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

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WORLD TRADE ORGANIZATION (WTO)

TRIPS Council

A regular session of the TRIPS Council took place from **8 to 9 November 2016** in Geneva, Switzerland. The session was chaired by Ambassador Modest Jonathan Mero from Tanzania.

The TRIPS Council is open for all members of the WTO to consult on intellectual property matters and monitors implementation of the TRIPS Agreement. The standing agenda items of this regular session of the TRIPS Council included the following topics: 1) notifications under provisions of the Agreement, 2) reviews of national implementing legislation, 3) review of Article 27.3(b) of the TRIPS Agreement, 4) relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and 5) protection of traditional knowledge and folklore, 6) annual review of the paragraph 6 system, 7) review of non-violation and situation complaints, 8) review of the TRIPS Agreement, 9) review of the application of the provisions of the section on geographical indications under Article 24.2 of the TRIPS Agreement, 10) annual review of implementation of Article 66.2 on transfer of technology, 11) technical cooperation and capacity-building, 12) information on relevant developments elsewhere in the WTO, and 13) observer status for international intergovernmental organizations.

This session of the TRIPS Council also included the following ad hoc agenda items: 1) the United Nations Secretary-General's High Level Panel Report on Access to Medicines, and 2) Intellectual Property and Innovation: regional innovation models.

Review of Article 27.3(b) of TRIPS Agreement, Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore

The three issues are separate agenda items but continue to be discussed together in the TRIPS Council.

Developing countries expressed concern on the continued misappropriation of genetic resources and traditional knowledge. They also requested the WTO Secretariat to update the factual briefings (IP/C/W/369/Rev.1, IP/C/W/368/Rev.1, IP/C/W/370/Rev.1) of the discussions in the TRIPS Council on these issues, and proposed that the CBD should be invited to brief the TRIPS Council on the implementation of the CBD Nagoya Protocol. Most Members were agreeable to these requests, but consensus was not reached

due to opposition of a small number of developed countries.

Developing countries reaffirmed that the CBD-TRIPS relationship is an outstanding implementation issue and an important deliverable as part of the Doha work programme. The Director General is mandated to lead consultations on this issue. Developing countries also highlighted the objective of enhancing mutual supportiveness between the TRIPS Agreement and the CBD. This may be achieved by introducing in the TRIPS Agreement a mandatory requirement for the disclosure of origin of genetic resources and associated traditional knowledge resources in patent applications.

Developing countries reasserted support for the amendment, in the form proposed in 2011 by Brazil, China, Colombia, Ecuador, India, Indonesia, the African Group, the ACP Group, Peru and Thailand (TN/C/W/59).

Australia, Japan, Korea and the United States expressed their belief that WIPO serves as the best forum to address these issues.

Annual Review of the Paragraph 6 System

Mandated in the paragraph 8 of the decision on *Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health*, the TRIPS Council undertook its annual review of the functioning of the Paragraph 6 system – a waiver allowing generic medicines to be made under compulsory licenses exclusively for export to countries that cannot produce the medicines themselves. Only two countries, Rwanda and Canada, have notified that they have used the system. The Council also looked at the status of the acceptance of the protocol on *Amendment of the TRIPS Agreement*, which will incorporate the paragraph 6 system into the TRIPS Agreement. The protocol will enter into force when two-thirds of the WTO members have accepted the amendment.

The Secretariat noted that in order to trigger entry into force of the amendment, five more instruments of acceptance were needed.

The South Centre together with Brazil, China, India, South Africa and Médecins Sans Frontières, organized a side event to the TRIPS Council, where representatives from industry, government, non-governmental organizations and academia shared their perspectives on experiences and challenges on the use of the system and concerns about its effectiveness. These views were echoed by the Council in its discussion of the review of the Paragraph 6 system.

A number of members urged WTO members concerned to accept the TRIPS Amendment. India expressed concern that the Paragraph 6 System is too complex, cumbersome and administratively unwieldy for further use. India and South Africa referred to the recommendation in the Report of the United Nations Secretary-General's High-Level Panel (UNHLP) on Access to Medicines: Promoting Innovation and Access to Health Technologies that recommends WTO Members to revise the Paragraph 6 Decision.

Brazil highlighted the importance of the periodic review of the implementation of the Paragraph 6 Mechanism and noted that it will become even more necessary after the entry into force of the TRIPS Amendment.

