

## 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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### Inside

<b>WORLD TRADE ORGANIZATION (WTO)</b> .....	2
TRIPS Council .....	2
Working Group on Trade and Transfer of Technology (WGTTT) .....	6
Future WTO Meetings.....	7
<b>WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)</b> .....	7
Committee on Development and Intellectual Property (CDIP): Fifteenth Session.....	7
Future WIPO Meetings .....	10
<b>WORLD HEALTH ORGANIZATION (WHO)</b> .....	10
Sixty-Eighth World Health Assembly (WHA) .....	10
Future WHO Meetings .....	14
<b>UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)</b> .....	15
Future UNFCCC Meetings .....	15
<b>UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)</b> .....	15
<b>INTERNET GOVERNANCE FORUM (IGF)</b> .....	15
Future IGF Meetings .....	15
<b>FREE TRADE AGREEMENTS</b> .....	15
TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP).....	15
Future TPP Dates.....	16
EU-US FTA (Transatlantic Trade and Investment Partnership – TTIP) .....	16

## **WORLD TRADE ORGANIZATION (WTO)**

### **TRIPS Council**

#### **Meeting of 9-10 June 2015**

##### **Regular Session**

The TRIPS Council met on **9-10 June 2015** in Geneva, Switzerland. The meeting was chaired by Ambassador Abdolazeez Al-Otaibi of Saudi Arabia.

The meeting addressed the following key issues: review of the provisions of Article 27.3b of the TRIPS Agreement; relationship between the TRIPS Agreement and the Convention on Biological Diversity; protection of traditional knowledge and folklore; non-violation and situation complaints; review of the implementation of the TRIPS Agreement under Article 71.1; review of the application of the provisions of the section on geographical indications under Article 24.2 of the TRIPS Agreement; technical cooperation and capacity-building; intellectual property and innovation: the role of intellectual property in financing innovation; request for an extension of the transitional period under Article 66.1 for least developed country members with respect to pharmaceutical products and for waivers from the obligation of Articles 70.8 and 70.9; and observer status for intergovernmental organizations.

##### *Review of Article 27.3b of the TRIPS Agreement*

Article 27.3b of TRIPS states that Member States may exclude from patentability plants, animals and essentially biological processes for the production of plants and animals. However, it also states that Member States must allow patents for microorganisms and non-biological and microbiological processes for the production of plants or animals, and provide protection for plant varieties either by patents or by an effective sui generis system or by any combination thereof. It also states that there should be a review of this provision four years after the date of entry into force of the WTO Agreement. There is no outcome to date of the mandated review.

In addition, paragraph 19 of the Doha Ministerial Declaration mandates the TRIPS Council, in pursuing its work programme on the review of Article 27.3b, to examine the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), the protection of traditional knowledge (TK) and folklore, and other relevant new developments raised by Members pursuant to Article 71.1.

Accordingly, this issue is currently discussed in the TRIPS Council together with two other issues: the relationships of TRIPS and CBD (see "implementation issues" below), and the protection of TK and folklore.

In 2003, the African Group submitted a proposal (IP/C/W/404) to adopt a Decision on Protecting Traditional Knowledge. The proposal, among other things, provides that traditional knowledge is a category of intellectual property rights and that Members shall protect and enforce rights in respect of traditional knowledge in accordance with the provisions of the proposed Decision. In 2010 Bolivia had proposed (IP/C/W/545) that the process of review of Article 27.3b should take into account the United Nations Declaration on the Rights of Indigenous Peoples and the protection of traditional knowledge and folklore. In the same proposal, Bolivia stated the need to urgently review Article 27.3b to, inter alia, protect the rights of indigenous communities and prevent IP claims over TK.

There has been no change on this issue although, during the meeting, the Chairman urged Members to notify or report on any relevant mechanisms to protect genetic resources and traditional knowledge.

In 2010 Bolivia submitted a proposal (IP/C/W/545) to prohibit the patenting of all life forms, protect innovations of indigenous and local farming communities, to prevent anti-competitive practices and to prevent IPR claims over TK. In March 2011, Bolivia submitted a new proposal (IP/C/W/554) to amend Article 27.3b to prohibit the patenting of life forms and parts thereof.

In November 2012, Ecuador had proposed (IP/C/M/71) that the WTO Secretariat should prepare a compilation and factual summary of the arguments presented in the discussions in the Council and in the communications submitted by Members on the three agenda items.

During the meeting of the TRIPS Council in June 2015, with regard to the request that the WTO Secretariat should update the three factual notes that summarize the points delegations had made on these three agenda items, the Chairman signalled his readiness to facilitate the process in order to reach a decision that would provide for a definite solution at the next meeting of the Council. In addition, the Chairman urged Members to provide responses to or update their initial responses to the illustrative list of questions on Article 27.3b.

Relatedly, developing countries have insisted since 2011 that the CBD should be allowed to brief the TRIPS Council concerning the Nagoya Protocol. With regard to this issue, during the

meeting of the TRIPS Council in June 2015, the Chairman indicated his readiness to facilitate the process with a view to reaching a decision at the Council's next meeting that would provide for a definite solution.

### *Non-Violation and Situation Complaints*

Under the WTO dispute settlement system, a WTO Member State can challenge a measure taken by another Member State even if the measure has not violated any WTO agreement on the ground that the measure has deprived the aggrieved party of benefits that could be expected from the WTO agreement concerned. Such complaints are known as non-violation complaints.

By virtue of Article 64.2 of the TRIPS Agreement, there is currently a moratorium on non-violation and situation complaints in relation to TRIPS. There is disagreement among Member States about whether these types of complaints should be permitted in relation to TRIPS. The moratorium has been extended at every WTO Ministerial Conference. In December 2013, the Bali Ministerial Conference extended the moratorium on non-violation and situation complaints until 31 December 2015.

In 2002, Argentina, Bolivia, Brazil, Colombia, Cuba, Ecuador, Egypt, India, Kenya, Malaysia, Pakistan, Peru, Sri Lanka and Venezuela had submitted a paper (IP/C/W/385) stating why non-violation complaints should not apply to the TRIPS Agreement. In June 2014, the United States had submitted a paper (IP/C/W/599) aimed at ending the moratorium so that non-violation complaints can be applicable to the TRIPS Agreement.

During the meeting of the TRIPS Council in June 2015, Brazil submitted a revised version of the 2002 paper (IP/C/W/385/Rev 1) on behalf of Argentina, Bolivia, Brazil, China, Colombia, Cuba, Ecuador, Egypt, India, Indonesia, Kenya, Malaysia, Pakistan, Peru, Russia, Sri Lanka, and Venezuela. The revised paper stated the reasons why non-violation complaints should not apply to the TRIPS Agreement and it proposed that 'the Council for TRIPS recommend to the Ministerial Conference that complaints of the type provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 shall not apply to the settlement of disputes under the TRIPS Agreement'. Many countries supported the revised paper while the United States and Switzerland maintained that non-violation complaints should apply to the TRIPS Agreement. The TRIPS Council took note of the revised paper submitted by Brazil and the Chairman is expected to conduct informal consultations until the next TRIPS Council meeting in October 2015 to arrive at a consensus.

