

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

WORLD TRADE ORGANIZATION (WTO)	2
Future WTO Meetings.....	2
WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)	2
Standing Committee on Copyright and Related Rights (SCCR): Thirtieth Session	2
Standing Committee on the Law of Patents (SCP): Twenty-Second Session	3
Program and Budget Committee: Twenty Third Session.....	4
Program and Budget Committee: Twenty Fourth Session	5
WIPO Administered Treaties	7
Status of Ratifications of the WIPO Marrakesh Treaty	7
Future WIPO Meetings	7
UPOV Council.....	7
Future UPOV Meetings.....	7
FOOD AND AGRICULTURE ORGANIZATION (FAO)	8
International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).....	8
Future ITPGRFA Meetings.....	8
CONVENTION ON BIOLOGICAL DIVERSITY (CBD)	8
FUTURE CBD MEETINGS	8
UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)	8
Bonn Climate Change Conference.....	8
Future UNFCCC Meetings	8
INTERNET GOVERNANCE	9
Future Meetings of the Internet Governance Forum (IGF).....	9
Future UN General Assembly Meeting on Overall WSIS+10 Review	9
FREE TRADE AGREEMENTS	9
TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP).....	9
EU-US FTA (Transatlantic Trade and Investment Partnership – TTIP)	9
Future TTIP Negotiations	9
REGIONAL DEVELOPMENTS	9
The Arusha Protocol for the Protection of New Varieties of Plants	9

WORLD TRADE ORGANIZATION (WTO)

Future WTO Meetings

The TRIPS Council regular session will take place from **15 to 16 October 2015** in Geneva, Switzerland.

The issues that would be discussed at this meeting include

- Technical cooperation activities: information from other intergovernmental organizations – Food and Agriculture Organization of the United Nations (FAO)
- Non-violation and situation complaints
- Annual review of the Decision on the Implementation of Paragraph 6 of the Doha Declaration: Report to the General Council
- WTO Secretariat technical cooperation in the TRIPS area - Note by the Secretariat
- Draft annual report (2015) of the Council for TRIPS

The WTO Ministerial Conference will take place from **15 to 18 December 2015** in Nairobi, Kenya.

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Standing Committee on Copyright and Related Rights (SCCR): Thirtieth Session

The Standing Committee on Copyright and Related Rights (SCCR) held its thirtieth session in Geneva from **29 June to 3 July 2015**. The session was chaired by Mr Martin Moscoso Villacorta from Peru.

There were three key items on the agenda of the SCCR: (i) protection of broadcasting organizations; (ii) limitations and exceptions for libraries and archives; and (iii) limitations and exceptions for educational and research institutions and for persons with other disabilities.

In relation to the Protection of Broadcasting Organizations, the Committee welcomed a report on Current Market and Technological Trends in the Broadcasting Sector.¹ The Committee held discussions on the protection of broadcasting and cablecasting organizations in the traditional sense following a signal based approach.² The documents, informal charts, and non-papers discussed at the three previous sessions of the

¹ WIPO Standing Committee on Copyright and Related Rights, 'Summary by the Chair' Thirtieth Session, para 7 (3 July 2015) http://www.wipo.int/edocs/mdocs/copyright/en/sccr_30/summary_by_chair.pdf.

² Ibid, para 8.

SCCR were also taken into account.³ With regard to the scope and object of protection the Committee took the view that effective legal international protection should be granted to broadcasting organizations to prohibit the unauthorized use of broadcast signals in the course of a transmission over any technological platform.⁴ Definitions related to 'broadcasting' and 'broadcasting organizations' were also considered by the Committee while discussion was also opened on the definition of 'signal'.⁵ For the next session, the Chairman was requested by the Committee to prepare a consolidated text with respect to definitions, object of protection, and rights to be granted.⁶

