority needs for technical and financial cooperation for the implementation of the TRIPS Agreement.

University Technology Partnerships

Under the Council's agenda item on intellectual property and innovation member States discussed university technology partnerships. These partnerships allow universities and public research organizations to claim intellectual property rights on their research outputs to facilitate their commercialization and encourage innovation. The topic was introduced in the Council based on a request by the US.

In its intervention the US asserted that the topic furthered the conversation on the positive role of IP in innovation. The delegate noted that intellectual property rights were a crucial factor in university technology partnerships, which allow research to be transformed into consumer goods and services.

Several other developed countries shared their experiences in this area including Australia, Canada, Hong Kong, the EU, Japan, New Zealand, Chinese Taipei and Switzerland.

India observed that in past sessions of the Council this topic and other similar topics saw developed countries pitted against developing countries, as the former asserted that IP is a good means to advance development and innovation, while the latter emphasized that there was no evidence to support this claim. India asserted that it was unfortunate that the TRIPS Council was being transformed into a debating forum, while long pending agenda items of interest to developing countries remained unaddressed.

India also expressed concerns about creating exclusive rights over research outputs. In particular it was noted that an over-emphasis on IP could transform universities into commercial enterprises, making them deviate from their focus on teaching and research.

Bangladesh expressed support of the premise that universities could be an important source for IP and innovation. However, the delegate observed that university technology partnerships would not play the same role in all countries and produce the same effects. More specifically, it was noted that universities in developing countries needed to cater to their populations' needs based on their development priorities, and patenting their research outputs for commercial interest could be counter-productive to this objective.

Brazil observed that it was important to highlight that patents were not the exclusive drivers of innovation. The delegate also noted it was important for policy makers to incentivize innovation while minimizing the losses incurred by the granting of IP rights. Brazil also shared its experiences with university partnerships.

Other developing countries such as Guatemala and El Salvador highlighted the merit of continuing the discussions on this topic in the Council.

Meeting of June 11, 2014

Non Violation Complaints

During this meeting of the TRIPS Council the US tabled a new paper,⁵ which proposes lifting the current ban on non-violation complaints. In an attempt to refute previous objections, which have been raised by most Member States on this issue, the paper outlines several justifications stating why non-violation complaints should be allowed under the TRIPS Agreement. Nevertheless, member States' positions remained unchanged.

Green Technology Transfer

The Council also continued its deliberations on the proposal put forward by Ecuador on intellectual property and the transfer of green technologies. Ecuador will submit a revised proposal during the Council's next session in October.

Future WTO Meetings

The TRIPS Council's next regular meeting is scheduled to take place from **28-29 October 2014**.

⁵ See WTO Document IP/C/W/599

IGC Twenty-Sixth Session

Members of WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) convened for their twenty-sixth session on **3-7 February 2014**. The IGC has been undertaking negotiations aimed at creating legally binding instrument(s) that will see to the effective protection of traditional knowledge (TK), traditional cultural expressions (TCEs) and genetic resources (GRs). This session of the IGC was devoted to addressing the topic of GRs.

The IGC kicked off the 26th session with a high level ambassadorial meeting, in line with the decision issued by the WIPO General Assembly in October 2013, which also renewed the committee's mandate for another two years.

The 26th session also included a side event on "Tackling Biopiracy: Policy and Legal Options", which was organized by the South Centre in collaboration with the Third World Network (TWN).

The key normative issue addressed during the negotiations relates to the proposal for a mandatory requirement on patent applicants to disclose the origin of genetic resources and associated traditional knowledge used in their inventions. Developing countries, who have been the main proponents of a mandatory disclosure requirement have stressed that it would increase transparency in the patent system and prevent the misappropriation of genetic resources.

During the meeting some developed countries asserted that a mandatory disclosure requirement could create a cloud of legal uncertainty in the patent system, which would discourage innovation.

In this session the committee also attempted to delineate broad objectives in relation to the potential text on GRs. In this regard, the discussions addressed the relationship the potential text would have with existing international laws relating to access and benefit sharing. Delegates also attempted to agree on a definition for the term misappropriation but were unable to do so.

This revised draft text on GRs will be sent to the WIPO General Assembly for consideration in September 2014.

IGC Twenty-Seventh Session

The 27th session of the WIPO Intergovernmental Committee on Genetic Resources was held from **24 March to 4 April 2014**. During the first week of the session the committee addressed Traditional Knowledge. The second week was devoted to discussions on Traditional Cultural Expressions.

During the meeting, member States discussed cross-cutting issues in the draft texts on TK and TCEs. These issues were identified in a consultative meeting on the work of the IGC which took place in Bali, Indonesia prior to commencement of the committee's 27th session. The issues, refined further by the chair, Ambassador Wayne McCook of Jamaica, included:

- (i) The meaning of traditional
- (ii) The beneficiaries of protection and the role of states
- (iii) The nature of rights
- (iv) The treatment of publicly available and/or widely diffused TK and TCEs

Delegates carried out article-by-article discussions on the draft text for the protection of traditional knowledge, with a view of streamlining the document.

The committee also considered three proposals, which had been resubmitted by groups of developed countries. They included a joint recommendation on GRs and associated TK, submitted by Canada, Japan, Norway, South Korea, and the United States,⁶ a joint recommendation on the use of databases for the defensive protection of GR and associated with TK, tabled by Canada, Japan, South Korea and the US⁷, and a proposal for the terms of reference for the study by the WIPO Secretariat on measures related to the avoidance of the erroneous grant of patents and compliance with existing access and benefit sharing system.⁸

Developing countries asserted that the proposals conflicted with the mandate that the Committee had been given to expedite its work and submit a text for the protection of TK to the WIPO General Assembly in September 2014. Developed countries stated that the proposals would contribute to and enrich the text-based negotiations. The chair noted that the Committee

⁶ See Document WIPO/GRTKF/IC/27/6. http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_27/wipo_grtkf_ic_27_6.pdf.

⁷ See WIPO/GRTKF/IC/27/7. http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_27/wipo_grtkf_ic_27_7.pdf.

⁸ See WIPO/GRTKF/IC/27/8. http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_27/wipo_grtkf_ic_27_8.pdf.

would revert to the proposals in future sessions of the IGC.

During the second week of IGC 27, delegates examined the draft text on the protection of TCEs and discussed crosscutting issues in the text. Some delegations suggested that it would be helpful to synchronize the draft text on TCE and the draft text on TK, observing that there was notable overlap between the two. However, other countries opposed any actions, which they characterized as attempts to merge the texts.

The draft texts on GRs, TK and TCEs will be transmitted to the WIPO GA, which is expected to take stock of the progress made on the documents, and render a decision on the convening of a Diplomatic Conference.

Developing countries have been pushing for the convening of a diplomatic conference in 2015, with a view of adopting a legally binding instrument. However, developed countries have continued to declare their preference for a non-binding text that is "flexible and sufficiently clear".