### *Review of the Implementation of the TRIPS Agreement under Article 71.1*

Article 71.1 of the TRIPS Agreement mandates the TRIPS Council to review the TRIPS Agreement after the expiration of the transitional period referred to in paragraph 2 of Article 65 and at identical intervals thereafter. Paragraph 2 of Article 65 granted developing countries a transition period of five years with regard to the implementation of the TRIPS Agreement.

In addition, pursuant to Article 71.1, the TRIPS Council may also undertake reviews in the light of any relevant new developments which might warrant modification or amendment of the TRIPS Agreement. No proposal has been tabled in this regard till date.

### *Review of the Application of the Provisions of the Section on Geographical Indications under Article 24.2*

Article 24.2 of the TRIPS Agreement mandates the TRIPS Council to keep under review the application of section 3 of the TRIPS Agreement on geographical indications (GI). The review process has taken the form of replies from Member States, on a voluntary basis, to a checklist of questions (IP/C/13 and IP/C/13 Add.1), on the understanding that the responses are without prejudice to the rights and obligations of countries with respect to the GI section of the TRIPS Agreement. The questionnaire response process has been initiated since 1998. Only 49 out of 161 Members have responded to those questions.

During the meeting of the TRIPS Council in June 2015, the Chairman invited delegations that had not yet responded to the questionnaire to consider doing so and that those who had already responded should consider updating the information as appropriate. In addition, the Chairman also encouraged any Member that was party to any bilateral agreements related to the protection of GIs and had not yet shared such information with the Council to do so, in accordance with the Council's recommendation made in March 2010.

### *Technical Cooperation and Capacity Building*

Article 67 of the TRIPS Agreement provides that, in order to facilitate the implementation of the TRIPS Agreement, developed country members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least developed country Members. Developed countries are required to provide annual reports on the

technical cooperation activities launched in order to facilitate the implementation of the TRIPS Agreement by developing and least developed country Members. Intergovernmental organizations also report on their technical cooperation activities associated with intellectual property. However, there is usually an overlap between the information provided by developed countries in compliance with Article 66.2 and Article 67.

During the meeting of the TRIPS Council in June 2015, the Chairman suggested that the Council hold its annual review at its meeting scheduled for 15-16 October 2015. Among other things, the Chairman suggested that developed country Members be invited once more to supply information on their activities pursuant to Article 67 of the TRIPS Agreement. He proposed that the Council request that this information be made available by 23 September 2015 in order to allow its timely circulation before the meeting.

Also during the meeting, the Chairman recalled that the Council had been informed by the previous Chair about the Director-General's renewed efforts undertaken earlier this year to secure the entry into force of the Protocol Amending the TRIPS Agreement by the Tenth WTO Ministerial Conference. The WTO General Council had adopted a decision on 30 August 2003 to waive certain obligations regarding compulsory licensing in the TRIPS agreement. The decision is aimed at removing the obstacles for the export of pharmaceutical products under compulsory licenses to countries with inadequate manufacturing capacity to produce pharmaceuticals. The waiver decision will be replaced by a protocol amending the TRIPS Agreement, once two-thirds of WTO members accept the change. As of July 2015, 55 Members have formally accepted the amendment to the TRIPS Agreement.

The Chairman had taken the initiative to suggest that the issue of cooperation to facilitate domestic procedures to accept the TRIPS Protocol and ultimately to support the entry into force of the TRIPS amendment be raised under the agenda item on technical cooperation and capacity building. The Chairman's initiative built on past work in the Council that had recognized the need for technical assistance in relation to the process of acceptance and also provided support to Members in this area. The Council took note of the statements made by a number of countries on this issue during the meeting.

### *Intellectual Property and Innovation: The Role of Intellectual Property in Financing Innovation*

During the meeting of the TRIPS Council in June 2015, at the request of the United States and Switzerland (co-sponsored by the EU and Singapore), there was a discussion on the role of intellectual property in financing innovation. The United States presented an overview of research and literature showing how intellectual property coupled creativity with the capital necessary to finance innovation. Switzerland elaborated on how intellectual property turned intangible assets into property rights. Singapore, the EU, Korea, Taiwan, Chile and Japan reportedly elaborated their domestic programmes to encourage and help small enterprises and innovators to access financing, including by formalizing, assessing and licensing their intangible assets and intellectual property.

In its statement during the meeting of the TRIPS Council, India mentioned that innovation should not be viewed within the narrow prism of intellectual property monopolies but framed within a holistic, knowledge ecosystem that includes open innovation, open knowledge approaches and de-linkage of R&D costs from product prices. India also requested the WTO to organize a symposium on "New Business Models for Fostering Innovation and Access: Innovation Inducement Prizes and Open Source Development Models." Brazil, and Bangladesh on behalf of the Least Developed Country (LDC) group, said that there could be no "one size fits all" policy regarding innovation in particular because the venture capital reality in least developed countries is different from the one found in developed nations.

### *Least Developed Countries Request for an Extension of the Transition Period for the Protection of Pharmaceuticals*

In 2002, the TRIPS Council had approved a decision extending until 2016 the transition period during which LDCs are exempted from providing patent protection for pharmaceuticals. Subsequently, in June 2013, the TRIPS Council agreed to extend until July 2021 the deadline for LDCs to protect intellectual property rights under the TRIPS Agreement. The 2013 extension is without prejudice to the earlier extension granted in 2002 with respect to pharmaceutical products.

During the meeting of the TRIPS Council in February 2015, Bangladesh (on behalf of LDCs) had introduced, under the agenda item for "other business", a proposal concerning the duly motivated request for an exemption for LDCs with regard to the protection and enforcement of patent rights on pharmaceuticals for as long as a country

remains an LDC (IP/C/W/605). The proposal presented by Bangladesh also requested that the TRIPS Council should recommend to the General Council a waiver for LDCs from obligations under Articles 70.8 (mailbox applications) and 70.9 (exclusive marketing rights) for as long as a country remains an LDC.

During the meeting of the TRIPS Council in June 2015, the request by the LDCs for a waiver with regard to the protection of pharmaceutical products was formally discussed. On behalf of the LDC group, Uganda addressed (among other things) the following issues in its presentation: the general transition period vis-à-vis the 2002 pharmaceutical decision; whether the 2002 specific pharmaceutical transition period has been valuable to LDCs; the waiver from mailbox obligations under Article 70.8 and the waiver from exclusive marketing rights obligations under Article 70.9; and the issue of duration.

30 countries took the floor on this agenda item, mostly in support of the request for an extension. The African Group, South Africa, Cambodia, Tanzania, Mali, Cuba, Brazil, Togo, China, Uruguay, and Norway supported the request of the LDCs. Turkey and Taiwan supported the request but they were not in favour of an indefinite extension. The United States and the EU said they would come back to the issue at the next session. Japan suggested deferring discussion on the extension closer to the expiration date of the general exemption in 2021. India said that Article 66.1 of the TRIPS Agreement is mandatory in nature, in that it does not give the TRIPS Council any discretion to deny a request for extension of the transition period or to impose any further conditions on LDCs. The WHO also supported the LDC request for an extension.