Bangladesh expressed hope that after the entry into force, suitable ways are found to overcome the administrative and supply side constraints so that the mechanism is utilized and not wasted.

Review of Non-Violation and Situation Complaints

The Council reviewed Articles 64.2 and 64.3 of the TRIPS Agreement concerning non-violation and situation complaints. In accordance with the mandate by the 2001 Doha Ministerial meeting in paragraph 11.1 of the decision on *Implementation-related issues and concerns* and the Bali Ministerial Decision of 19 December 2015, the Council is required to examine the scope and modalities for complaints of the types provided for under Article XXIII:1(b) and (c) of General Agreement on Tariffs and Trade (GATT) 1994, made pursuant to the TRIPS Agreement. Article XXIII:1(b) and (c) of GATT allows a member to bring on a dispute against another even in the case where no violation of an agreement has occurred. Article 64.2 of the TRIPS Agreement temporarily bans such non-violation and situation disputes, thus members cannot initiate these complaints in respect of the TRIPS Agreement.

During this discussion, the positions of members continued to differ on whether non-violation and situation disputes should apply to intellectual property. The United States and Switzerland supported such complaints to be applied to the TRIPS Agreement. Most other members do not. Many countries reiterated their position that such complaints should not be allowed, as proposed by Argentina, Bolivia, Brazil, China, Colombia, Cuba, Ecuador, Egypt, India, Indonesia, Kenya, Malaysia, Pakistan, Peru, Russia, Sri Lanka, and Venezuela in May 2015, and that the Council should 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. On 29 July

2015, these members also proposed a ministerial decision for a permanent moratorium.

The Chair informed the TRIPS Council that no progress has been achieved in the Chair's consultations with members since the previous session of the Council held on 7 and 8 June 2016.

Transfer of Technology to Least Developed Countries: Annual Review of implementation of Article 66.2

In 2003 the WTO General Council had adopted a decision on the implementation of Article 66.2 of the TRIPS Agreement, which obliges developed countries to provide detailed annual reports on the actions taken to implement their commitments on providing incentives domestically to foster transfer of technology to Least Developing Countries (LDCs). Annual review meetings are held by the TRIPS Council to discuss the effectiveness of the mechanism, and compliance by developed countries. In 2016, Japan, Australia, Switzerland, Norway, Canada, the United States, New Zealand and the EU have submitted their annual reports on the implementation of Article 66.2.

Discussions on this agenda item were preceded by a workshop the day prior involving developed countries that made submissions and LDCs. The discussion involved an exchange of questions, including why some reports are listing activities or programmes which are not specific to LDCs only, but may refer to or include developing countries. The questions would be circulated directly to the Members concerned to reply to the questions, for discussion at the next TRIPS Council.

Technical Cooperation and Capacity-Building

Information submitted by developed countries in compliance with Articles 66.2 and 67 often overlap. Under TRIPS Article 67, 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 LDC Members. Intergovernmental organizations (IGOs) also report their technical cooperation activities associated to intellectual property to the Council.

Food and Agriculture Organization (FAO), United Nations Conference on Trade and Development (UNCTAD), Organisation for Economic Co-operation and Development (OECD), Gulf Cooperation Council (GCC), World Health Organization (WHO), African Regional Intellectual Property Organization (ARIPO) and World Customs Organization (WCO) submitted their reports to the November 2016 session of the TRIPS Council. Mexico, Japan, Australia, Switzerland, Norway, Canada, United States, New Zealand and the EU presented an update of their

intellectual property related technical cooperation activities with developing and least developed countries.

The Secretariat submitted a report updating the WTO Secretariat's technical cooperation activities and those with other IGOs concerning TRIPS over the period 2015-2016.

The United Nations Secretary-General's High Level Panel Report on Access to Medicines

Brazil, China, India and South Africa proposed a discussion in the TRIPS Council to share the views of members on the report of the United Nations Secretary-General's High Level Panel (UNHLP) on Access to Medicines, released on 30 September 2016. The UNHLP was appointed by the UN Secretary-General in November 2015 to review and assess proposals and recommend solutions for remedying the policy incoherence between the justifiable rights of inventors, international human rights law, trade rules and public health.

WTO members were invited to share their views on the report and on national experiences concerning the use of the TRIPS flexibilities.