Member States also addressed the voluntary fund for the participation of indigenous and local communities. During the session several appeals were made to delegates for contributions to the fund, which is now depleted. Switzerland, Australia, Finland and New Zealand submitted a proposal, which seeks to amend the rules of the voluntary fund, to make it possible for WIPO to make ad hoc contributions to the fund, if the General Assembly so decides.⁹

The committee is to revert to the proposal during its next session.

Advisory Committee on Enforcement (ACE): Ninth Session

The Ninth session of the Advisory Committee on Enforcement (ACE) took place from **3-5 March 2014**. ACE is the WIPO forum for discussions and the exchange of information on IP enforcement issues. The Committee's sessions have employed a thematic approach, addressing specific topics related to IP enforcement.

Developing countries have been attempting to make the discussions in the ACE more inclusive, requesting that they take into account their broader socio economic realities and interests, in line with recommendation 45 of the WIPO Development Agenda.

During this session the committee undertook discussions on two themes: 1) alternative dispute resolution in the area of IP and 2) preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view to reducing the size of the market for counterfeited or pirated goods.

Three proposals were put forward for the future work of the Committee. They included a proposal by the Development Agenda Group requesting the exchange of information on national experiences on WIPO's enforcement-related technical and legislative assistance, a joint proposal by Poland, the UK and US on the specialization of the judiciary and IP courts, and a proposal from Group B on awareness raising campaigns in schools.

However, the Committee was unable to arrive at an agreement regarding the inclusion of these topics in its future work program. As a result, for its tenth session the ACE will continue its discussions on alternative dispute resolution systems and preventive actions. Additionally, the three proposals are to be reconsidered when the Committee reconvenes for the tenth session.

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT): Thirty-First Session

The Thirty-First Session of the SCT was held from **17-21 March 2014** in Geneva, Switzerland.

During the meetings the SCT continued negotiations on the draft articles for the potential design law treaty (DLT). The Committee also addressed the protection of country names against registration as trademarks based on a draft joint recommendation that was submitted by Jamaica. Member States also considered a revised proposal on Geographical Indications (GIs), submitted by the U.S. Additionally, a new proposal on the protection of GIs and country names in the domain name system was tabled by the delegations of the Czech Republic, Germany, Hungary, Italy, Moldova and Switzerland.

Design Law Treaty

Differences on the issue of technical assistance and capacity building in the draft DLT once again prevented the SCT from arriving at a decision regarding the convening of a diplomatic conference for the adoption of the potential treaty.

During this session of the SCT delegates worked in informal consultations to streamline the provisions on technical assistance (TA) and capacity building in the text. Several Member States affirmed that great progress had been

⁹ See WIPO/GRTKF/IC/27/9. http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_27/wipo_grtkf_ic_27_9_rev.pdf.

made in this regard. Developed countries, the main proponents of the DLT, asserted that the text had now reached a sufficient level of maturity to recommend the convening of a diplomatic conference, the highest level of treaty negotiations at WIPO. However, developing countries, particularly the African Group, asserted that the text could not be considered mature until an agreement had been reached that the draft provisions on technical assistance would take the form of an article in the treaty and not a resolution.

The question of the form the technical assistance provisions in the potential treaty will take has been the most difficult issue in the DLT negotiations. During past meetings of the SCT, developing countries stressed that the treaty should include a binding article on technical assistance, while developed countries expressed preference for a non-binding resolution that would afford them with more flexibility in providing technical assistance.

The latest round of negotiations saw the African Group and India defending the position that the treaty must include a binding article on technical assistance and capacity building. Other developing countries, such as those from the Group of Latin America and Caribbean Countries (GRULAC), expressed willingness to be flexible regarding whether the technical assistance provisions could be encapsulated in an article or resolution.

Some developed countries, notably the E.U, similarly, stated that they could be flexible on this issue. Canada, affirmed that it was open to consider an article on technical assistance in due time at a diplomatic conference. However, it was noted that reaching an agreement on this issue should not be a precondition for convening the diplomatic conference. This position was also shared by the US.

As the issue remained unresolved the committee agreed to transmit the revised draft DLT text to an extraordinary session of the WIPO General Assembly in May 2014. The General Assembly is to take stock of progress made and make a decision regarding the convening of a diplomatic conference.

Trademarks

During the discussions on trademarks the Committee considered a new proposal by Jamaica on the protection of country names against the registration and use as trademarks.¹⁰ This issue has been under discussion in the SCT since 2009. At that time Jamaica submitted a proposal for the Committee to discuss a possible amendment to Article 6ter of the Paris

Convention, which would allow country names to be added to the existing categories granted protection from the registration as trademarks.¹¹

The new proposal contains a joint recommendation, providing a list of guidelines, which trademark offices would be encouraged to use in processing trademark applications bearing trademarks derived from or using country names.

Several delegations from developing and developed countries alike expressed the desire to see further work and discussions on the joint recommendation in the SCT. However, several others voiced opposition to the proposal, expressing concerns about its content and timeliness.

Delegations were invited to submit their comments on the joint recommendation to the WIPO Secretariat. It was decided that the Committee would consider a revised version of the proposal at its next session.

Geographical Indications

The US submitted a new proposal on Geographical Indications (SCT/31/7) for consideration by the SCT.¹² In the Committee's previous session the US had similarly submitted a proposal requesting that work be carried out exploring the feasibility of a filing system for GIs and for studies to be conducted on national approaches to topics related to GIs.

The new proposal asks the Secretariat to conduct a survey of existing national GI regimes. It also requests that the SCT discuss the work being done by the WIPO Working Group on the Development of the Lisbon System. The Lisbon Working Group has been discussing a revision of the Lisbon Agreement for the Protection of Appellations of Origin (AO) and their International Registration. The revisions under consideration would expand the scope of the Lisbon Agreement to include GIs. Although the US is not party to the Lisbon Agreement, it has opposed the Working Group's activities, asserting that the group has exceeded its mandate. The US has also voiced its opposition to the diplomatic conference, which will be held to finalize the revision to the Lisbon Agreement in 2015.

The US proposal was supported by several delegations from developed and developing countries alike, including the Republic of Korea, Japan, Israel, Norway, Paraguay, Uruguay and Chile. In general these delegations affirmed that a new survey could shed light on what had changed since the studies had been conducted by the

¹⁰http://www.wipo.int/edocs/mdocs/sct/en/sct_31/sct_31_5.pdf.

¹¹http://www.wipo.int/edocs/mdocs/sct/en/sct_21/sct_21_6.pdf.

¹²http://www.wipo.int/edocs/mdocs/sct/en/sct_30/sct_30_7.pdf.

SCT. Argentina also shared the concerns expressed by the U.S regarding the proposed expansion of the scope of the Lisbon Agreement to include GIs.

However, the proposal received strong opposition from the EU and was contested by few developing countries. These countries questioned the added value of a survey on national practices in light of other studies that had been conducted by the Secretariat in the past. Other delegations raised concerns about the legal implications of the US proposal and the precedent it might set in attempting to override the work of another WIPO body.