With regard to Limitations and Exceptions for Libraries and Archives, the 'Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised' (SCCR/30/3) prepared by Professor Kenneth Crews was welcomed by the Committee.⁷ The Committee was informed about the completion of the 'Study on Copyright Limitations and Exceptions for Museums' (SCCR/30/2) prepared by Mr Jean François Canat and Professor Lucie Guibault, which will be presented at the next session of the Committee.⁸ The use of the non-paper on "exceptions and limitations for libraries and archives" that was introduced by the Chairman at the twenty-ninth session of the SCCR was accepted by the Committee.⁹ The Committee considered the first topic in the Chair's non-paper – 'Preservation'. In this regard, the Committee stressed the importance of preservation, and views, national laws and practices were exchanged in relation to the objectives, principles, conditions and other factors to consider when adopting an exception for preservation.¹⁰ It was decided by that Committee to continue discussions on the issue of limitations and exceptions for libraries and archives in the framework of the Chair's non-paper, complemented with additional information from sources such as user-friendly tools based on the contents of the updated and revised study prepared by Professor Crews, technical presentations by NGOs, searchable databases, regional seminars, among others.¹¹

Concerning Limitations and Exceptions for Educational and Research Institutions and for Persons with Other Disabilities, the Secretariat was requested by the Committee to proceed with updating the various studies on limitations and

³ Ibid.

⁴ Ibid para 9.

⁵ Ibid para 10.

⁶ Ibid para 11.

⁷ Ibid para 15.

⁸ Ibid para 16.

⁹ Ibid para 17.

¹⁰ Ibid para 18.

¹¹ Ibid para 19.

exceptions for educational, teaching and research institutions published for the nineteenth session of the SCCR in 2009 and to aim to cover all WIPO Member States.¹² The Secretariat was asked to consolidate all the information from these studies into one single study.¹³ There was a request by some delegations that the studies should include information on limitations on remedies for infringements applicable to educational, teaching and research institutions without prejudice to the introduction of other topics related to this issue.¹⁴ In addition, the Secretariat was also requested by the Committee to proceed with commissioning a scoping study on limitations and exceptions for persons with other disabilities.¹⁵

A number of delegations from developing countries suggested that there should be equal allocation of time among the three substantive topics on the agenda of the Committee.

The Committee could not reach a consensus with regard to recommendations to the WIPO General Assembly on the three key items on its agenda. All three items will remain on the agenda of the Committee for its next session.

During the meeting, Congo highlighted the need to ensure adequate compensation to visual artists and suggested that the Committee add the topic of the resale royalty right to its agenda.¹⁶ It was suggested that this issue should be analysed further at the next meeting of the Committee.¹⁷

Standing Committee on the Law of Patents (SCP): Twenty-Second Session

WIPO's Standing Committee on the Law of Patents held its twenty-second session (SCP/22) in Geneva from **27 to 31 July 2015**. The session was chaired by Mrs Bucura Ionescu of Romania.

Five issues were considered by the Standing Committee of the Law of Patents (SCP) during the meeting: (1) quality of patents, including opposition systems; (2) exceptions and limitations to patent rights; (3) patents and health; (4) confidentiality of communications between clients and their patent advisors; and (5) transfer of technology. In addition, the SCP considered a proposal (SCP/22/5) for the revision of WIPO's Model Law for Developing Countries on Inventions which was submitted by the Group of Latin American and Caribbean Countries (GRULAC).

In relation to the agenda item on quality of patents, including opposition systems, two studies were considered by the Committee i.e. 'Study on Inventive Step' (SCP/22/3) and 'Study on Sufficiency of Disclosure' (SCP/22/4). In addition, there were also discussions on related documents (SCP/17/7, 8 and 10; SCP/18/9; SCP/19/4; and SCP/20/11 Rev.).

With regard to exceptions and limitations to patent rights, discussions were based on two proposals from Brazil contained in SCP/14/7 and SCP/19/6. Concerning patents and health, discussions were based on the proposal submitted by South Africa on behalf of the African Group (SCP/16/7 and 7 CORR.) and the proposal submitted by the USA (SCP/17/11).