The co-sponsors introduced the report, highlighting the recommendations that WTO members should respect the *Doha Declaration on TRIPS and Public Health* and make full use of the policy space available in Article 27 of the TRIPS Agreement for access to medicines.

Many developing countries, including Bangladesh, Bolivia, Egypt and Indonesia, welcomed the discussions on the report in the TRIPS Council and supported the high-level panel's recommendations.

Following the recommendations of the report, members discussed rigorous public health-sensitive standards of patentability, including definition of invention, criteria for the granting of patents, training for patent examiners and legislation that facilitates the granting of compulsory licenses. They expressed concerns about political or commercial pressure of using TRIPS flexibilities. They discussed that the existing "TRIPS-plus" provisions in bilateral and regional trade agreements and in investment treaties may interfere with the right to health. They also discussed the recommendations that publicly-funded research must prioritize public health objectives and be made freely and widely accessible online.

India emphasized that the important consideration in the WTO's work has included the search for a balance between the need to protect intellectual property rights to provide incentives for research

& development, and to address concerns about the potential impact of such protection on the health sector.

Brazil noted that some of the high-level panel report's recommendations directly relate to the TRIPS Agreement. To better understand the relationship between access to medicines and the patent system, the TRIPS Council is an important platform to discuss the issues and recommendations.

South Africa stated that the high-level panel report calls upon WTO members to commit to the respect the Doha Declaration on the TRIPS and Public Health, and the countries should make full use of the TRIPS flexibilities.

As a co-sponsor, China stated that the high-level panel provides valuable information and recommendations to members. It also noted that public health is one of the most important issues on the agenda and the leaders at the Hangzhou G20 Summit made a commitment in this regard.

The United States, however, found that the perspective of the report is narrow and the legitimacy of the conclusions of the report is questionable.

Switzerland, Japan and Norway expressed similar concerns about the "narrow scope" of the report. Switzerland noted that the report had not been mandated or endorsed by members of the United Nations and it duplicated ongoing work on intellectual property and public health.

The EU noted that a number of the recommendations within the report are inconsistent with EU policy. It did not share the UNHLP's assumption that there was policy incoherence. A "holistic approach" was needed and has been put in place by the EU to integrate a variety of tools, such as intellectual property and financing, and to balance the need to finance research while ensuring that affordable medications reach those in need.

Egypt, Indonesia, Bangladesh and Bolivia welcomed the report and the discussion in the Council. Canada, Chile, Australia, Korea and Norway needed more time to consider the recommendations in the report.

Members agreed to continue the discussion at the next meeting of the TRIPS Council.

Several observers also joined the discussion. The Holy See echoed the concerns about access to medicines, stressed that health is a fundamental human right. The Joint United Nations Programme on HIV/AIDS (UNAIDS) Secretariat spoke also on behalf of the United Nations Development

Programme Secretariat, which jointly played the role of Secretariat to the HLP, and called on members to continue the discussion and noted that intellectual property and trade were not the only problems that rendered access to medicines difficult. The WTO Secretariat referred to a background note it prepared as a technical input to the work of the HLP. The WHO Secretariat applauded the its membership in the Expert Advisory Group to the HLP and noted that many of these recommendations can be found in the WHO Global Strategy and plan of action on public health, innovation and intellectual property, and many are also in line with a number of WHO resolutions, including those that encourage WTO Members to make full use of TRIPS flexibilities.

The United Nations Conference on Trade and Development (UNCTAD) Secretariat, also member of the Expert Advisory Group to the HLP, noted that it contributed to developing the recommendations related to IP laws and access issues. It noted that UNCTAD has experience to show that TRIPS public-health flexibilities, such as the recourse to strict patenting requirements, setting out exceptions to patent rights and the availability of compulsory licences, play an important role in promoting generic competition and thus affordable prices. The UNCTAD Secretariat also highlighted that many of the WTO Members that today have fully developed pharmaceutical sector, in the past relied on many of those flexibilities that the HLP Report recommends, in order to strike a balance between investors' rights and the realization of certain development objectives. UNCTAD also welcomed the HLP Report recommendation to increase interagency coordination.

Observer Status for International Intergovernmental Organizations

Brazil, Ecuador, Egypt, Bangladesh, Bolivia, China, Cuba, India, Indonesia and Venezuela, supported the approval of the request from the South Centre and the CBD Secretariat as permanent observers of the TRIPS Council. Some Members also supported ad hoc observer status, failing consensus on the grant of permanent observer status.