Discussions on the LDC request are expected to be conducted informally until the next meeting of the TRIPS Council in October 2015.

### *Observer Status for International Intergovernmental Organizations*

The TRIPS Council may accept observers on a permanent or ad hoc basis. There are pending requests from thirteen organizations (including the South Centre, the CBD Secretariat, and UNEP) for observer status in the TRIPS Council. CBD and others are invited on an ad hoc basis and recently, observer status on an ad hoc basis has been granted to GCC, ARIPO, OAPI and EFTA. Selected requests for observer status are accepted.

During the meeting, the Chairman recalled that there remained 12 pending requests for observer status by intergovernmental organizations. In this

regard, the updated list is contained in document IP/C/W/52/Rev.13. The Council took note of the statements made by some countries on this issue and agreed to revert to the matter at its next meeting.

### *Other Business*

During the meeting, a number of issues were discussed under the agenda item for 'Other Business'.

In relation to invitations to ad hoc observers, recalling that the Council had agreed to grant observer status on an ad hoc basis to ARIPO, OAPI, GCC and EFTA at its meetings in June 2010 and November 2012, the Chairman suggested that the Council should invite these four intergovernmental organizations again to attend the next formal meeting of the Council on an ad hoc basis. Regarding the grant of permanent observer status to these four intergovernmental organizations, the Chairman stated that, since the Council could not take a decision under 'Other Business', the Council could revert to that matter at its next meeting under the agenda item on 'Observer Status'.

Concerning the 13th Annual Review under paragraph 2 of the 2003 Decision on the 'Implementation of Article 66.2 of the TRIPS Agreement' (IP/C/28), during the meeting, the Chairman suggested that developed country Members be requested to provide, by 23 September 2015, new detailed reports on actions they had taken or planned in pursuance of their commitments under Article 66.2. Article 66.2 of the TRIPS Agreement mandates developed countries to provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least developed countries. In addition, paragraph 1 of the 2003 Decision on the 'Implementation of Article 66.2 of the TRIPS Agreement' provides that developed country Members shall submit annually reports on actions taken or planned in pursuance of their commitments under Article 66.2 and they are mandated to provide new detailed information every third year, and to provide updates to their most recent reports in the intervening years. These reports are required to be submitted prior to the last Council meeting scheduled for the year in question. This year, developed country Members are expected to submit their fifth new detailed reports on actions taken or planned in pursuance of their commitments under Article 66.2.

With regard to reviews, the Chairman stated that the Council would deal with both the annual review of technical cooperation under Article 67

and the annual review of the functioning of the Paragraph 6 System at its meeting in October.

Concerning Ecuador's proposal on the 'Contribution of Intellectual Property to Facilitating the Transfer of Environmentally Rational Technology' (IP/C/W/585) which was submitted in 2013, during the meeting, the Chairman recalled that Ecuador had expressed its wish at the beginning of the meeting to inform the Council about the steps taken to advance its proposal. The Council took note of the statement made by Ecuador. Ecuador's 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. In this regard, a number of developed countries had contended at an earlier meeting of the Council that intellectual property protection encourages the development of environmentally sound technologies, at accessible prices, as well as technology transfer.

## Implementation Issues

### *The Relationship between the TRIPS Agreement and the Convention on Biological Diversity*

Work on this issue was mandated by paragraphs 12 and 19 of the Doha Ministerial Declaration, and by paragraph 39 of the Hong Kong Ministerial Declaration. As part of this work, developing countries have proposed a mandatory disclosure obligation relating to patent claims on genetic resources and associated TK (IP/C/W/429, IP/C/W/474, TN/C/W/59).

The proposal aims to increase the transparency of the patent system to support countries' efforts to monitor and effectively enforce benefit sharing obligations with regards to genetic resources and TK. The TRIPS Agreement does not contain any provisions to ensure that patent applicants have obtained prior informed consent (PIC) from the countries of origin of the genetic resources or TK and complied with national regimes on access and benefit sharing, as required by the CBD.

The disclosure proposal was updated in 2011, following the conclusion of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CBD. Patent applicants would be required to disclose the source and country of

origin of the biological resource and of the TK used in the invention, show evidence of obtaining prior informed consent of the owners of genetic resources and associated TK, and show evidence of fair and equitable benefit sharing under the relevant national regime. The obligation would take the form of an addendum to Article 29 of the TRIPS Agreement (Article 29 *bis*).

Developed countries contend that compliance with the CBD should be dealt with separately under national laws and bilateral agreements. They are also of the view that the objectives of the CBD and TRIPS do not conflict, that expanding disclosure norms for biological resources will violate the principle of non-discrimination based on fields of technology, and that disclosure norms will constitute an additional and unnecessary burden on patent applicants and patent offices. They also contend that the legal consequences of non-disclosure should not be addressed under patent laws. The European Union, however, has supported in principle the disclosure proposal, as a quid-pro-quo for support for the extension of the protection of geographical indications (GIs) (see below).

### *Extension of the protection of geographical indications*

Another "implementation" issue is the extension of the level of protection for GIs currently provided in the TRIPS Agreement for wines and spirits to *all* products. It was also mandated by paragraph 39 of the Hong Kong Ministerial Declaration. The European Union is the main supporter of enhanced protection for GIs. The United States is the strongest opponent. Developing countries are divided in their support and opposition to the proposal.

There has been no movement on these issues. The last state of play by the Director General is from 2011 (TN/C/W/61). As implementation issues, the outcome is tied to that of other issues under broader a WTO post-Bali work program.

### **Working Group on Trade and Transfer of Technology (WGTTT)**

The 49th session of the Working Group on Trade and Transfer of Technology was held on **12 June 2015** in Geneva, Switzerland.

The Working Group, established by the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), has the mandate to examine the relationship between trade and transfer of technology, and provide any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries.

To date the working group has not made any recommendations.

### Future WTO Meetings

The next meeting of the TRIPS Council for **2015** will be held on **15-16 October 2015**, in Geneva Switzerland.

The Tenth Ministerial Conference of the WTO will be held from **15-18 December 2015** in Nairobi, Kenya.

## WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

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

The Fifteenth Session of WIPO's Committee on Development and Intellectual Property (CDIP) was held in Geneva from **20-24 April 2015**. Ambassador Alberto Pedro D'Alotto of Argentina was elected as Chairman of the meeting.

During the meeting, the Director General introduced his Report on the Implementation of the Development Agenda contained in document CDIP/15/2. The CDIP decided to extend the implementation of a Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries that was approved by the ninth session of the CDIP, until the end of December 2015.<sup>1</sup>

Two project evaluation reports were presented to the Committee during the meeting: the Evaluation Report for the Project on Open Collaborative Projects and IP-Based Models (CDIP/15/3) and the Evaluation Report for the Project on Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations (CDIP/15/4). The Committee considered and took note of the project evaluation reports and the recommendations contained therein.<sup>2</sup> It was decided that the Secretariat will take appropriate actions on the recommendations contained in the evaluation reports, taking into account the comments and reservations made by the Member States.<sup>3</sup>

<sup>1</sup> See, Committee on Development and Intellectual Property, 'Summary by the Chair', Fifteenth Session, Geneva, 24 April 2014, para 6.