The Committee also considered a new proposal jointly sponsored by the Czech Republic, Germany, Hungary, Italy, Moldova and Switzerland (SCT/31/8 Rev),¹³ on the "Protection of Geographical Indications and Country Names in the Domain Name System". While the proposal received the support of several Member States, others stated that more time was needed to appraise the document.

It was agreed that the Committee would revert to both the U.S proposal and the new joint proposal during the SCT's next session.

Standing Committee on Copyright and Related Rights (SCCR): Twenty-Seventh Session

The Standing Committee on Copyright and Related Rights held its 27th session from **28 April to 2 May** in Geneva, Switzerland. During this session Member States continued their work on a potential treaty for the protection of broadcasting organizations. While the Committee did not conclude its work on this matter, further progress was made towards clarifying the scope of the potential treaty and the rights which would be granted by the treaty to beneficiaries.

The Committee also continued its discussions on the texts on exceptions and limitations to copyright for libraries and archives, and for educational and research institutions and persons with other disabilities.

At the end of the week-long meeting, member States were unable to reach an agreement on the session's concluding document. An area of particular contention related to the work the Committee had conducted on exceptions and limitations to copyright for libraries and archives. Developed countries, were adamant that the committee had not carried out "text-based" discussions, which alludes to work towards a legally binding instrument. However, making

reference to the working document, which the Committee had used as the basis for its discussions (SCCR 26/3),¹⁴ developing countries asserted that text-based work had indeed taken place.

The disagreement can be seen as a reflection of the longstanding positions member States have taken regarding the nature of the potential international instrument on exceptions and limitations will take. While developing countries have expressed their support for a legally binding treaty, developed countries have insisted that they are unable to support any normative work on exceptions and limitations. Instead, they have consistently expressed their preference for the exchange of experiences, ideas and principles in this area.

During the discussions on exceptions and limitations to copyright for educational and research institutions and persons with other disabilities, the US submitted a new document (SCCR 27/8)¹⁵, which proposes objectives and principles for the Committee's work in this area. While the proposal was welcomed by several delegations, others noted that more time was needed to examine the new document. Unlike the working document on libraries and archives the document on education and research institutions is less mature and does not have any other substantive proposals from member States.

At the end of the session, Congo and Senegal requested that artists' resale rights be included in the agenda of the Committee's next meeting. The proposal received the support of several delegations. However, others observed that the Committee already had a heavy agenda and that it was important to ensure that new topics did not overshadow topics already under discussion.

It was noted that this topic would not be included in the agenda of the Committee's next session but would be considered for the SCCR's future work.

The 27th Session of the SCCR also included a signing ceremony for the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities. India, the European Union, France and Greece signed treaty, which will enter into force once ratified by twenty countries.

¹³http://www.wipo.int/edocs/mdocs/sct/en/sct_31/sct_31_8_rev.pdf

¹⁴http://www.wipo.int/edocs/mdocs/copyright/en/sccr_27/sccr_27_ref_sccr_26_3.pdf

¹⁵http://www.wipo.int/edocs/mdocs/copyright/en/sccr_27/sccr_27_8.pdf

Assemblies of the Member States of WIPO: Fifty-Third Series of Meetings

The Fifty-Third Series of Meetings of the Assemblies of the Member States of WIPO took place on **8-9 May 2014** in Geneva, Switzerland.

During this extraordinary session of WIPO's General Assembly (G.A), the organization's 187 member States met to confirm the nomination of Director General Francis Gurry for a second term.

The WIPO General Assembly was also expected to issue a decision regarding the convening of a diplomatic conference for the potential design law treaty (DLT). WIPO's Standing Committee on the Law on Trademarks Industrial Designs and Geographical Indications (SCT) failed to arrive at an agreement on this issue when it convened in March 2014, and referred the matter back to the General Assembly to render a decision. However, during the Assemblies, member States once again could not resolve the matter.

Developed countries expressed their disappointment that the General Assembly had been unable to reach an agreement regarding the convening of a diplomatic conference. The African Group has remained steadfast in its request that an article on technical assistance be included in the text before a decision is made to convene a diplomatic conference.

The issue will be forwarded to the next regular session of the WIPO General Assembly, which is to take place from **22-30 September 2014**.

Committee on WIPO Standards (CWS): Fourth Session

The Fourth Session of the Committee on WIPO Standards took place from **May 12-16, 2014** in Geneva, Switzerland.

The CWS is a technical committee, which establishes and coordinates standards in the form of recommendations to WIPO member States' IP offices. These standards facilitate the sharing of practices by industrial property offices regarding procedures for filing, examining, publishing, granting and registering industrial property titles.¹⁶

The session ended in deadlock as member States failed to adopt the meeting's agenda. In particular, no agreement could be reached regarding a request made by the Development Agenda Group (DAG)¹⁷ to include an item in the meeting's

agenda on the CWS' contributions to the implementation of the 2007 WIPO Development Agenda Recommendations.

DAG has made this request at each session of the CWS. However, developed countries have consistently asserted that the CWS is a technical committee that should not be required to report on its contributions to the implementation of WIPO's Development Agenda (DA) Recommendations. The DA Recommendations are a group of 45 recommendations that seek to mainstream development considerations into WIPO's work.

Due to member States' unwavering positions, the chair proposed adjourning the meeting and carrying out informal consultations, until a lasting solution could be found to the issue, which has plagued the CWS since its inception. Member States subsequently agreed to this proposal.

The 5th session of the CWS will not be convened until the matter has been resolved.

Committee on Development and Intellectual Property (CDIP): Thirteenth Session

The Thirteenth Session of Committee on Development and Intellectual Property (CDIP) was held from **May 19-23, 2014** in Geneva.

Member States' position remained unchanged on several key agenda items. As a result, the Committee was unable to conclude much of its outstanding work.

Most notably, the Committee failed to finalize the Terms of References (ToRs) for an independent review of the implementation of the Development Agenda Recommendations. The review would further the goals of Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities (Coordination Mechanism) adopted by the WIPO General Assembly in 2010, to see to the realization of CDIP's mandate to monitor, assess, discuss and report on the implementation of the DA Recommendations.

During the session, the Committee's members continued to be at odds regarding the process for selecting experts for the review, as well as the criteria the experts should be required to meet. At the end of the session the facilitator of the negotiations informed delegates that the latter issue was the only remaining obstacle to the adoption of the ToRs. However, the finalization of the document has been passed on to an inter-sessional, informal meeting of the CDIP.

¹⁶ See WIPO Standards:

http://www.wipo.int/standards/en/part_03.html

¹⁷ DAG consists of a group of WIPO member states that have expressed their commitment to the mainstreaming of a development dimension into WIPO's work, by seeing to the

effective implementation of the Development Agenda (DA) Recommendations.

The Committee will resume discussions on the ToRs during its next session.

The Committee was also unable to arrive at an agreement regarding the scope of the Coordination Mechanisms. In particular, the question of whether WIPO's Program and Budget Committee (PBC) as well as the Committee on WIPO Standards should be required to report on their contributions to the implementation of the DA Recommendations remained unresolved. Member States also remained divided regarding a DAG proposal to create a standing agenda item on IP and development related issues in the CDIP. The Committee's members agreed that the CDIP would request more time from WIPO's General Assembly to continue discussions on both issues, so as to make recommendations to the GA in 2015 on the way forward.