The United States, supported the permanent observer status of ARIPO, OAPI, GCC and EFTA. No consensus was reached.

Intellectual Property and Innovation: Regional Innovation Models

The TRIPS Council included an ad-hoc agenda item "intellectual property and innovation", as proposed by the United States and other countries. For this session of TRIPS Council, the proposed theme was "regional innovation

models," focusing on regional cooperation on innovation and how regional intellectual property rules facilitate such cooperation.

Australia, Brazil, Canada, Japan, Switzerland, the European Union and the United States and some other members shared their experiences in establishing regional innovation hubs and collaborating across borders.

Other issues: Work Programme on Electronic Commerce

Under the agenda item on other issues, Canada reiterated its proposal to recommence discussions on intellectual property and electronic commerce in the TRIPS Council.

Some members shared the prospect of continuing discussions of intellectual property issues related to electronic commerce and the digital economy at the next session of the TRIPS Council.

Working Group on Trade and Transfer of Technology

A meeting of the Working Group on Trade and Transfer of Technology took place on **7 November 2016** in Geneva, Switzerland. The meeting was chaired by Ambassador Luis Enrique Chavez Basagoitia from Peru.

The Working Group on Trade and Transfer of Technology was established by the 2001 Doha Ministerial meeting and aims to examine the relationship between trade and the transfer of technology from the developed to developing countries, and ways to increase the flow of technology to developing countries.

The agenda items of this session included analysis of the relationship between trade and transfer of technology, any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries and other business.

Relationship between Trade and Transfer of Technology

The WTO Secretariat submitted a report analysing the relationship between trade and transfer of technology is primarily based on the discussion on the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs). The Working Group also discussed national experiences of members relating to innovation, technology generation and transfer.

The discussions highlighted the importance of technology and technical know-how in boosting productivity, enhancing export growth and

achieving the development of the developing countries and least developed countries. A number of members reiterated their request for sharing national experiences, particularly by those members who have achieved rapid development in the last few decades. Members stated that sharing national experiences would not only enhance the discussion in the Working Group, but it would also help technology-deficient countries to pursue their path to development.

The Chair continued to encourage members to share their national experience such as case examples, national policies, challenges in promoting innovation, technology generation and transfer. Such an exercise would create an honest and open debate on the complex relationship between trade and transfer of technology and help the Working Group tackle potential opportunities and challenges that developing countries faced in the technology development.

Any Possible Recommendations on the Steps that Might Be Taken Within the Mandate of the WTO to Increase Flows of Technology to Developing Countries

Members continued discussions with regard to the submission made by India, Pakistan and the Philippines entitled *Facilitating Access to Information on Appropriate Technology Sourcing – A Step to Increase Flows of Technology to Developing Countries*.

At the previous session in 2016, an informal proposal recommended the Working Group to establish a dedicated WTO webpage on transfer of technology, which could include information on the following: (i) description of all technology and its transfer-related provisions in the WTO Agreements; (ii) reports on the nature of incentives provided by the governments to firms under the Article 66.2 of the TRIPS Agreement; and (iii) links to IP information databases, transfer of technology offices, and technology and innovation research institutions around the world.

Members wished the proponents would submit a formal proposal highlighting the characteristics of the proposed webpage for further discussion in the Working Group. The proponents expressed that they continued to work on their formal submission and hoped it to be ready in the near future.

The Chair reiterated the importance of submitting a formal proposal and encouraged them to do so as early as possible in order to proceed to productive discussions on the proposal.

Regarding the future work, members recommended that the Working Group should continue its work to fully achieve the mandate of

the Doha Ministerial Declaration. It was recognized that the ongoing discussions have covered various issues and helped members understand the relationship between trade and transfer of technology. However, more work remains to be done.

Future WTO Meetings

The next regular session of the TRIPS Council will take place from **1-2 March 2017** in Geneva, Switzerland.

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Assemblies of the Member States of WIPO

The fifty-sixth series of meetings of the Assemblies of the Member States of WIPO took place from **3 to 11 October 2016** in Geneva, Switzerland. The WIPO Assemblies were chaired by Ambassador Janis Karklins from Latvia.