<sup>2</sup> Ibid para 7.

<sup>3</sup> Ibid.

A proposal by Egypt with regard to a Project on Intellectual Property, Tourism and Culture (CDIP/15/7) was adopted by the Committee after the replacement of the word 'protection' with 'promotion'. Some countries expressed their interest to be considered as one of the three other pilot countries in the project.

The CDIP also took note of the Report on the WIPO Expert Forum on International Technology Transfer (CDIP/15/5). The CDIP decided to continue discussing the matter at its next session based on this document and any other ideas that Member States wish to put forward.<sup>4</sup>

In relation to the WIPO General Assembly Decision on CDIP related matters, the focus was on two key issues: the scope of the Coordination Mechanism, which mandates that "relevant WIPO bodies" should annually report on their contributions to the implementation of the Development Agenda Recommendations; and the implementation of the third pillar of the CDIP mandate to discuss IP and development. With regard to the Coordination Mechanisms, the issue is whether WIPO's Program and Budget Committee (PBC) as well as the Committee on WIPO Standards (CWS) should be required to report on their contributions to the implementation of the Development Agenda Recommendations. On IP and development, the Development Agenda Group (DAG) has made a proposal to create a standing agenda item on IP and development related issues in the CDIP. Concerning the proposal by DAG to create a standing agenda item on IP and Development, the CDIP decided to take note of a proposal circulated by Algeria and Nigeria during the meeting and request the General Assembly to enable it to continue with the discussion at its forthcoming sessions. The proposal circulated by Algeria and Nigeria contains a list of proposed topics for discussion under 'IP and Development'. Algeria proposed the following topics: report on the discussions of the WIPO seminar series on the Economics of Intellectual Property; WIPO's contribution to development-related UN work; and information on present and future work under IP and Global Challenges. The following two additional topics were proposed by Nigeria: access to knowledge and intellectual property and technology transfer. In addition, on Coordination Mechanisms, there was an informal proposal by Mexico and the CDIP decided that it would try to have informal consultations during the 2015 General Assembly based on the proposal by Mexico. Mexico's proposal states, among other things, that: upon completion of the substantive work of each session of the Committee, an opportunity should be provided for Member States who so wish to discuss those activities of the

<sup>4</sup> Ibid para 9.

Committee that have contributed to the implementation of the recommendations of the Development Agenda; and that the issue of the coordination mechanism as such will only be debated within the CDIP, and discussions on its application in other WIPO Committees will not be entertained, as these Committees are not suited to that purpose.

The CDIP also took note of a study on Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels - Part IV (CDIP/15/6). The CDIP also decided to ask the Secretariat to update its database on flexibilities and to continue discussions on this topic at the forthcoming session of the CDIP. In addition, the CDIP took note of a Study on Pharmaceutical Patents in Chile (CDIP/15/INF/2).

The CDIP also discussed the External Review of WIPO's Technical Assistance in the Area of Cooperation for Development and requested the Secretariat to update the Management Response to the external review and to continue discussion on the basis of the points submitted by Spain, any other recommendations that other Member States would like to add to this list, and the updated version of the Management Response. In its submission in this regard, Spain had proposed, among other things, the following: the Secretariat should be asked to prepare a compilation of best practices of WIPO technical assistance; the Secretariat should be asked to identify measures to increase the efficiency of WIPO's technical assistance; the Secretariat should be asked to prepare a guideline for the selection of consultants for technical assistance; and the Secretariat should be asked to regularly update the online roster of consultants.

### **Diplomatic Conference for the Adoption of a New Act of the Lisbon Agreement – The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications**

A Diplomatic Conference for the adoption of a new Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications was held in Geneva from **11 to 21 May 2015**. The Diplomatic Conference was convened to include Geographical Indications in the Lisbon system and to permit intergovernmental organizations to become members of the new Act.<sup>5</sup> In addition, the process was also aimed at revamping the financial

<sup>5</sup> See, Catherine Saez, 'New Act Protecting Geographical Indications Adopted at WIPO', *Intellectual Property Watch*, (20 May 2015), <http://www.ip-watch.org/2015/05/20/breaking-news-new-act-protecting-geographical-indications-adopted-at-wipo-some-denounce-process/>.

structure of the system in order to ensure greater self-sustainability.<sup>6</sup>

The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (The Geneva Act) was adopted on **20 May 2015** and a signing ceremony was held on **21 May 2015**.<sup>7</sup>

The Geneva Act expands the scope of the Lisbon Agreement beyond Appellations of Origin to include Geographical Indications. The Geneva Act contemplates an international Geographical Indications registration system applying across all Contracting States. It also introduces collective enforcement provisions on GIs whereby infringement proceedings may be initiated by any public authority or interested party. The Geneva Act of the Lisbon Agreement will enter into force three months after five eligible parties have deposited their instruments of ratification or accession.

### **Patent Cooperation Treaty Working Group: Eighth Session**

The Patent Cooperation Treaty (PCT) Working Group met for its eighth session from **26 to 19 May 2015**. Mr Victor Portelli of Australia was elected as Chairman of the meeting.

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 (WG) discusses proposals to amend the treaty, as well as other matters of relevance to the PCT Assembly.

During the meeting, the Working Group noted the contents of a document titled 'Supplement to "Estimating a PCT Fee Elasticity" Study (PCT/WG/8/11) prepared by the International Bureau of WIPO. Though the study indicated that fee reductions for universities from developing countries appeared to be more effective than reductions for universities from developed countries, Japan (on behalf of Group B) stated that the development aspect had been taken into account in 2014 when Member States had agreed on the revised criteria for fee reductions for applicants from developing countries.<sup>8</sup> It also questioned whether it would be justifiable to differentiate between universities and research institutes from developing and developed

<sup>6</sup> ICTSD, 'Revised WIPO Lisbon Agreement to Cover Geographical Indications', *Bridges* Vol 19 No. 19, (28 May 2015) <http://www.ictsd.org/bridges-news/bridges/news/revised-wipo-lisbon-agreement-to-cover-geographical-indications>.