In relation to confidentiality of communications between clients and their patent advisors, the Committee continued its discussions on this agenda item. While some delegations suggested that a number of activities be carried out by the Committee under this agenda item, some other delegations suggested that the discussion on this agenda item should not continue.

Concerning transfer of technology, the SCP continued its discussions on this agenda item and some delegations suggested that a number of activities should be carried out by the Committee under this agenda item.

With regard to the proposal by GRULAC on the revision of WIPO's Model Law for Developing Countries on Inventions contained in SCP/22/5, some delegations expressed their support for the proposal while some delegations were opposed to the proposal. The Chair suggested that discussions on the proposal should continue at the next session of the SCP.

Future Work

In relation to its future work, the Committee agreed on the following: (1) Exceptions and Limitations to Patent Rights – compilation by the Secretariat of Member States' experience and case studies on the effectiveness of exceptions and limitations, in particular, in addressing development issues; (2) Quality of Patents, including Opposition Systems – half day sharing session on experiences of experts from different regions on inventive step assessment in examination, opposition and revocation procedures. In addition, the Secretariat will improve the webpage on work sharing and collaborative activities by the 24th session of the SCP; (3) Patents and Health – half day seminar on the relationship between patent systems and, among other things, challenges related to availability of medicines in developing countries and least-developed countries (LDCs), including

¹² Ibid para 25.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid para 29.

¹⁷ Ibid.

on the promotion of innovation and fostering of the requisite technology transfer to facilitate access to generic and patented medicines in developing countries and LDCs. In addition, there will be continued discussions on the feasibility study on disclosure of International Non-proprietary Names (INN) in patent applications and/or parents (SCP/21/9); (4) Confidentiality of communications between clients and their patent advisors – sharing session among Member States concerning confidentiality protection applied to different types of patent professionals and to national and foreign patent advisors; (5) Transfer of technology – discussion on transfer of technology vis-à-vis sufficiency of disclosure, based on document SCP/22/4.

Program and Budget Committee: Twenty Third Session

The 23rd session of the WIPO Program and Budget Committee (PBC) took place from **13-17 July¹⁸ 2015** in Geneva, Switzerland. The Session was chaired by H.E. Amb André Duque from Colombia.

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

The meeting addressed many different topics including Program Performance Report for 2014, the Preliminary Financial Report as of 2014, Draft proposed Program and Budget for the 2016/2017 Biennium, Progress Report on the Implementation of the Joint Inspection Unit's (JIU) Recommendations put forward in the "Review of Management and Administration in the World Intellectual Property Organization (WIPO)", Proposal to Reform and Enhance Program Performance and Financial Reporting and Policy on Investments.

The PBC, having reviewed the Program Performance Report (PPR) for 2014 (document WO/PBC/23/2), recommended that the Assemblies of the Member States of WIPO: (i) acknowledge progress of the programs made in 2014 towards achieving the expected results; (ii) take note of the second progress report on Capital Master Plan and request the Secretariat to pay due attention to those projects which have significant delays and report back to the PBC through the Program and Performance Report (PPR).

The PBC completed a first comprehensive reading of the draft proposed Program and Budget for the 2016/2017 biennium¹⁹ and accepted the following modifications:

- Proposed by Member States to program results and results frameworks in Programs.
- Requested the Secretariat to issue a revised version of the draft Program and Budget for the 2016/2017 biennium for the upcoming PBC session.
- A proposal to split Madrid and Lisbon Systems into two separate programs with separate expected results, highlighting the contribution and use of Lisbon system to the services of WIPO and its operating costs are accurately reflected as expenses.
- Requested the Secretariat to conduct a Study on Lisbon's Financial Sustainability and balance its budget as given under the Lisbon Agreement including its Geneva Act.
- Requested the Secretariat to review the allocation of miscellaneous income.
- Requested the Secretariat to present to the 25th Session of the PBC, concrete proposals to contain the After-Service Health Insurance Liability (ASHI).
- Continue its efforts to identify the ways to implement further savings and cost effective mechanism through the Program Performance Report.
- Provide an update on the progress made in respect of the implementation of the Hedging Strategy for PCT Income as approved by the PCT Working Group.