The WIPO General Assembly adopted a revised Internal Oversight Charter (IOC) for WIPO based on a proposal for amendments to the IOC, and the General Assembly requested the IAOC to prepare appropriate modalities and procedures, with technical assistance from the Secretariat and after consultation with member States, for consideration and adoption by the Coordination Committee at its next session.

Informal consultations were conducted during the General Assembly on which three countries should be chosen for the 2016-2017 biennium in accordance with the Guiding Principles for the establishment of new External Offices adopted by the General Assembly in 2015, which had agreed to establish three new External Offices in the 2016-2017 biennium, giving priority to Africa, and three more External Offices in the 2018-2019 biennium. The General Assembly decided to open two new WIPO external offices in Algeria and Nigeria, and to continue consultations on the opening of one external office in the current biennium and three external offices in the 2018-2019 biennium based on a relevant call for proposals to be made by the Secretariat with a view to making a decision in this regard during the 2017 General Assembly.

The General Assembly could not arrive at any consensus on convening a diplomatic conference for the adoption of the Design Law Treaty and decided that the General Assembly session in 2017 will continue to consider convening a diplomatic conference on the Design Law Treaty to take place at the end of the first half of 2018.

With the entry into force of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled on 30 September 2016, the first meeting of the Marrakesh Assembly was held as part of the WIPO Assemblies.

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)

The thirty-sixth session of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications took place from **17-19 October 2016** in Geneva, Switzerland. The session was chaired by Mr. Adil El Maliki from Morocco.

In respect of industrial designs the agenda of the SCT included discussions on the draft Design Law Treaty (DLT), a study on industrial designs on Graphical User Interface (GUI), Icon and Typeface/Type Font designs, and information on WIPO's Digital Access Service (DAS) for exchange of priority documents relating to industrial designs between registration offices. However, the SCT could not undertake any substantive discussion on the DLT as developed countries declined to engage in any further substantive negotiations in the SCT and expressed the desire to seek a political decision on convening a diplomatic conference to adopt the DLT at the next session of the WIPO General Assembly in 2017. The SCT agreed that the DLT will remain on the agenda of the SCT.

The SCT also considered a compilation of various approaches in different national laws relating to industrial design registration over graphical user interface, Icon and Typeface/Type Font designs. The SCT requested the WIPO Secretariat to submit additional or revised responses to the questionnaire on these issues, invite accredited NGOs to submit comments and observations and present the same at the next session of the Committee.

On trademarks, the SCT discussed the protection of country names against registration and use as trademarks and requested the Secretariat to invite members to submit comments and observations on the identified areas of convergence – notion of country names, non-registrability of descriptive names, invalidation and opposition procedures, and use as a mark, including practical experiences of their application in practice. The SCT also took note of an update on the trademark-related aspects of the Domain Names System (DNS) and requested the Secretariat to continue providing such updates.

In respect of geographical indications (GIs) the SCT agreed that at the next session of the SCT

an information session will take place in two parts addressing the features, experiences and practices of different national and regional GI protection systems, and on protection of GIs on the Internet and GIs and country names on the DNS. Existing proposals on these issues will be discussed further at the next session of the SCT.

WIPO, WHO, WTO Joint Technical Symposium on Antimicrobial Resistance: How to Foster Innovation, Access and Appropriate Use of Antibiotics?

The WIPO, WHO, WTO Joint Technical Symposium on “Antimicrobial Resistance: How to Foster Innovation, Access and Appropriate Use of Antibiotics?” took place on **25 October 2016** in Geneva, Switzerland. The symposium sought to achieve a better understanding of the global challenge of antibiotic resistance and examine possible ways forward. Speakers presented possible solutions to boost research and development for new antibiotics and the need to restrict the use of existing antibiotics to prevent the building up of antimicrobial resistance (AMR). Some speakers also stressed on the need to address AMR from the perspective of access to medicines. Speakers said that options in support of access to and stewardship of antimicrobials should strike a balance between monitoring, control and conservation on the one hand and access and affordability of existing and new antibiotics. In developing countries, lack of access to antibiotics causes more fatalities than antimicrobial resistance, and therefore policies that unnecessarily restrict access to affordable antibiotics must be avoided. The need for analysis of the shortcomings of the IP system to induce innovation on antimicrobials based on public health needs rather than market demand was also stressed upon. Some speakers also stressed on the need for implementing mandatory stewardship and regulation, in the form for guidelines and hospital measures for reduction of antibiotics usage, proper use of veterinary drugs and surveillance programmes. The need to increase awareness of AMR and appropriate use was also mentioned by some speakers.