Similarly, no decision was taken regarding the implementation of recommendations from the external review of WIPO's technical assistance, which was conducted between 2008 and 2010. Additionally, the committee was unable to finalize the international conference on IP and development, which was scheduled to take place at the end of 2013. The list of speakers for the conference remained a divisive issue.

The Committee will resume its deliberations on these issues at its next session.

Patent Cooperation Treaty Working Group: Seventh Session

The Working Group for the Patent Cooperation Treaty (PCT) met for its seventh session from **June 10 – 13, 2014**.

The PCT is a treaty administered by WIPO, which facilitates the filing of a single international patent application that is valid in all PCT Contracting Parties. The PCT Working Group discusses proposals to amend the treaty, as well as other matters of relevance to the PCT Assembly.

A key issue addressed during the 7th session was a revised proposal submitted by the U.S and the U.K,¹⁸ which seeks to amend the PCT regulations to allow the formal integration of the Patent Prosecution Highway (PPH) into the PCT. The PPH system is a work sharing arrangement between some national patent offices outside of the PCT. It allows applicants to fast track the processing of their patent applications in other PPH national patent offices, if the application includes similar claims, which have received a positive ruling from an international search or examination authority. The proposed integration

would similarly allow expedited national phase processing in the patent offices of all contracting parties of the PCT.

The joint UK-US proposal was first submitted for consideration during the 5th session of the PCT Working Group. Developing countries have asserted that the reuse of work, as facilitated under the PPH, would limit the autonomy of their national offices. Some developing countries have also expressed concerns that the proposal could be viewed as stealthy attempt at the substantive harmonization of patent laws. These positions were reiterated during the most recent session of the PCT Working Group. Some developing countries also observed that the proposal was inconsistent with the DA recommendations in regards to norm setting at WIPO. Additionally, it was stated that the proposal could undermine the flexibilities granted to member States under the TRIPS Agreement to determine the criteria for patentability.

The African Group characterized the proposal as premature in the absence of technical assistance, which would ensure that all national offices had the same expertise and resources to effectively carry out their duties and participate in the PPH system. Developed countries continued to affirm that the proposal would avoid the duplication of work and would be beneficial for both national offices and applicants. There was no agreement on the proposal. The Chair advised the UK and US delegations to withdraw the proposal as it is most unlikely to be approved given the sharp polarization of views between delegations.

Member States also considered a proposal submitted by India, regarding non-patent literature, under the PCT Minimum Documentation. International Search Authorities are required to consult non-patent literature in conducting their prior art search, as a part of the patent examination and granting procedure. India's proposal seeks to ensure that non-patent literature would be included in the PCT Minimum Documentation only if the publishers of such literature agree to provide access to the full text of the literature to patent Offices in an agreed format.

This proposal is grounded in the 8th WIPO Development Agenda Recommendation. This recommendation requests that WIPO develops agreements with research institutions and private enterprises to facilitate access to specialized databases for the national offices of developing countries and the least developing countries to conduct patent searches.¹⁹

¹⁸http://www.wipo.int/edocs/mdocs/pct/en/pct_wg_7/pct_wg_7_21.pdf.

¹⁹<http://www.wipo.int/ipdevelopment/en/agenda/recommendations.html>.

Several delegations showed interest in the proposal but others expressed concerns regarding the implications for the publishers of non-patent literature. The PCT Working Group invited the India to continue discussions with interested parties, with the aim of bringing a refined proposal to the next session of the Working Group.

During the session member States adopted a proposal for amendments to the PCT schedule of fees, which will provide fee reductions for certain applicants, from certain countries, notably least developing and developing countries. The issue of fee reductions had remained unresolved in the PCT for several years, as member States could not reach an agreement on the criteria of eligibility for the reductions. Five EU member states will also benefit from the new fee reductions.

The PCT Working Group also approved amendments regarding the procedures for the appointment of international search authorities.

Future WIPO Meetings

The Twenty-Eighth session of the Standing Committee on Copyright and Related Rights will be held from **June 30 – July 4 2014**, in Geneva Switzerland.

The Twenty-Eighth Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore will be held from **July 7-9, 2014** in Geneva, Switzerland.

The Fifty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO will take place from **September 22 – 30, 2014** in Geneva, Switzerland.

INTERNATIONAL UNION FOR THE PROTECTION OF PLANT VARIETIES (UPOV)

UPOV Council: Thirty- First Extraordinary Session

The Thirty-First Extraordinary Session of the UPOV Council was held on the **11 April 2014** in Geneva, Switzerland.

During the session the Council rendered a positive decision regarding the conformity of the African Regional Intellectual Property Organization (ARIPO) Draft Protocol for the Protection of New Varieties of Plants with the provisions of the UPOV Convention. Once the ARIPO Draft Protocol is adopted, it will be possible for Contracting States to the Protocol and ARIPO, to deposit their instruments of accession to the UPOV Convention.

A group of over 75 civil society organizations issued a letter to UPOV members calling for a rejection of the ARIPO draft protocol.²⁰ Concerns include the limitations imposed by the Draft Protocol on farmers with regard to use of the protected plant varieties.

Future UPOV Meetings

The next UPOV Council meeting will take place on **October 16, 2014 in Geneva, Switzerland**.

WORLD HEALTH ORGANIZATION (WHO)

Sixty-Seventh World Health Assembly (WHA)

The Sixty-Seventh session of the World Health Assembly of the World Health Organization was held in Geneva from **19-24 May 2014**. This session of the WHA was presided over by Dr. Roberto Morales Ojeda, Minister of Public Health of Cuba.

Melinda Gates from the Bill and Melinda Gates Foundation delivered an address to the plenary of the WHA as an invited speaker. However, many civil society organizations working in the area of public health were very critical of the invitation to Melinda Gates to address health ministers from WHO member States as her expertise on public health issues is not known.

The agenda of the WHA comprised a number of critical public health issues including WHO reform, prevention and control of non-communicable diseases, follow-up of the report of the Consultative Expert Group on Research and Development: Financing and Coordination, substandard/ spurious/ falsely labelled/ falsified/ counterfeit medical products, access to essential medicines, regulatory systems strengthening and antimicrobial drug resistance.

WHO Reform

On the issue of WHO reform the WHA members discussed a number of reports in Committee A. These included progress on reform implementation, improved decision-making by the governing bodies, framework of engagement of WHO with non-State actors, follow up to the financing dialogue, strategic resource allocation and financing of administrative and management costs.

In this context, discussions on a draft framework for the engagement of WHO with non-State actors

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http://www.twinside.org.sg/title2/intellectual_property/info.service/2014/ip140409/Open%20Letter%20to%20UPOV%20Members%20on%20ARIPO.pdf

and the follow-up to the financing dialogue for achieving balance between normal contributions to WHO's operations and donor funded priorities deserve particular attention.