The PBC discussed a report with the WIPO Secretariat on implementation of the recommendations of the UN Joint Inspection Unit (JIU).

The JIU had undertaken a review of the management and administration of WIPO in 2014, as part of a series of reviews of participating organizations. In accordance with the PBC's request, the Secretariat presented the follow-up report on the implementation of the JIU Management and Administration Report (MAR) recommendations. The recommendations 2, 3, 4, 5, 8, 9, and 10 were fully implemented by WIPO in response to the ones proposed by JIU as given out in the document WO/PBC/23/4. The PBC requested the Secretariat to continue to report on the recommendations in the future under the

¹⁸ See, Program and Budget Committee, "Agenda" Twenty-Third Session, 13-17 July 2015 (WO/PBC/23/1).

¹⁹ See, Program and Budget Committee, "Draft Proposed Program and Budget for the 2016/17 Biennium" Twenty-Third Session, 13-17 July 2015 (WO/PBC/23/3).

regular progress reports provided to member States on the implementation of JIU recommendations.

The PBC discussed a Proposal to Reform and Enhance Program Performance and Financial Reporting and requested the Secretariat to continue with the current reporting documents as well as take into consideration the useful inputs provided by the member States for the preparation and improvement of the program performance and financial reports in future cycles.

The PBC also discussed a Policy on Investments²⁰; the PBC recognized the need for an Investment Policy to be effective from December 1, 2015 and recommended the member States of WIPO to approve the revised Policy on Investments. The following amendments were made:

- The primary objectives of the Organization's investment management is preservation of capital, liquidity and the rate of return
- The Organization's investments shall be distributed among multiple institutions, with the aim of dividing investment money amongst a minimum of four organizations with no more than 30 per cent of the investment money to be held by one institution.

The PBC further recognized the need for having two investment policies for an effective management of finances.

The PBC also considered a proposal for a WIPO Policy Related to Reserves, and recommended to the Assemblies of the Member States of WIPO and of the Unions that the Working Capital Fund (WCF) component of 2 million Swiss francs for the PCT Union be returned to the member States of the PCT Union. Proposal for the use of available reserves should be limited and for one-time projects for capital improvements and in case of exceptional circumstances as decided by the Assemblies of Member States and of the Unions. These available reserves could be used for Information and Technology projects as well as to expand the facilities of the Organizations.

The PBC further recommended the General assembly (GA) to adopt certain measures to increase the efficiency and effectiveness of WIPO governance and WIPO meetings by launching open ended informal and targeted consultations guided by the Chair of PBC, ending of the meetings in a timely manner, avoid overlapping of

²⁰ See, Program and Budget Committee, "List of Decisions" Twenty-Third Session, 13-17 July 2015 (WO/PBC/23/9)

official meetings as much as possible, increasing the early nominations of Chairs and Vice-Chairs in a transparent manner, reducing the customary duration of WIPO Committees, proposing a calendar of official meetings by taking into consideration the expected workload, dividing the responsibilities between the PBC and the Coordination Committees (CoCo) and discussing the results obtained with the implementation of these measures at the next PBC session.

Discussions also continued from previous sessions of the PBC on a definition of "Development Expenditure".²¹

Program and Budget Committee: Twenty Fourth Session

The 24th session of the WIPO Program and Budget Committee (PBC) took place from **14-18 September 2015** in Geneva, Switzerland. The session was chaired by Mary Ncube from Zambia.