<sup>7</sup> *Ibid.*

<sup>8</sup> See, Patent Cooperation Treaty Working Group, 'Summary by the Chair', Eighth Session, 26-29 May 2015 (PCT/WG/8/25), para 16.



countries.<sup>9</sup> Brazil enquired about the possibility of initially introducing fee reductions for universities and government research institutes from developing countries while a possible extension of such fee reductions to these groups of applicants from developed countries could be considered at a later stage.<sup>10</sup> This was supported by Ecuador, Mexico, Chile, Dominican Republic and Spain.<sup>11</sup> In response to Brazil, WIPO's Chief Economist stated that all fee reductions will lead to a decline in revenue. The Chairman invited any Member State to come forward with proposals in this context for discussion at a future session of the Working Group.<sup>12</sup>

The WG also considered document PCT/WG/8/15 dealing with 'PCT Fee Income: Possible Measures to Reduce Exposure to Movements in Currency Exchange Rates'. During the meeting, all Member States who took the floor welcomed the proposal to commence hedging of international filing fees as far as the risk resulting from transactions in euro, Japanese yen and United States dollar was concerned, and to modify the current equivalent amount process for PCT fees with a view to fixing new equivalent amounts of PCT international filing fees only once per year, to remain unchanged for a period of 12 months.<sup>13</sup> The WG agreed on the proposed changes to the Directives of the PCT Assembly Relating to the Establishment of Equivalent Amounts of Certain PCT Fees set out in Annex II to document PCT/WG/8/15 with a view to their submission to the Assembly, in October 2015, subject to possible further drafting changes to be made by the Secretariat or, alternatively, the submission to the Assembly of a draft Understanding setting out details of the new process for fixing equivalent amounts in the currencies proposed to be hedged based on blended hedge rates, to be adopted by the Assembly together with the Directives as proposed to be modified.<sup>14</sup>

In addition, the WG noted the contents of document PCT/WG/8/16 dealing with 'Coordination of Technical Assistance under the PCT'. On behalf of Group B, Japan stated that it continued to be of the opinion that the WG had to await the outcome of the discussions in the Committee on Development and Intellectual Property on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/8/INF/1) before starting discussions on specific PCT-related technical assistance in the WG.<sup>15</sup>

Furthermore, the WG also discussed the Training of Examiners based on document PCT/WG/8/7. During the discussions, the USA expressed concerns with regard to the proposal that the International Bureau (IB) should develop, jointly with partner Offices, model training components and curricula, noting that the content of such components should be left to the donor Offices and that the IB should primarily act as a coordinator.<sup>16</sup> Nigeria emphasized that training needed to be practical and focused on the needs of the relevant Office.<sup>17</sup> The IB was requested by the WG to issue, as a first step, a Circular requesting information from Offices on examiner training activities carried out by Offices for the benefit of other Offices, notably from developing countries, as this would better inform the next phase of discussions on how the IB could act as a coordinating body to most useful effect.<sup>18</sup>

The WG also considered document PCT/WG/8/3 dealing with the 'Appointment of International Authorities'. The WG noted the update on the ongoing discussions in the Quality Subgroup of the Meeting of International Authorities, and in the Meeting of International Authorities under the PCT (PCT/MIA) itself, on the quality related aspects of the criteria for appointment of International Authorities, in particular the recommendations by the Quality Subgroup.<sup>19</sup> The WG also invited the IB to provide information concerning the expenses typically incurred by the IB in relation to the appointment of a new International Searching and Preliminary Examining Authority.<sup>20</sup>

During the meeting, the WG discussed document PCT/WG/8/19 dealing with 'National Phase Entry using ePCT'. While some delegations expressed their interest in the concept of national phase entry using ePCT and indicated either a strong interest in joining a pilot group or a possible interest in doing so, other user delegations also indicated their concern that such a system might be used in a way which reduced the role of a national attorney in ensuring that the local requirements were properly met, and that this would be detrimental to the interests of the applicant.<sup>21</sup> The Secretariat however explained, among other things, that the intended purpose of the system was not to offer a "single click national phase entry", reducing the substantive role of the national agent.<sup>22</sup> The WG noted that the IB intended to prepare a first draft interface in the Demo ePCT environment, likely in autumn 2015, which would help to inform more concrete discussions with potential pilot Offices and users

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<sup>9</sup> Ibid.

<sup>10</sup> Ibid para 18.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid para 19.

<sup>13</sup> Ibid para 22.

<sup>14</sup> Ibid para 30.

<sup>15</sup> Ibid para 39.

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<sup>16</sup> Ibid para 45.

<sup>17</sup> Ibid para 43.

<sup>18</sup> Ibid para 46.

<sup>19</sup> Ibid para 50.

<sup>20</sup> Ibid para 51.

<sup>21</sup> Ibid paras 92-93.

<sup>22</sup> Ibid para 93.

and it further noted the intention of the IB to invite participation by pilot Offices and users, by way of a PCT Circular, in the near future.<sup>23</sup>

The WG also noted the contents of document PCT/WG/8/9 dealing with 'PCT Minimum Documentation: Definition and Extent of Patent Literature'. The document states that the IB is reactivating the PCT minimum documentation task force to continue work towards updating the patent literature part of the PCT minimum documentation. The reactivation of the minimum documentation task force was welcomed by several delegations.<sup>24</sup>

### Future WIPO Meetings

The 30th session of the Standing Committee on Copyright and Related Rights will take place from **29 June to 3 July 2015** in Geneva, Switzerland.

The 23rd session of the Program and Budget Committee will take place from **13 to 17 July 2015** in Geneva, Switzerland.

The 24th session of the Program and Budget Committee will take place from **14 to 18 September 2015** in Geneva, Switzerland.

The 22nd session of the Standing Committee on the Law of Patents will take place from **27 to 31 July 2015** in Geneva Switzerland.

The 55th series of Meetings of the WIPO Assemblies will be held from **5 to 14 October 2015** in Geneva, Switzerland.

The 16th session of the Committee on Development and Intellectual Property will take place from **9 to 13 November 2015** in Geneva, Switzerland.

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

### Future UPOV Meetings

The next UPOV sessions will be held from **26 to 29 October 2015** in Geneva, Switzerland. The Administrative and Legal Committee will meet between **26 and 27 October 2015** while the Consultative Committee will meet on **28 October 2015**. The UPOV Council will meet on **29 October 2015**.

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<sup>23</sup> Ibid para 97.

<sup>24</sup> Ibid para 99.

## WORLD HEALTH ORGANIZATION (WHO)

### Sixty-Eighth World Health Assembly (WHA)

The Sixty-Eighth session of the World Health Assembly (WHA) of the World Health Organization (WHO) was held in Geneva from **18-26 May 2015**. This session of the WHA was presided over by Jagat Prakash Nadda, Union Minister of Health and Family Welfare of India. Angela Merkel, Chancellor of the Federal Republic of Germany, delivered an address to the plenary of the WHA as an invited speaker.

The agenda of the WHA comprised a number of critical public health issues including WHO reform; framework of engagement with non-state actors; addressing the health impact of air pollution; antimicrobial resistance; substandard/spurious/falsely-labelled/falsified/counterfeit medical products; follow-up of the report of the Consultative Expert Working Group on Research and Development: Financing and Coordination; global strategy and plan of action on public health, innovation and intellectual property; and pandemic influenza preparedness: sharing of influenza viruses and access to vaccines and other benefits.

### WHO Reform

At the Sixty-Eighth session of the WHA, the WHO Secretariat had submitted a report by the Director General (DG) of the WHO (A68/4) titled "WHO Reform: Overview of Reform Implementation" which summarizes the progress of WHO reform since the report to the 67th session of the WHA, provides an overview of the current status of reform, reviews progress in the three broad reform workstreams (programmes and priority setting, governance and management), outlines future work, and describes the impact of the Ebola viral disease outbreak in West Africa in 2014 and WHO's response on reform. The World Health Assembly took note of the report.

### Framework of Engagement with Non-State Actors

WHO's relationship with various non-state actors, including NGOs, private sector entities, academic institutions and philanthropies, has been an important and sensitive element of the current WHO reform program. Current discussions are focused on developing a framework of engagement with non-state actors that should provide overarching guidance on how WHO should engage with various types of non-state actors.