With regard to WHO's engagement with non-State actors, following the 134th session of the WHO Executive Board meeting in January 2014 the WHO Secretariat prepared a draft framework on WHO's engagement with non-State actors. The Secretariat was requested to submit a revised draft framework for consideration by the WHA based on comments submitted during informal consultations.

There was strong divergence of views between developing and developed countries on the adequacy of the draft framework in its current form. Developing countries including Brazil, Bolivia, India, Pakistan and the Union of South American Nations (UNASUR) said that the draft framework did not address concerns related to conflict of interest issues, modalities of accepting resources from non-State actors, staff secondment from non-State actors, etc. However, the developed countries supported adoption of the framework in its current form. A drafting group was established to resolve the differences on the draft framework. However, discussions in the drafting group did not lead to any resolution of these differences. Members agreed to ask the WHO Secretariat to prepare a revised framework and submit it to the next session of the WHA through the Program, Budget and Administrative Committee (PBAC).

The WHA also discussed reports on the financing dialogue, which was launched by the WHO Secretariat in June 2013 as a part of the WHO reforms, to discuss ways of encouraging donors making voluntary earmarked contributions to support the WHA adopted Program and Budget. This issue is important because voluntary contributions accounts for almost 80 per cent of WHO's total budget and there has been a freeze on assessed contributions from member States. This makes the implementation of resolutions and decisions adopted by the WHA reliant upon the availability of voluntary contributions from donors. As a follow-up to the financing dialogue, the WHA decided that resolutions adopted by the WHA will be implemented to the extent that their funding is included in the Program and Budget for 2014-15 except for emergency activities or as otherwise specifically decided by the WHA. Where the cost of implementation of such WHA resolutions or decisions exceed the financial provisions of the Program and Budget, the WHO Director General shall submit a proposal to the PBAC in January 2015 for handling related costs and the PBAC is requested to make recommendations on the same to the Executive Board and the 68th session of the WHA. The WHA also requested the Director

General to report to the PBAC in January 2015 on options of aligning resolutions with the general programme work and related programme budgets.

Substandard/Spurious/Falsely-Labelled/Falsified/Counterfeit Medical Products

The WHA discussed and took note of the report of the second meeting of the Member State Mechanism (MSM) on the issue of substandard/spurious/falsely-labelled/falsified/counterfeit medical products. The MSM was established by the 66th session of the WHA in 2013 with a work plan comprising the following elements – strengthening and capacity building of national and regional regulatory authorities and quality control laboratories; cooperation and collaboration among national (and regional) authorities and exchange of experiences, lessons learnt, best practices and information on ongoing activities at national, regional and global levels; communication, education and awareness raising; facilitate consultation, cooperation and collaboration with relevant stakeholders in a transparent and coordinated manner, including regional and other global efforts, from a public health perspective; identify actions, activities and behaviours that result in SSFFC medical products; strengthen national and regional capacities in order to ensure the integrity of the supply chain, collaboration on surveillance and monitoring; and collaboration and contribution to the work of other areas of WHO that address access to quality, safety, efficacious and affordable medical products, including but not limited to the supply and use of generic medical products, which should complement measures for the prevention and control of SSFFC medical products. The report also mentions that the pledged contributions for implementation of the report are in the form of voluntary contributions from a few countries.

Follow-up of the Report of the Consultative Expert Working Group on Research and Development: Financing and Coordination

The WHA discussed a report by the Director General on the work done to date in relation to the decision taken by the 66th session of the WHA on the basis of the report of the CEWG. The 66th Health Assembly had requested the Director-General, inter alia to: (1) establish a global health research and development observatory to monitor and analyse 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 report by the Director-General (A67/27) stated that the Secretariat has started the process of establishing the Global Health Research and Development Observatory. It further proposed the establishment of a global research and development advisory body and the institutionalization of an annual research and development stakeholder conference. It also stated that the creation of any new funding mechanism would introduce strong, managed coordination of the research that a new fund would support. The priorities supported under such a financing mechanism would be those identified through the global advisory committee and could be endorsed at the annual stakeholder conference.

Another report by the Director General (A67/28) described four health R&D demonstration projects that were chosen from a list of proposed demonstration projects and four other demonstration projects that would be considered for approval.

During discussions on the reports in Committee B of the WHA, developing countries, led by Bolivia, stated that the implementation of the demonstration projects should not be linked to starting negotiations for a binding R&D Treaty as recommended by the CEWG.

In regards to the establishment of a pooled funding mechanism for supporting R&D, several countries including Switzerland, Brazil and Kenya expressed support for such a mechanism and announced that they would donate to the pooled fund. France and Switzerland proposed a draft decision proposing the establishment of a pooled fund for voluntary contributions and requested the WHO Secretariat to further take appropriate action and report to the 68th session of the WHA in 2015.

The WHA adopted a decision which noted the possibility of using an existing mechanism to host a pooled fund for voluntary contributions towards R&D for type II and type III diseases and specific R&D needs of developing countries in relation to type I diseases, and requested the WHO Secretariat to explore the option with the WHO programme for research and training in tropical diseases (TDR). In exploring this issue, the scope of the diseases should not be limited to type III diseases but be in line with the GSPOA mandate, recognize the need for sustainable financial mechanism for health R&D and recognize the role of member States in the governance of the coordination mechanism. The decision also took note of the report of the Director-General and requested that an analysis be included of the

extent of innovative components being implemented by the demonstration projects including financing, the use of open access models, multi-sectoral research platforms, and delinkage, among other criteria. The Director-General was requested to report to the 68th session of the WHA with reference to this decision through the 136th session of the Executive Board.

Regulatory Systems Strengthening

The WHA considered two resolutions with regard to strengthening drug regulatory systems – 1) resolution on regulatory systems strengthening for medical products; and 2) resolution on access to biotherapeutic products and ensuring quality, safety and efficacy.

The resolution on regulatory systems strengthening for medical products was proposed by the US at the 134th session of the Executive Board in January 2014. Developing countries raised serious concerns on this proposed resolution as it urged member States to harmonize regulatory standards and implement the International Conference on Harmonisation (ICH) of Technical Requirements for Registration of Pharmaceuticals for Human Use. The International Conference on Harmonization is a forum of regulatory authorities and the pharmaceutical industries of Europe, Japan and US that was established in 1990 to discuss scientific and technical aspects of drug registration. Though it is not a part of the WHO, the ICH effectively facilitates the pharmaceutical industry from developed countries to influence drug registration standards, which could restrict generic competition from developing countries.

India stated that the development of norms, standards or guidelines should be free from conflict of interest and exclude the use of any initiative driven by the industry. In face of strong opposition from developing countries, the resolution was adopted after deleting references to the ICH guidelines and most references to harmonization or convergence in the text of the resolution. However, the resolution contains indirect references to harmonization and hence developing countries should be cautious that this does not bring back issues like ICH guidelines or other harmonization initiatives.