The meeting addressed many different topics²² including Report by the WIPO Independent Advisory Oversight Committee (IAOC), Proposed Revisions of the terms of reference of the WIPO Independent Advisory Oversight Committee (IAOC), Report by the External Auditor, Annual Report by the Director of the Internal Oversight Division (IOD), Progress Report on the Implementation of the Joint Inspection Unit (JIU) Recommendations, Annual Financial Statements 2014; Status of the Payment of Contributions as at June 30 2015, Annual Report on Human Resources, Proposed Program and Budget for the 2016-2017 Biennium, Revised Policy on Investments, Final Report on the Project to Upgrade Safety and Security Standards for the Existing WIPO Buildings, Progress Report on Construction Projects, Progress Report on the Implementation of a Comprehensive Integrated Enterprise Resource Planning (ERP) System in WIPO, Final Report on the Information and Communication Technology (ICT) Capital Investment Project, Governance at WIPO and Proposed Definition of "Development Expenditure" in the Context of the Program and Budget.

²¹ See, Program and Budget Committee, "List of Decisions" Twenty-Third Session, 13-17 July 2015 (WO/PBC/23/9) Annex III.

²² See, Program and Budget Committee, "List of Decisions" Twenty-fourth Session, 14-18 September 2015 (WO/PBC/24/17).

Some of the main decisions are highlighted below.

The Program and Budget 2016/17

The PBC was expected to finalize and submit to the Assemblies a revised Program and budget for the 2016/2017 biennium (document WO/PBC/24/11). However, the PBC was unable to finalize pending issues and hence the Assemblies will need to decide on the following unresolved issues:

(i) Distinction of funds for any diplomatic conferences in 2016/17 be conditional on such conferences being open to the full participation of all WIPO Member States (regarding paragraph 20); and

(ii) There is a need for the revision of the methodology on the allocation of income and expenditure by the Unions as well as the miscellaneous income of the Organization. PBC further asked for assistance from the WIPO Secretariat to discuss the cross cutting issues and further work with Member States.

The PBC requested interested member States to continue consultations on outstanding issues with a view to approving the proposed Program and Budget 2016/17 during the 2015 Assemblies of Member States to the benefit of WIPO and its Member States.

WIPO Governance

The Program and Budget Committee (PBC) agreed to continue discussions on the issue of governance at WIPO. The discussions will continue during the PBC 25th session in light of recommendation 1 of the JIU's Review of Management and Administration in the World Intellectual Property Organization (MAR) (document JIU/REP/2014/2). The PBC also agreed that Member States would provide proposals for specific topics for discussion in good time prior to the 25th session, and no later than July 1, 2016, and requested the Secretariat to compile these as part of the documentation for that session.

Definition of Development Expenditure

The PBC recommended to the Assemblies of the Member States of WIPO and of the Unions, to approve a revised definition of development expenditure. The new definition now includes a description of examples of development activities that would qualify as "*development expenditure*." (Annex II - WO/PBC/24/17)

The PBC also requested the Secretariat to: - Apply the revised definition of development expenditure for the estimation of development expenditure in the draft proposed Program and

Budget 2018/19; – Disclose in the "Results Framework and Program and Budget, including Development Share by Results".

WIPO External Offices

The PBC discussed the issue of new External Offices and decided to refer it to the 2015 General Assembly.

Matters relating to the Lisbon Union

The PBC took note of the Secretariat not on options for the financial sustainability of the Lisbon Union and suggested the Lisbon Union to address the financial sustainability of its budget at the upcoming 32nd session of the Assembly of the Lisbon Union. The PBC also requested the Secretariat to support this matter.

New Construction Project and New Conference Hall Project

The PBC postponed its discussion on the final Progress Report on the New Construction Project and New Conference Hall Project to the WIPO Assemblies.

Investment Policies

The PBC recommended to the Assemblies of the WIPO Member States and Unions to approve two investment policies (Operating and Core Cash and Strategic Cash) and amend them.