At the Sixty-Eighth session of the WHA, a revised draft framework of engagement with non-state

actors was submitted in the annex to the report by the DG on the framework of engagement with non-state actors (A68/5). In spite of numerous drafting sessions during the Sixty-Eighth session of the WHA, delegates were unable to complete work on the draft framework. However, during the meeting, the WHA adopted a resolution (WHA68.9) requesting the DG to: (1) convene as soon as possible, and no later than October 2015, an open-ended intergovernmental meeting to finalize the draft framework of engagement with non-State actors on the basis of progress made during the Sixty-Eighth World Health Assembly; (2) submit the finalized draft framework of engagement with non-State actors for adoption to the Sixty-Ninth World Health Assembly, through the Executive Board at its 138th session; and (3) develop a register of non-State actors in time for the Sixty-Ninth World Health Assembly, taking into account progress made on the draft framework of engagement with non-State actors.

### ***Addressing the Health Impact of Air Pollution***

At the Sixty-Eighth session of the WHA, a revised version of a report by the Secretariat that was presented at the 136th session of the Executive Board (EB) of the WHO on the health impact of air pollution was submitted for consideration by the WHA in document A68/18. The revised report along with a draft resolution proposed by Chile, Colombia, France, Monaco, Norway, Panama, Ukraine, USA, Uruguay, and Zambia was considered during the 68th session of the WHA.

The Sixty-Eighth session of the WHA adopted a resolution which, among other things, urges Member States to redouble their efforts to identify, address and prevent the health impacts of air pollution, by developing and strengthening, as appropriate, multisectoral cooperation on the international, regional and national levels, and through targeted, multisectoral measures in accordance with national priorities, strengthen international cooperation to address health impacts of air pollution, including through facilitating transfer of expertise, technologies and scientific data in the field of air pollution, as well as exchanging good practices, and meet the obligations of the WHO Framework Convention on Tobacco Control, if the Member State is a Party to this treaty. Furthermore, the resolution requests the Director-General, among other things, to significantly strengthen WHO's capacities in the field of air pollution and health in order to provide enhanced technical support and guidance to Member States, including through appropriate capacities in regional and country offices to support country activities, report to the Sixty-Ninth World Health Assembly on the implementation of this resolution and its progress in mitigating the health effects of air pollution and on other

challenges to air quality, and propose to the Sixty-ninth World Health Assembly a road map for an enhanced global response to the adverse health effects of air pollution.

### ***Antimicrobial Resistance***

The Sixty-Eighth session of the WHA adopted a Global Action Plan on Antimicrobial Resistance (GAP) contained in document A68/20 through resolution WHA68.7. During discussions on the draft GAP and the accompanying resolution, developing countries felt that the GAP did not adequately address issues of concern to developing countries such as access to existing and new anti-microbial agents and diagnostic kits, and financial and technological resources to develop and implement national action plans in line with GAP. India stated that antimicrobial resistance is a developmental challenge and not solely an issue about health security. Several amendments were included in the resolution after informal discussions, including tracking of resource flows for research and development on antimicrobial resistance in a new global research and development observatory. In addition, the resolution was amended to introduce stronger language on affordable access to new and existing antimicrobial medicines and diagnostic tools.

### ***Substandard/Spurious/Falsely-labelled/Falsified/Counterfeit Medical Products***

A time-limited Member State Mechanism (MSM) on "Substandard/Spurious/Falsely-labelled/Falsified/Counterfeit medicines" was established in 2012 at the 65th session of the WHA by way of resolution WHA65.19.

According to WHA65.19, the MSM would be reviewed after 3 years of operation i.e. in 2016. The third MSM meeting was held from 29 to 31 October 2014 and the outcomes of this meeting are contained in the DG's Report to the 68th WHA (A68/33). The request made by the third MSM meeting that the review of the MSM should be postponed till 2017 was approved during the 68th session of the WHA.

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

The World Health Assembly took note of a report (A68/34) that was submitted to the 136<sup>th</sup> session of the EB in January 2015 on the follow-up of the report of the CEWG, pursuant to WHA Resolution 66.22 and the decision of the 67<sup>th</sup> session of the Assembly (WHA67(15)).

Resolution (WHA66.22) urges Member States to strengthen health R&D and increase health R&D for diseases disproportionately affecting developing countries; promote capacity building, transfer of technology on mutually agreed terms, manufacture of health products in developing countries, and health R&D and access to health product in developing countries through investments and sustainable collaboration; establish or strengthen national health R&D observatories or equivalent functions for tracking and monitoring of relevant information on health R&D and contribute to the work of a global health R&D observatory; promote coordination of health R&D at national, regional and global levels; identify projects through regional consultations with relevant stakeholders to address research gaps, ensure coordination and secure resource needs for implementation to develop and deliver health products; continue consultations on specific needs related to coordination, priority setting and financing of health R&D; and contribute to coordinated and sustainable financing mechanisms for health R&D through voluntary contributions for activities at country, regional and global levels, in particular for monitoring, including a global health R&D observatory.

The resolution also requested the DG to convene an open-ended meeting of Member States prior to the Sixty-Ninth session of the WHA in 2016 to assess progress and continue discussions on the remaining issues in relation to monitoring, coordination and financing for health, taking into account all relevant analysis and reports, including the report of the CEWG, and transmit this report to the 69th session of the WHA.

The report (A68/34) by the Secretariat to the Sixty-Eighth session of the World Health Assembly suggested that the health R&D demonstration projects along with the global observatory could inform the development of the final research and development fund. It proposed that the pooled fund for R&D will be managed by the WHO Special Programme for Research and Training in Tropical Diseases, and the global observatory and the coordination mechanism will be managed by the Secretariat. The focus of the pooled fund will be the development of effective and affordable health technologies related to type III and type II diseases and the specific R&D needs of developing countries in relation to type I diseases taking into account principles of de-linkage of delivery price from R&D costs, use of open knowledge innovation and licensing for access. Contractual arrangements for funding of projects would include clauses on at-cost or preferential pricing, non-exclusive licensing agreements or licensing to WHO or the Special Programme. Priorities for the fund will be informed by the advice of the global observatory and the recommendations of the coordination mechanism.

The Joint Coordinating Board of the Special Programme will be responsible for oversight of the funding mechanism and report to the Assembly every two years. The report also proposed the establishment of a new scientific review group to prepare and manage regular calls for R&D project proposals.

The report also observed that the establishment of a pooled fund and the global observatory would depend on the availability of new funds. It suggested that the pooled fund should be able to access voluntary funding from non-state actors such as philanthropic foundations, and countries should also consider implementing innovation financing mechanisms to raise finances to ensure a sustainable flow of funding. The Secretariat recommended that the fund be managed directly by the Special Programme.