The WHA also approved the resolution on access to biotherapeutic products, acknowledging that national authorities may use different terminologies when referring to similar biotherapeutic products. The WHA also approved a request by Argentina and Colombia to the Director-General for the revision of the “WHO Guidelines on evaluation of biosimilar products” which was issued by the WHO secretariat in 2009 without the approval of the WHA.

Access to Essential Medicines

The WHA also approved a resolution aimed at improving access to essential medicines. Though the resolution received support from all members, India proposed an amendment to broaden the scope of the resolution to include critical medicines, which may not be included in the WHO essential medicines list. The proposed language by India was further modified and the resolution was passed with the amendment to include medicines critical to a country's priority public health needs within the scope of the resolution.

Oman had proposed an amendment to review/improve procedures needed by member States to improve the TRIPS flexibilities and make the procedures more flexible. However, there was no agreement on this amendment and Oman finally withdrew this proposal.

The resolution approved by the WHA urges member States to provide adequate resources, for the development of national medicine policies, strengthened pharmaceutical regulatory, procurement and distributions systems and coordinated responses to address activities that affect access to essential medicines; to improve national essential medicine selection policies including medicines critical to their priority public health needs; to encourage and support research on health systems regarding the procurement, supply and rational use of essential medicines; to promote collaboration and strengthen the exchange of information on best practices in the implementation of medicines policies; to place greater emphasis on medicines for children; to improve the education and training of health care professionals; to strengthen the engagement with the general public and civil society to increase awareness of essential medicines; to identify key barriers to access to essential medicines and to develop strategies to address them; to establish or strengthen, systems to monitor the availability, affordability and utilization of safe and effective essential medicines; to systematize information collection and strengthen monitoring mechanisms, in order to better understand the causes of essential medicines shortages and develop strategies to prevent and mitigate the problems and risks caused by shortages. Finally, the resolution requests that member States consider, as appropriate, adapting national legislation in order 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 agreement, in order to promote access to essential medicines, in line with the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property.

The resolution further requests that the Director General facilitate and provide support to member states in all of the above-mentioned activities. More specifically, it requests that the Director General facilitate exchange of information and collaboration among member States on best practices in the development and implementation of medicines policies, as well as in the selection of essential medicines; provide capacity building support to member States for the selection of essential medicines; support member States in developing and implementing their national medicines policies and supply systems and support member States in systematizing information collection and strengthening monitoring mechanisms. The resolution also asks the Director General to urge member States to expedite progress towards the achievement of the Millennium Development Goals and universal health coverage. Additionally, it requests the granting of technical support to member States that intend to make 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 agreement, in order to promote access to essential medicines, in accordance with the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property. Finally, it requests that the Director General report on the implementation of the resolution at the Sixty-ninth World Health Assembly.

Antimicrobial Drug Resistance

The WHA approved a resolution on "Combating antimicrobial resistance, including antibiotic resistance" committing to a higher level of action to combat antibiotic resistance which is an increasing public health threat across the world. The resolution acknowledges the importance and magnitude of antimicrobial resistance and urges the WHO to develop a global action plan to combat antimicrobial resistance. It also urges member States to develop national plans in this regard. Developing countries also stressed the importance of ensuring access to new antibiotics for developing countries and the need for resource mobilization to implement national action plans and undertake surveillance of resistance.

While supporting the resolution, India stated several concerns that should be reflected in the global plan of action including financial access to new antibiotics for patients in developing countries, new ways of funding R&D, delinking the cost of drug development from its pricing, special needs of developing countries and the need for capacity building, as well as financial and technical assistance to undertake relevant activities.

The resolution was adopted with an amendment proposed by Mexico that the multi-sectoral approach to inform the drafting of the global action plan by consulting relevant stakeholders should take into account the need to manage possible conflicts of interest.

Future WHO Meetings

The next annual meetings of the WHO Regional Committees will be held from **September 1st to October 22nd 2014**.

FOOD AND AGRICULTURE ORGANIZATION (FAO)

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

Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing: First Meeting

The first meeting of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing was held from **May 13 – 16, 2014** in Geneva Switzerland.

The Working Group was created by the Governing Body of the ITPGRFA at its Fifth Session. It has been tasked with exploring long-term solutions to address the shortfalls in the Treaty's Benefit-sharing Fund.²¹

During the session the members of the Working Group discussed the factors, which had led to the current shortfall of income in the Fund and outlined possible innovative solutions to address the problem.

A report of the measures discussed during the session will be transmitted to the Sixth Session of the Governing Body of the ITPGRFA for consideration.

Future ITPGRFA Meetings

The Sixth Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture will be held in **Rome in 2015**.

CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

Ad Hoc Open-ended Working Group on Review of Implementation of the Convention (WGRI): Fifth Session

At its seventh meeting, the Conference of the Parties established the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention. The Working Group was tasked with considering the progress in the implementation of the Convention, reviewing the impacts and effectiveness of existing processes under the Convention, and considering ways of identifying and overcoming obstacles to the effective implementation of the Convention.²² The Fifth WGRI meeting took place on **16-20 June 2014** in Montreal Canada.

Topics considered by the Working Group included, among others, scientific and technical cooperation and technology transfer, the strategy for resource mobilization, biodiversity for poverty eradication and development and improving the efficiency of structures and processes under the Convention.

The outcome and draft decisions of the meeting will be submitted to the Conference of the Parties for consideration and adoption.

Ad Hoc Open-ended Intergovernmental Committee for the Nagoya Protocol on Access and Benefit-sharing: Third Meeting

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

The Nagoya Protocol was adopted by the Conference of the Parties to the CBD in 2010. As a supplementary treaty to the CBD, the Protocol aims at sharing the benefits gained from the utilization of genetic resources in a fair and equitable way. The Protocol will enter into force once it has been ratified by 50 countries. To date 49 countries have ratified the treaty.

During the meeting Member States agreed to set up an informal advisory committee to advise the CBD Secretariat on capacity building. Member States also adopted a strategic framework for capacity building and development, which seeks to develop the capacities of Contracting Parties, indigenous and local communities to contribute to the effective implementation of the Protocol.

²¹http://ftp.fao.org/ag/agp/planttreaty/gb6/owegfmls/mandate_0e-gw-efmls_en.pdf.

²² <https://www.cbd.int/wgri5/about/>.

The meeting also included discussions on possible measures and procedures to improve compliance with the Nagoya Protocol. The Committee recommended establishing a “compliance committee”, to promote compliance with the provisions of the Protocol and address cases of non-compliance. The recommendation is to be finalized at the next Conference of the Parties.

Future CBD Meetings

The twelfth meeting of the Conference of the Parties to the Convention on Biological Diversity will be held on **6-17 October 2014**, Pyeongchang, Republic of Korea.

First meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing is tentative scheduled to be held from **6-17 October 2014**.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

Bonn Climate Change Conference

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

The fortieth sessions of the Subsidiary Body for Implementation (SBI 40) and the Subsidiary Body for Scientific and Technological Advice (SBSTA 40), as well as the fifth part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP 2.5) took place from **4-15 June 2014** in Bonn, Germany.