Other issues

The PBC decided on the process towards the selection of the new members of the IAOC.

The PBC recommended that all fee-funded Unions to assemble before the discussion on the proposed Program and Budget 2016/17 at the WIPO Assemblies 2015.

The PBC suggested the WIPO General Assembly to approve the proposed revisions of the Terms of Reference of the WIPO Independent Oversight Committee (IAOC).

The PBC suggested the General Assembly and other Assemblies of the Member States of WIPO, to take note of the Report by the External Auditor.

The PBC requested the Secretariat to propose assessments for the open recommendations made by the UN Joint Inspection Unit (JIU) for the consideration of member states.

The PBC suggested the General Assembly and other Assemblies of the Member States of WIPO to approve the Annual Financial Report and Financial Statements of 2014.

The PBC recalled its earlier request at its 23rd session for the Secretariat to present proposals regarding After-Service Health Insurance Liability (ASHI) at 25th session of PBC. These proposals should not be limited to the results presented by the Working Group. The PBC also requested the Secretariat to continue its efforts to identify and implement further savings and cost-efficiencies and to report, including its quantification, to the 25th PBC session, through the Program Performance Report, on the progress made.

Concerning of proposal of the Patent Cooperation Treaty (PCT) Working Group on a hedging strategy for PCT income the PBC recommended the Assembly of the PCT Union to allocate more time to the Secretariat in order to properly assess the challenges associated with the effective implementation of the hedging strategy, and keep the decision on hold in relation to any recommendation until the Secretariat has done an analysis.

The PBC looked into the contents of the Final Report on the Project to Upgrade the Safety and Security Standards for the Existing WIPO Buildings.

The PBC took note of the Progress Report on the Implementation of a Comprehensive Integrated Enterprise Resource Planning (ERP) System.

The PBC recommended to the WIPO Assemblies to approve the closure of the Information and Communication Technology Capital Investment Project.

WIPO Administered Treaties

Status of Ratifications of the WIPO Marrakesh Treaty

The Marrakesh Treaty was adopted on **June 27, 2013** in Marrakesh and it forms part of the body of international copyright treaties administered by WIPO.

Its entry into force requires the deposit of 20 instruments of ratification or accession by eligible parties.

So far there have been 8 ratifications and 2 accessions to the treaty. In the current reporting period, Mexico and Mongolia have ratified the treaty on July 29 2015 and September 2015 respectively.

Future WIPO Meetings

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

The 12th session of the Committee of Experts on WIPO Locarno Union will take place from **26 to 30 October 2015** in Geneva, Switzerland.

The 13th session of the Working Group on legal development of Madrid System will take place from **2 to 6 November 2015** in Geneva, Switzerland.

The 34th session of IPC Revision Working Group on IPC Union on will take place from **2 to 6 November 2015** in Geneva, Switzerland.

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

The 34th session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications will take place from **16 to 18 November 2015** in Geneva, Switzerland.

The 23rd session on the Standing Committee on the Law of Patents will take place from **30 November to 4 December 2015** in Geneva, Switzerland.

The 31st session of the Standing Committee of Copyright and Related Rights will take place from **7 to 11 December 2015** in Geneva, Switzerland.

The 5th session of the Working Group on legal development of the Hague System will take place from **14 to 18 December 2015** in Geneva, Switzerland.

UPOV Council

Future UPOV Meetings

The following UPOV sessions will take place from 26-30 October in Geneva, Switzerland:

UPOV Administrative and Legal Committee- **26 to 27 October 2015** (CAJ/72)

UPOV Consultative Committee – **28 October 2015**

UPOV Council- **29 October 2015** (C/49)

FOOD AND AGRICULTURE ORGANIZATION (FAO)

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

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 to 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**.

CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

Future CBD Meetings

The ninth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity will take place from 4 to 7 November 2015 in Montreal, Canada.