Committee on Development and Intellectual Property (CDIP)

The eighteenth session of the WIPO Committee on Development and Intellectual Property (CDIP) took place from **31 October to 4 November 2016** in Geneva, Switzerland. The session was chaired by Ambassador Luis Enrique Chavez Basagoitia from Peru.

The CDIP discussed progress report on the implementation of the WIPO Development Agenda through projects approved by the CDIP and regular activities conducted by WIPO in

respect of Development Agenda recommendations identified for immediate implementation, the report of an international conference on intellectual property and development, a report on the independent review of the implementation of the Development Agenda recommendations, information about the contribution of the relevant WIPO bodies towards implementation of the respective Development Agenda recommendations, SDGs relevant to WIPO's work, a revised proposal for updating the WIPO database on flexibilities in the IP system, activities related to technology transfer, WIPO's technical assistance in the area of cooperation for development, and guides developed under the CDIP approved project on innovation and technology transfer support structure for national institutions. The CDIP also discussed outstanding issues relating to implementation of the third pillar of the mandate of the CDIP relating to discussions on IP and development, as well as the implementation of the coordination mechanism, monitoring and reporting modalities relating to the implementation of the Development Agenda recommendations by other relevant WIPO bodies.

The CDIP took note of the progress report by the WIPO Secretariat on the implementation of the WIPO Development Agenda, including the implementation of six ongoing projects and one completed project. The CDIP also took note of the report of the international conference on intellectual property and development and some member States expressed an interest in convening similar conferences on a biennial basis. The African Group stated that it will submit a written proposal in this regard at the next session of the CDIP. The CDIP also took note of the information transmitted by the 2016 WIPO General Assembly about the contribution of relevant WIPO bodies towards implementation of the respective Development Agenda recommendations.

The CDIP welcomed the report on the independent review of the implementation of the Development Agenda recommendations. Some developing countries stressed that the review should be considered a first review of implementation of the DA recommendations and called for further periodic reviews. They recalled that the 2010 WIPO General Assembly decision which called for the review also stated that member States could call for a further review. However, no decision was taken in this regard by the CDIP. Some member States suggested that the WIPO Secretariat prepare a document detailing how the Secretariat could address the recommendations in the review. The CDIP could not conclude discussions on the recommendations of the independent review and agreed on the need to continue considering the recommendations. Accordingly, it requested the

Secretariat to submit a report at the next session of the CDIP on the recommendations addressed to the Secretariat. The CDIP also agreed that member States may submit written contributions on any of the recommendations of the independent review by 28 February 2017.

On the issue of the SDGs relevant to WIPO's work, the CDIP considered inputs submitted by various member States on the SDGs that they consider as relevant to WIPO's work. Some member States had proposed that the CDIP should establish a standing agenda item on the activities undertaken by WIPO with regard to the SDGs. The CDIP agreed that at the first session of the CDIP every year, the WIPO Secretariat shall present an annual report containing information on WIPO's contribution to the implementation of the SDGs and its associated targets, including activities and initiatives individually undertaken by WIPO, activities undertaken by WIPO as part of the UN system, and the assistance provided by WIPO to member States upon request. The CDIP also agreed to continue its discussion on the way to address this subject in future sessions, including the request for establishing a permanent agenda item.

The CDIP considered a revised proposal submitted by the Secretariat about updating the WIPO database on IP related flexibilities and agreed on a mechanism under which member States can submit updates on the provisions in their national laws relating to flexibilities through a formal official communication to the Secretariat and the notified update will be immediately included in the database in a new field titled "Updates by Member States." The Secretariat will submit an annual report to the CDIP on the updates submitted by member States.