Technology Executive Committee (TEC)

The Eighth meeting of the Technology Executive Committee

The Technology Executive Committee (TEC) convened for its Eighth Meeting on **5-7 March 2014** in Bonn, Germany.

The TEC is the policy branch of UNFCCC's Technology Mechanism. Its goal is to provide an overview of technological needs, and conduct analyses of policy and technical issues related to the development and transfer of technologies for mitigation and adaptation.²³

During the TEC's eighth meeting the Committee finalized its work plan for 2014-2015 and established task forces to undertake inter-

sessional work on activities outlined in the document.²⁴ In particular, the committee agreed to continue the work of previously established task forces on technology needs assessments (TNAs), enablers, barriers and adaptation. The TEC also agreed to create a new task force to address mitigation.

Future UNFCCC Meetings

The Ninth TEC Meeting will be held on **18-24 August 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 sixth part of its second session from **20-25 October 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.²⁵

Third Meeting of the Working Group on Enhanced Cooperation (WGEC)

The WGEC was established to examine the mandate of the World Summit on Information Society regarding enhanced cooperation in internet governance – as stipulated in the Tunis Agenda – and to make recommendations on how to fully implement this mandate. The recommendations from the WGEC are expected to inform the work of the CSTD, the UN Economic and Social Council (ECOSOC) and the UN General Assembly.

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

During the meeting an ad hoc group chaired by India was established to offer guidance to the WGEC regarding the structure of the report to be submitted to the CSTD by the WGEC.

Additionally, the correspondence group, which had been created in the second meeting of the WGEC to review international public policy issues

²³ <https://unfccc.int/bodies/body/6437.php>.

²⁵ <http://unctad.org/en/Pages/cstd.aspx>.

pertaining to the internet, presented its findings to the Group.

The meeting's activities focused on a rolling document that included consolidated draft recommendations, which had been received in response to the Chair's call for inputs at the last meeting.²⁶ The rolling document had been organized into four categories based on Member States' responses to the WGEC questionnaire on various aspects of enhanced cooperation. The five categories were as follows:

- A. Implementation of the Tunis Agenda
- B. Public Policy Issues and Possible Mechanisms
- C. Role of Stakeholders
- D. Developing Countries
- E. Barriers to Participation in Enhanced Cooperation

The Working Group discussed recommendations under categories A and B. However, due to a lack of time the proposals under categories D & E were not discussed. As a result the working group agreed to hold another meeting before the annual session of the CSTD.²⁷

Fourth Meeting of the Working Group on Enhanced Cooperation (WGEC)

The Fourth WGEC meeting was held from **30 April to 2 May 2014**. The Group continued its discussions on the draft recommendations. While there were some issues where consensus could be found, there were a number of other areas where divergent views persisted.

The report of the meeting drafted by the Chair noted that "the complexity and the political sensitivity of the topic did not allow the group to finalize a set of recommendations on fully operationalizing enhanced cooperation".²⁸ As a result, the group decided not to submit recommendations to the seventeenth session of the Commission on Science and Technology for Development (CSTD).

CSTD Seventeenth Session

The 17th Session of the CSTD was held on **12-16 May 2014** in Geneva, Switzerland. The session addressed two main themes:

- i. Science, Technology and Innovation for the Post-2015 Development Agenda
- ii. Information and Communications Technologies for inclusive social and economic development"

The Committee decided to recommend to ECOSOC that the work of the WGEC may be further continued, with a view of submitting findings to the CSTD at its inter-sessional meeting.²⁹

INTERNATIONAL TELECOMMUNICATION UNION (ITU)

World Telecommunication Development Conference

ITU's Sixth World Telecommunication Development Conference (WTDC) took place, from **30 March to 10 April 2014** in Dubai, the United Arab Emirates under the theme of "Broadband for Sustainable Development".

The meeting's main objective was to establish work programmes and guidelines for defining telecommunication development priorities. The meeting also aimed to provide direction and guidance for the work programme of ITU's Telecommunication Development Sector over the next four years.

World Summit on the Information Society (WSIS)

The WSIS+10 High-Level Event

The WSIS+10 High-Level Event was held from **June 10-13, 2014** at the ITU headquarters in Geneva Switzerland. The High Level Event is an extended version of the annual WSIS Forum.

During the meeting more than 1600 participants, including ministers and leaders from international organizations, businesses, civil society and academia reviewed the progress that has been made in the implementation of the original WSIS outcomes of 2003 and 2005. Participants also took stock of developments in internet governance over the last 10 years.

The meeting saw the adoption of two new outcome documents: "the WSIS+10 Statement on Implementation of WSIS Outcomes" and "the WSIS+10 Vision for WSIS Beyond 2015".³⁰ Both documents will be transmitted to UN General Assembly.

²⁶ The questionnaire and responses are available at <http://unctad.org/en/Pages/CSTD/WGEC-Responses.aspx>.

²⁷ See Chair's Report: http://unctad.org/meetings/en/SessionalDocuments/cstd2014_WGECd15_en.pdf.

²⁸ See Chair's Report : http://unctad.org/meetings/en/SessionalDocuments/ecn162014_crp3_en.pdf.

²⁹ See CSTD 17 Report: http://unctad.org/meetings/en/SessionalDocuments/CSTD2014_17th_Report_en.pdf.

³⁰ <http://www.itu.int/wsis/implementation/2014/forum/dam/documents.html#high-level>.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN)

49th Meeting of ICANN

The 49th Meeting of ICANN was held on **23-27 March 2014** in Singapore.

ICANN is a non-profit organization, based in the U.S that is responsible for coordinating the Internet's domain name system. Through a contract with the National Telecommunications and Information Administration (NTIA) of the United States Commerce Department, ICANN is responsible for the allocation and assignment of the Internet's unique identifiers, such as Internet Protocol addresses and accrediting generic top-level domain (gTLD) name registrars.

In March 2014, the U.S Department of Commerce announced its intention to transition ICANN's key Internet domain name functions to the "global multistakeholder community".³¹

This announcement dominated the discussions at ICANN's 49th meeting.

The meeting also addressed the NETMundial conference on Internet governance, which was scheduled to take place in Brazil on 23-24 April 2014.

50th Meeting of ICANN

ICANN'S 50th meeting was held in London from **22-26 June 2014**.

Geographical indications in the context of ICANN's new generic top-level domain (gTLD) program continued to be a contentious topic during the meeting. The new gTLD program allows the creation of domain names beyond the traditional ".com", ".edu" and ".org". The program began accepting applications for new gTLDs in January 2012. Since then, over 200 new gTLDs have been assigned.³² European and Latin American countries have requested protection for .vin and .wine in the new gTLD system. During the meeting France renewed this request but no agreement was reached on the matter.³³

ICANN's 51st meeting will be held in Los Angeles California, U.S.A, from **12-16 October 2014**.

GLOBAL MULTISTAKEHOLDER MEETING ON THE FUTURE OF INTERNET GOVERNANCE

The Global Multistakeholder Meeting on the Future of Internet Governance, also known as NETMundial, took place on **23-24 April 2014** in São Paulo Brazil.