In March 2014, the Secretariat convened a meeting to determine which of the 8 shortlisted projects had a design that incorporated innovative financing and coordination mechanisms and were ready to be implemented. Four projects that met these criteria were selected and a meeting of stakeholders interested in funding or implementing these projects was convened. For the remaining four projects, the Secretariat reported that it is organizing a meeting with the project proponents to explore their interest in refining the proposals by introducing significant innovative features in the project design, with technical mentoring from the WHO. These developments were reported to the 67th session of the WHA (A/67/28). The WHA requested that an analysis of the extent of innovative components by the projects, including financing, use of open access models, multisectoral research platforms and delinkage are included in the project design. The WHA also requested the DG to expedite the process regarding the other four projects (WHA67(15)).

At the Sixty-Eighth session of the WHA, the Secretariat submitted a report (A68/34 Add.1) pursuant to the decision of the WHA in 2014 for consideration by the 68th session of the WHA. With regard to the progress on the remaining four demonstration projects, the Secretariat reported that it organized a workshop in collaboration with the Oswaldo Cruz Foundation in Rio de Janeiro on 26-27 August 2014 to bring together proponents of the project and the technical experts. The proponents were given the opportunity to revise the proposals based on the experts' recommendations. One proposal was withdrawn and three revised proposals were submitted. Two of these revised projects were found to meet the requirements to qualify as demonstration projects. It was found that the other remaining project required further refinement. The Secretariat report also proposed some additional

indicators to assess the innovative components of the selected demonstration projects. The WHA took note of the report.

### ***Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property***

The WHO Secretariat was required by Resolution WHA62.16 of 2009 to conduct an overall review of the implementation of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (GSPOA) in 2014. The GSPOA was adopted by the WHA in 2008 by resolution WHA61.21 to establish a medium-term framework for securing an enhanced and sustainable basis for needs driven essential health research and development relevant to diseases which disproportionately affect developing countries, proposing clear objectives and priorities for R&D, and estimating funding needs in this area.

At the 136th session of the EB in January 2015, the Secretariat presented a report (EB136/31) without providing a review and instead proposed a timeline for the process leading to the presentation to the governing bodies of an evaluation report on the GSPOA in 2017. The EB decided to recommend to the 68th session of the WHA to extend the deadline of the overall programme review of the global strategy and plan of action on public health, innovation and intellectual property on its achievements, remaining challenges and recommendations on the way forward to 2018, and to recommend to the Assembly to extend the time frame of the plan of action on public health, innovation and intellectual property until 2022. It also requested the DG to provide a report for the 68th session of the WHA on options, in consultation with Member States, for the conduct of the comprehensive evaluation and the overall programme review of the GSPOA.

The Sixty-Eighth session of the WHA approved a resolution (WHA68.18) in which it was decided to: extend the time frames of the plan of action on public health, innovation and intellectual property from 2015 until 2022; to extend the deadline of the overall programme review of the global strategy and plan of action on public health, innovation and intellectual property focusing on its achievements, remaining challenges and recommendations on the way forward to 2018, recognizing that it was not presented to the Health Assembly in 2015, as requested by resolution WHA62.16; and undertake the comprehensive evaluation and overall programme review of the global strategy and plan of action on public health, innovation and intellectual property separately in a staggered manner as set out in document A68/35 and its Annex, in consultation with Member States

subject to the process and provisions set out in the resolution.

In addition, the resolution requests the DG to, among other things, initiate the comprehensive evaluation of the implementation of the global strategy and plan of action on public health, innovation and intellectual property in June 2015, pursuant to the terms of reference specified in document A68/35; present the inception report and comments of the evaluation management group to the Executive Board for consideration at its 138th session in January 2016; and to submit the final comprehensive evaluation report to the Seventieth World Health Assembly for consideration in 2017, through the Executive Board. The resolution also requests the DG to present the terms of reference of the overall programme review for approval by the Executive Board at its 140th session in January 2017, and to present the composition of the overall programme review panel for consideration by the bureau of the Executive Board in February 2017. Furthermore, the resolution requests the DG to present the final report of the overall programme review of the global strategy and plan of action on public health, innovation and intellectual property, focusing on its achievements, remaining challenges and recommendations on the way forward to the Seventy-first World Health Assembly in 2018 through the 142nd session of the Executive Board.

### ***Pandemic Influenza Preparedness: Sharing Of Influenza Viruses and Access to Vaccines and Other Benefits***

The Sixty-Eighth session of the WHA noted the progress report (contained in Part O of Document A68/36) on the Pandemic Influenza Preparedness Framework (PIP Framework). The PIP Framework was adopted by the 64th WHA in resolution WHA64.5. The Framework seeks to improve and strengthen the sharing of influenza viruses with human pandemic potential through a WHO-coordinated network of laboratories known as the Global Influenza Surveillance and Response System. The Framework also seeks to promote fair and equitable access to the benefits arising from such sharing by developing countries. Section 7.4.1 of the Framework states that the DG shall, on a biennial basis, inform the WHA on the status of and progress on the Framework's implementation.

During the Sixty-Eighth session of the WHA, some Member States called for accelerated negotiations on "Standard Material Transfer Agreement 2" (SMTA2), and commented on the issue of genetic sequence data and how to include them in the PIP framework, which currently deals with biological

materials.<sup>25</sup> Some Member States, such as Indonesia and the United States, said Member States should be involved in the review of the framework in 2016.<sup>26</sup> The WHO Secretariat stated that the issue of genetic sequence data is a difficult issue and work is ongoing on how to handle information instead of virus in the context of the PIP framework.<sup>27</sup>

## Executive Board of the World Health Organization

The 137th session of the Executive Board (EB) of the WHO was held from **27-28 May 2015** in Geneva. The EB discussed a number of issues including financing dialogue and WHO guidelines: development and governance.

In relation to the financing dialogue, at the Sixty-Sixth session of the WHA, the WHA had decided (WHA66(8)) to establish a financing dialogue, convened by the DG and facilitated by the Chairman of the Programme, Budget and Administration Committee of the Executive Board, on the financing of the programme and budget. During the 137th session of the EB in May 2015, the report prepared by the Secretariat (EB137(3)) was considered by the EB. The report outlines the plans for the second financing dialogue which will be held on 5-6 November 2015. According to the report, the second financing dialogue is intended to contribute to full funding of the Programme and Budget 2016-2017 and better predictability of funding for the Programme and Budget 2018-2019. The report was noted by the EB.

With regard to the WHO guidelines: development and governance, in March 2014, the WHO had issued a draft guideline that suggested reducing the recommended free sugar intake from a maximum of 10% of total energy intake to 5%. On the first day of the 136th session of the EB in January 2015, there was a motion by Italy proposing a supplementary item on the agenda (EB136/1 Add.1) which was aimed at opening up the development processes of WHO's guidelines to interventions by Member States. This issue was postponed till the 137th session of the EB in May 2015. The essence of the Italian proposal was that WHO's guidelines protocols (WHO Handbook for Guideline Development, 2012) "should be reviewed and updated in order to take into account a different international commitment by stakeholders, in particular Member States, to make them more reliable by increasing the

accountability and transparency of the Organization."