The CDIP also considered inputs submitted by member States on activities related to technology transfer, which was comprised of a joint proposal by US, Australia and Canada on general policy issues and specific issues, and a proposal by South Africa for a project on IP management and transfer of technology. The CDIP agreed to further consider the proposal by South Africa at its next session based on a revised document. The CDIP also agreed to the following elements in the joint proposal – 1) review and update of the existing WIPO Technology Transfer webpage by incorporating additional materials, documents and activities mentioned in the mapping document presented by the Secretariat in the previous session of the CDIP; 2) a roadmap by the Secretariat on how WIPO will continue to promote awareness about various WIPO resources in the area of technology transfer; 3) the WIPO Secretariat continue to actively engage in international fora and conferences on technology transfer, and undertake a mapping exercise of

such fora and conferences to update the CDIP on the same; 4) promoting the usage of the web forum established under the project on "Intellectual Property and Technology Transfer: Common Challenges-Building Solutions"; and 5) the CDIP should base future work on technology transfer on concrete, practical projects that deliver tangible outcomes and in that context the WIPO Secretariat should undertake a gap analysis of WIPO's technology transfer-related services and activities. The CDIP also agreed to further consider at its next session a proposal for WIPO to investigate undertaking a market based approach to facilitate innovation and commercialization and in this regard consider utilizing existing platforms and collaborate with member States that have similar systems in place.

With regard to the outstanding issues relating to the mandate of the CDIP on IP and development and the coordination mechanism, the CDIP agreed to continue discussions at its next session based on the proposals made at the 17th session of the CDIP and an alternative Chair's proposal to be made based on those proposals.

On WIPO's technical assistance in the area of cooperation for development, the CDIP agreed to close the agenda item on the External Review of WIPO's Technical Assistance in the Area of Cooperation for Development, and agreed to open future discussions on the basis of a proposal by Spain for the next six sessions of the CDIP. At the end of this period, the CDIP will discuss the final implementation of the Spanish proposal, and related documents including a previous proposal by the African Group and the Development Agenda Group.

The CDIP also took note of two guides developed under a project on innovation and technology transfer support structure for national institutions: 1) A Practical Guide for Valuing intangible Assets in Research and Development Institutions; and 2) Models of intellectual property (IP) Related Contracts for Universities and Publically-Funded Research Institutions.

Standing Committee on Copyright and Related Rights (SCCR)

The thirty-third session of the WIPO Standing Committee on Copyright and Related Rights (SCCR) took place from **14 to 18 November 2016** in Geneva, Switzerland. The session was chaired by Mr. Martin Moscoso Villacorta from Peru.

The SCCR discussed a revised draft consolidated text relating to protection of broadcasting organizations, focused on definitions, object of protection and rights to be granted (SCCR/33/3) and also an informal chart introduced by the Chair on other issues relating to protection of

broadcasting organizations – beneficiaries, term of protection, limitations and exceptions, technological protection measures and rights management information. The SCCR decided to continue discussions based on a revised version of the consolidated text reflecting the textual proposals and clarifications made during discussions at the thirty-third session of the SCCR, as well as the other issues mentioned in the informal chart introduced by the Chair.

The SCCR also discussed a note by Argentina, Colombia and Mexico (SCCR/33/5) suggesting that the next sessions of the SCCR should streamline the discussion on the consolidated and revised text on the main provisions relating to protection of broadcasting organizations with a view to presenting a Draft Basic Proposal for the WIPO Treaty on the Protection of Broadcasting Organizations and convening a diplomatic conference by the spring of 2018. The note also proposed that the SCCR could convene special meetings to resolve outstanding issues. The SCCR took note of the document and some member States requested further clarifications.

On exceptions and limitations for libraries and archives, discussions were based on an informal chart prepared by the Chair which addressed the following topics – limitations on liability of libraries and archives, technological measures of protection, contracts, and the right to translate works. The SCCR agreed to continue discussions on these topics at its next session.

On limitations and exceptions for educational and research institutions and for persons with other disabilities, a study on copyright limitations and exceptions for educational activities (SCCR/33/6) by Professor Daniel Seng was presented to the SCCR. The SCCR requested that the study be updated in view of the additional suggestions and requests made by member States and submitted at the next session of the Committee. The Chair introduced a chart based on the categories of topics identified in the draft study by Prof. Seng. The SCCR also took note of a proposal by Argentina on limitations and exceptions for libraries and archives and limitations and exceptions for educational and research institutions and for persons with other disabilities (SCCR/33/4). A preliminary presentation of a scoping study on limitations and exceptions for persons with disabilities other than print disabilities and description of topics to be covered in questionnaire was given by Professor Blake Reid and student associates. The complete study will be done in collaboration with Professor Caroline Ncube of the University of Cape Town and will be presented at the thirty-fourth session of the SCCR. Further discussions on this issue will continue in the thirty-fourth session of the SCCR.