The Provisional Agenda²³ for this meeting is as follows:

Organizational matters including the election of officers, adoption of the agenda and organization of work.

Reviewing the specific items including indicators related to Article 8(j) and its related provisions.

Implementation of Article 8(j).

Developing guidelines for obtaining prior informed consent and the involvement of indigenous people for the use of their traditional knowledge.

Developing guidelines to ensure that indigenous peoples and local communities obtain a fair and equitable share of benefits arising from the use of their knowledge;

Develop guidelines to report and prevent unlawful appropriation of traditional knowledge.

Develop a glossary of relevant key terms and concepts in Article 8(j) and related provisions.

Task 15 of the Multi-Year Programme of Work on the implementation of Article 8(j) and related provisions: best-practice guidelines for the repatriation of indigenous and traditional knowledge.

Recommendations of the United Nations Permanent Forum on Indigenous Issues.

In-depth dialogue on thematic areas and other cross-cutting issues.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

Bonn Climate Change Conference

The eleventh session of the UNFCCC Technology Executive Committee (TEC) took place from **7 to 11 September 2015** in Bonn, Germany.

The TEC provided a briefing on climate technology financing, update of the rolling work plan of TEC on enabling environments and barriers and technologies for mitigation wherein TEC briefed on distributed renewable electricity generation. A Zero draft joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network for 2015 was also discussed as given in document TEC/2015/11/17.

Furthermore, TEC is to hold a thematic dialogue on enablers and barriers to South-South cooperation on technologies for adaptation as part of the first meeting of the TEC in 2016. The secretariat will inform on the implementation of the TEC's communication and outreach activities for the second half of 2015. The TEC also discussed about the possible elements of its work plan in 2016-2017.

Future UNFCCC Meetings

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.

²³ See, Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity, "Provisional Agenda" Ninth Meeting, 4-7 November 2015 (UNEP/CBD/WG8J/9/1)

INTERNET GOVERNANCE

Future Meetings of the Internet Governance Forum (IGF)

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

Future UN General Assembly Meeting on Overall WSIS+10 Review

The UN General Assembly High Level Meeting on Overall WSIS+10 Review will take place from **15 to 16 December 2015**, in New York, United States of America.

FREE TRADE AGREEMENTS

TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP)

TPP Officials' Meeting (July)

The Transpacific Partnership negotiations²⁴ took place at the island of Maui in Hawaii at the end of July. Negotiators made progress on whether geographic places can be regarded as trademarks for items such as cheeses.

The issues on Intellectual property and data exclusivity to the manufacturers of Biologics remained unresolved as there is a twelve year long protection to the manufacturers of Biologics in the United States under the Affordable Care Act but in some other countries, it is as little as three years. Australia, Chile and New Zealand²⁵ continue to resist the push by the United States.

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

Future TTIP Negotiations

The TTIP Nordic Debate on Regulatory Issues will take place on **5 November 2015** in Copenhagen, Denmark.

²⁴ See, Washington Post, "In a setback for Obama, negotiators fail to wrap up Pacific trade pact" (31 July 2015) http://www.washingtonpost.com/politics/hawaii-trade-talks-stall-over-dairy-pharmaceuticals-and-auto-concerns/2015/07/31/7572fec6-37a2-11e5-ab7b-6416d97c73c2_story.html.

²⁵ See, New York Times, "Talks for Pacific Trade Deal Stumble", (31 July 2015), http://www.nytimes.com/2015/08/01/business/tpp-trade-talks-us-pacific-nations.html?_r=0.