The report prepared by the Secretariat titled, 'WHO Guidelines: Development and Governance' (EB137/5) provides a useful summary of the development and core principles of the "WHO Handbook for Guideline Development" which was published in 2012. The report states that, in response to substantial public criticism of its previous approach to guideline development, over the past decade WHO has developed stringent and state-of-the-art methods for ensuring that its guidelines are of the highest quality, are based on a comprehensive review of evidence and are independent, with appropriate management of conflict of interest. The report also states that Member States play an important role at two critical points in the process of guideline development. Member States provide direction and identify priorities for the selection of topics for WHO guideline development through governing body resolutions. In addition, Member States have the sole authority to decide whether and how to implement WHO guidelines at a national or subnational level, and whether or not to include national or local values and preferences in any implementation programme.

During the meeting, statements were made against the direct involvement of Member States in the development of guidelines and the need to maintain the independence and neutrality of WHO in the development of guidelines was also mentioned. The report was noted by the EB.

## Future WHO Meetings

The Second Open-Ended Intergovernmental Meeting of the WHO on the draft Framework of Engagement with Non-State Actors (FENSA) will take place on **8 to 10 July 2015** in Geneva, Switzerland.

The Annual Meetings of WHO Regional Committees will be held from **31 August to 16 October 2015** to set policy and approve budgets and programmes of work for each of the six WHO regions.

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<sup>25</sup> See, Catherine Saez, 'World Health Assembly Concludes With Actions on Range of Issues' *Intellectual Property Watch*, (27 May 2015), <http://www.ip-watch.org/2015/05/27/world-health-assembly-concludes-with-actions-on-range-of-issues/>.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

## **FOOD AND AGRICULTURE ORGANIZATION (FAO)**

### **Future ITPGRFA Meetings**

The sixth session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) will be held in Rome from **5-9 October 2015**.

The sixteenth regular session of the Commission on Genetic Resources for Food and Agriculture will be held in Rome from **30 January to 3 February 2017**.

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

### **Future UNFCCC Meetings**

The eleventh session of the UNFCCC Technology Executive Committee will be held from **7 to 11 September 2015** in Bonn, Germany.

The 21st session of the Conference of the Parties to the UNFCCC (COP21) will be held from **30 November to 11 December 2015** in Paris, France.

## **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.

The Eighteenth session of the CSTD was held from **4-8 May 2015** in Geneva, Switzerland. During the meeting, the CSTD, among other things, recommended to ECOSOC the adoption of a Draft Resolution on Assessment of the Progress made in the implementation of and follow-up to the outcomes of the World Summit on the Information Society (WSIS).

The WSIS was held in two phases, in 2003 (Geneva) and 2005 (Tunis). Four outcome documents were adopted in these two WSIS

summits: the Geneva Declaration of Principles; the Geneva Plan of Action; the Tunis Commitment; and the Tunis Agenda for the Information Society. The Tunis Agenda had requested the UN General Assembly to make an overall review of the implementation of the WSIS outcomes in 2015, as an integral part of the United Nations integrated follow-up to major United Nations conferences. In July 2014, the UN General Assembly decided that this review will be held through a two-day high level meeting of the General Assembly in December 2015.

The UNCTAD CSTD has the role of assisting ECOSOC as the focal point in the system-wide follow-up, in particular the review and assessment of progress made in implementing the outcomes of the World Summit. Accordingly, the CSTD was requested by ECOSOC to collect inputs from all facilitators and stakeholders concerning progress made in the implementation of WSIS outcomes and to organize, during its seventeenth session in 2014, a substantive discussion on the progress made in the implementation of the outcomes of the World Summit, and to report thereon, through the Council, to the General Assembly, as it makes an overall review of the implementation of the outcomes of the World Summit in 2015. The CSTD was also requested to submit, after its eighteenth session, the results of its 10-year review of progress made in the implementation of the outcomes of the World Summit, through the Council, to the General Assembly, as it makes an overall review of the implementation of the outcomes of the World Summit in 2015.

## **INTERNET GOVERNANCE FORUM (IGF)**

### **Future IGF Meetings**

The Tenth Annual IGF Meeting will take place from **10-13 November 2015**, in João Pessoa, Brazil.

## **FREE TRADE AGREEMENTS**

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

Twelve countries, namely Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States of America and Vietnam, are currently negotiating a comprehensive Trans-Pacific Partnership Agreement (TTP).

### *TPP Officials' Meeting (April)*

TPP officials met in Maryland from **23 to 26 April 2015** and they held discussions, among other things, on market access, intellectual property, rules of origin, investment, and textiles.<sup>28</sup> With the objective of advancing remaining text and market access issues, negotiators met in plurilateral, bilateral, and small group formats.<sup>29</sup>

### *TPP Officials' Meeting (May)*

TPP officials met in Tamuning, Guam, from **14 to 28 May 2015** and the topics discussed included intellectual property, textiles, rules of origin, investment, state-owned enterprises, labour, e-commerce, and market access.<sup>30</sup>

### **Future TPP Dates**

The next meeting of the TPP trade ministers will be held from **28-31 July 2015** in Maui, USA.

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

In October 2014, the EU made public the instructions of the Council for the TTIP negotiations.<sup>31</sup> The EU's ambition in all areas, including intellectual property rights, is included in the document. Likewise, US goals are also publicly available.<sup>32</sup>

### *Ninth Round of Negotiations*

The ninth round of negotiations took place from **20 to 24 April 2015** in New York.<sup>33</sup>

With regard to intellectual property rights (IPR), the focus of the discussions was on two proposals submitted by the EU ahead of the round on

international IPR treaties and on IPR Customs Enforcement.<sup>34</sup> The former is a list of international treaties to which the two sides would adhere in the TTIP Agreement, while the latter aims to combat trade in counterfeit goods by ensuring appropriate enforcement at the borders.<sup>35</sup> In addition, a range of technical questions were explored by both sides and they also exchanged updates on the respective legislative processes.<sup>36</sup> Furthermore, new items in the cooperation area, specifically addressing the angle of SMEs were presented by the US.<sup>37</sup>

In relation to geographical indications, the US remained non-committal and exchanges continued on legal alternatives to the U.S. trademark system.<sup>38</sup>

### *Tenth Round of Negotiations*

The tenth round of negotiations took place from **13 to 17 July 2015** in Brussels. There were discussions on market access, regulatory cooperation, and trade rules.<sup>39</sup>

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<sup>28</sup> Foreign Affairs, Trade and Development Canada, 'Trans-Pacific Partnership (TPP) Free Trade Negotiations', <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/rounds-series.aspx?lang=eng>.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> See, Council of the European Union., 'Directives for the Negotiation on the Transatlantic Trade and Investment Partnership between the European Union and the United States of America' <http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>.

<sup>32</sup> Office of the United States Trade Representative, 'T-TIP Issue Information Center' <https://ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership-t-tip/t-tip>.

<sup>33</sup> See generally, European Commission, 'Report of the Ninth Round of Negotiations for the Transatlantic Trade and Investment Partnership', 1. [http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc\\_153437.pdf](http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc_153437.pdf).

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<sup>34</sup> Ibid. 5.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> See, European Commission, 'TTIP Round 10 Statement by EU Chief Negotiator Ignacio Garcia Bercero' (17 July 2015) [http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc\\_153651.pdf](http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153651.pdf).