The meeting was convened to discuss:

- i. Internet Governance Principles
- ii. Roadmap for the future evolution of the internet governance ecosystem

The NETMundial conference was the first of its kind. It was attended by government officials, technical experts as well as individuals from the private sector and civil society from 97 countries.

It is hoped that the non-binding outcome document,³⁴ which was presented at the end of the two-day conference, will provide input for the ongoing WSIS and Internet Governance Forum (IGF) discussions.

TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP)

The Trans-Pacific Partnership (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.

According to the Office of the U.S Trade Representative (USTR), the agreement aims to enhance trade and investment among the TPP partner countries. It also seeks to promote innovation and competitiveness, economic growth and development, and support the creation and retention of jobs.³⁵

While the TPP negotiations have been underway since 2010, no official text has been released to the public. As a result the TPP negotiations have been widely criticized for lacking transparency.

In November 2013 shortly before the Salt Lake City, Utah round of negotiations took place, WikiLeaks released a copy of the entire chapter on intellectual property.³⁶ Many civil society and advocacy groups denounced the IP provisions of the agreement as being excessively restrictive. Particular concern has been expressed regarding

³¹ <http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions>.

³² <http://newgtlds.icann.org/en/program-status/delegated-strings>.

³³ <https://www.icann.org/en/system/files/correspondence/gac-to-board-25jun14-en.pdf>.

³⁴ <http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Documents.pdf>.

³⁵ <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/united-states-trans-pacific-partnership>.

³⁶ <https://wikileaks.org/tpp/static/pdf/Wikileaks-secret-TPP-treaty-IP-chapter.pdf>.

the implications of the IP provisions for the access to affordable medicines in the developing world.

The finalization of the TPP agreement had been set for the end of 2013, however the participating countries have so far failed to successfully conclude the negotiations.

TPP Ministerial Meeting

The TPP countries held a two-day Ministerial meeting on **18-20 May 2014** in Singapore. During the meeting ministers reviewed recent bilateral negotiations and underlined the steps to be taken to bring the TPP negotiations to an end.

In the official joint statement issued after the meetings, it was noted that particular focus had been placed on market access and rules. TPP countries are expected to intensify the negotiations in these two areas in the coming months.³⁷

Future TTP Dates

The TPP chief negotiators will meet in Ottawa, Canada, from **3-12 July 2014**.

FREE TRADE AGREEMENTS

EU-US FTA (Transatlantic Trade and Investment Partnership – TTIP)

Fourth Round of Negotiations

The fourth round of negotiations for the Transatlantic Trade and Investment Partnership (TTIP) between the U.S and the E.U took place in Brussels, Belgium on **10-14 March 2014**.

During the meeting, it was noted that steady progress had been made in all three negotiating areas dealing with market access, regulation and rules. However, it was small and medium sized enterprises (SMEs), which were the focus of the fourth round of talks. In particular, the negotiations explored possible mechanisms to help SMEs take advantage of the TTIP.³⁸

Fifth Round of Negotiations

The fifth round of TTIP talks were held from **19-23 May 2014**. The negotiations in this round focused on intellectual property rights, regulatory coherence, labour and the environment and on certain sectoral regulatory areas.

³⁷ <http://www.ustr.gov/about-us/press-office/press-releases/2014/May/Joint-Statement-at-the-TPP-Ministers-Meeting-in-Singapore>.

³⁸ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1041&title=EU-U.S.-trade-%E2%80%93-Negotiators-explore-ways-to-help-SMEs-take-advantage-of-TTIP-as-fourth-round-of-talks-ends-in-Brussels>.

Following the negotiations, the U.S Trade Representative Michael Froman issued a statement affirming that the fifth round of negotiations had been productive. He asserted that the negotiators had moved from “discussing a conceptual framework to defining specific ideas for addressing the majority of negotiating areas”.³⁹

Future TTIP Negotiations

The sixth round of TTIP talks are scheduled to take place on **14-18 July, 2014 in Brussels**.

EU - Vietnam Free Trade Agreement

Seventh Round of Negotiations

The EU and Vietnam carried out the seventh round of negotiations for a free trade agreement (FTA) on **17-21 March 2014** in Hanoi, Vietnam.

The bilateral talks between the EU and Vietnam began in 2012. The agreement is to cover trade in goods and services, investment, government procurement, intellectual property rights, including geographical indications. It will also address other regulatory issues such as non-tariff barriers, animal and plant health and hygiene issues, technical barriers to trade, customs and trade facilitation, and trade and sustainable development.

Vietnam is the third country from the Association of Southeast Asian Nations (ASEAN) to carry out FTA negotiations with the EU. While the EU has pursued bi-lateral negotiations with individual ASEAN countries, its ultimate goal is to conclude an overarching agreement with ASEAN as a whole.⁴⁰

Eighth Round of Negotiations

The eighth round of negotiations took place from **23-27 June 2014** in Brussels, Belgium.

During the week-long talks, negotiators addressed market access for goods and services, as well as government procurement. They also exchanged opening bids establishing the extent to which each negotiating party would be prepared to allow investments from each other.⁴¹

³⁹ <http://www.ustr.gov/about-us/press-office/press-releases/2014/May/Statement-by-USTR-Froman-on-Conclusion-of-Fifth-Round-TTIP-Negotiations>.

⁴⁰ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1040&title=EU-Trade-Commissioner-De-Gucht-travels-to-South-East-Asia-to-boost-trade-ties-with-Vietnam-Cambodia-and-Myanmar>.

⁴¹ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1102>.

NATIONAL DEVELOPMENTS

South African Traditional Knowledge Bill

On February 9, 2014 South Africa's Ministry of Trade and Industry, confirmed that President Jacob Zuma had signed the Intellectual Property Laws Amendment Act, 28 of 2013. The Act amends the South African Performers' Protection Act, Copyright Act, Trade Marks Act and Designs Act. It seeks to protect Indigenous Knowledge (IK) using South Africa's current Intellectual Property System, and covers performance rights, copyright, trademarks, terms and expressions, geographical indications and designs. The Traditional Knowledge Bill as it is commonly referred to; also establishes a national council on indigenous knowledge, a national database for the recording of indigenous knowledge and a national trust fund for the purpose of indigenous knowledge.

The South African Minister of Trade and Industry affirmed that the key provision in the act "prohibits the registration of Indigenous Knowledge without consent or that is offensive to a particular public".⁴²

While the Act has been commended by indigenous leaders, IP lawyers in South Africa have expressed their disappointment with the approach the government has taken to see to the protection of Indigenous Knowledge.⁴³ In particular, critics have asserted that a sui generis approach – that is tailor made to address the specific particularities of the works to be protected in South Africa – should have been pursued, rather than subsuming Indigenous Knowledge into the already existing intellectual property framework.

⁴² <http://www.dti.gov.za/editmedia.jsp?id=2989>

⁴³ <http://www.ip-watch.org/2014/02/19/south-african-traditional-knowledge-protection-bill-amends-ip-laws/>