REGIONAL DEVELOPMENTS

The Arusha Protocol for the Protection of New Varieties of Plants

Member States of the African Regional Intellectual Property Organization (ARIPO) adopted the Arusha Protocol for the Protection of New Varieties of Plants on **6 July 2015** during a diplomatic conference held in Arusha, Tanzania.²⁶

According to ARIPO, the Protocol seeks to provide member States with a regional plant variety protection system that recognizes the need to provide growers and farmers with improved varieties of plants in order to ensure sustainable agricultural production.²⁷ The Protocol is modelled on the 1991 Act of the International Union for the Protection of New Varieties of Plants (UPOV 1991).²⁸

It should be noted that Article 27.3(b) of the WTO TRIPS Agreement allows parties to protect plant varieties through a sui generis system, rather than patents. UPOV is a form of sui generis system, but other forms of sui generis systems can also be adopted in compliance with TRIPS. There are 10 LDC countries which are members of ARIPO. These include The Gambia, Lesotho, Mozambique, Malawi, Uganda, Tanzania, Liberia, Sudan, Somalia and Rwanda. LCDs are not required to extend patent protection until 2021 and WTO members are to extend the transition period with respect to pharmaceuticals beyond this period.

Eighteen member States of ARIPO became a part of the Diplomatic Conference known as The Arusha Protocol for the Protection of New Varieties of Plants. at viz., Botswana, The Gambia, Ghana, Kenya, Liberia, Lesotho, Malawi, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe.²⁹ The Protocol was signed on its adoption by The Gambia, Ghana, Mozambique, and São Tomé and Príncipe.³⁰ According to ARIPO, the Protocol will remain open for signature by member States

²⁶ Hillary Muheebwa, 'New ARIPO Plant Protocol: Conflict of Farmers' and Breeders' Rights?', (*Intellectual Property Watch*, 10 July 2015) <http://www.ip-watch.org/2015/07/10/new-aripo-plant-protocol-conflict-between-farmers-and-breeders-rights/>.

²⁷ See, ARIPO, 'ARIPO Protocol for the Protection of New Varieties of Plants Adopted' (2015) <http://www.aripo.org/news-events-publications/news/item/69-aripo-protocol-for-the-protection-of-new-varieties-of-plants-adopted>.

²⁸ Hillary Muheebwa, 'New ARIPO Plant Protocol: Conflict of Farmers' and Breeders' Rights?', (*Intellectual Property Watch*, 10 July 2015).

²⁹ ARIPO, 'ARIPO Protocol for the Protection of New Varieties of Plants Adopted' (2015).

³⁰ Ibid.

of ARIPO, other states, and members of the African Union until 31 December 2015.³¹

Advocates of the Protocol state that strong protection of breeder's rights will incentivize plant breeders leading to the introduction of new varieties of plants for farmers.³² However, the Alliance for Food Sovereignty in Africa (AFSA), argues that the Protocol is part of the broader thrust in Africa to ensure regionally seamless and expedited trade in commercially bred seed varieties for the benefit, mainly, of the foreign seed industry.³³ It notes that UPOV 1991, on which the Protocol is based, restricts farmers' rights to save, exchange and sell farm-saved-seed and/or the propagating material of protected varieties in their possession.³⁴

Countries party to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) have obligations to recognize and implement measures to protect farmers' rights, including the right of farmers to save, use, exchange and sell farm-saved seed and other propagating material. Fourteen Member States of ARIPO are contracting parties to the ITPGRFA.³⁵

³¹ Ibid.

³² Hillary Muheebwa, 'New ARIPO Plant Protocol: Conflict of Farmers' and Breeders' Rights?', (*Intellectual Property Watch*, 10 July 2015).

³³ AFSA, 'ARIPO Sells Out African Farmers, Seals Secret Deal on Plant Variety Protection' (8 July 2015) <http://afsafrika.org/aripo-sells-out-african-farmers-seals-secret-deal-on-plant-variety-protection/>.

³⁴ AFSA, 'ARIPO Sells Out African Farmers, Seals Secret Deal on Plant Variety Protection' (8 July 2015).

³⁵ Hillary Muheebwa, 'New ARIPO Plant Protocol: Conflict of Farmers' and Breeders' Rights?', (*Intellectual Property Watch*, 10 July 2015).