The SCCR also discussed a proposal by GRULAC for analysis of copyright related to the digital environment (SCCR/31/4). The SCCR supported proposals to commission a scoping study on the impact of digital developments on the evolution of national legal frameworks over the last ten years.

The SCCR also discussed a proposal by Senegal and Congo to include the resale right (*droit de suite*) in the agenda of the future work of SCCR (SCCR/31/5). A presentation on resale right was given to the SCCR by Professor Sam Ricketson of the University of Melbourne. The SCCR supported proposals to hold a conference before the thirty-fourth session of the SCCR on the issues raised by the application of *droit de suite* from both legal and economic perspectives, including its potential effects on art markets. The SCCR also agreed to commission a study on the economic implications of resale right.

Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

The thirty-second session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) took place from 28 November to 2 December 2016 in Geneva, Switzerland. The session was chaired by Mr. Ian Goss from Australia.

The IGC is, in accordance with its mandate, undertaking text-based negotiations with the objective of reaching agreement on a text of an international legal instrument, which will ensure the effective protection of traditional knowledge, traditional cultural expressions and genetic resources.

This session of the IGC aimed to address the core issues of *The Protection of Traditional Knowledge: Draft Articles*, including policy objectives, use of terms, subject matter, beneficiaries of protection, and scope of protection. Discussions took place both in plenary and informal mode in order to reach a common understanding and narrow existing gaps. The IGC presented two revision documents of the draft text to reflect member States' discussions.

The Committee decided that the second revision of the draft text shall be transmitted to the thirty-fourth session of the IGC, in accordance with the IGC's mandate for 2016-2017 and the work program for 2017, as contained in the report of the forty-seventh session of WIPO General Assembly.

Standing Committee on the Law of Patents (SCP)

The twenty-fifth session of the WIPO Standing Committee on the Law of Patents (SCP) took place from 12 to 15 December 2016 in Geneva, Switzerland. The session was chaired by Ms. Bucura Ionescu from Romania.

The SCP discussions were focused on exceptions and limitations to patent rights, quality of patents including opposition systems, patents and health, confidentiality of communications between clients and their patent advisors, patents and transfer of technology, and a proposal by the GRULAC for a revision of the WIPO Model Patent Law. Developing countries emphasized on the development of a non-exhaustive manual on exceptions and limitations as a reference for WIPO members as proposed by Brazil, development of a work programme on opposition systems, and strongly called for discussion on the UN Secretary General's High-Level Panel on Access to Medicines (UNHLP) report and implementation of its recommendations under the agenda item on patents and health. Developing countries also supported the proposal by GRULAC for a revision of the WIPO Model Patent Law. Developed countries stressed on work-sharing in relation to quality of patents and developing a soft law on the subject of confidentiality of communications between clients and their patent advisors.

Various member States shared experiences and case studies on exceptions and limitations that had proven effective to address development issues or economic strengthening. On the topic of quality of patents, a sharing session was held on examples and cases relating to assessment of inventive step. The WIPO Secretariat reported on the status of preparation of a questionnaire for a survey on the term "quality of patents" and cooperation between patent offices in search and examination. On the subject of opposition systems, the Secretariat presented a webpage concerning opposition, re-examination, administrative revocation and third party observation systems. On patents and health, a sharing session was held on national experiences relating to the use of health-related patent flexibilities for promoting public health objectives and the related challenges. The WIPO Secretariat presented a new functionality in its PATENTSCOPE database to facilitate search by chemical names or generic names, called the PATENTSCOPE Chemical Structure Search. The SCP also discussed a feasibility study on the disclosure of International Nonproprietary Names (INN) in patent applications and patents. A sharing session was also held on the relationship between patent systems and transfer of technology and examples and cases on the

impact of sufficiency of disclosure on transfer of technology were also discussed. The Secretariat presented an updated webpage on transfer of technology. On the confidentiality of communications between clients and their patent advisors, some developed countries suggested activities that could be carried out by the SCP, while some developing countries suggested that discussions on this agenda item should be discontinued. On the proposal by GRULAC for a revision of the WIPO Model Patent Law while developing countries expressed support for the proposal, developed countries expressed reservations. It was agreed that discussions on this proposal will continue in the next session of the SCP.

On future work, the SCP agreed that in its next session the WIPO Secretariat will submit a compilation of information gathered from a questionnaire based survey on the term "quality of patents" and cooperation between patent offices on search and examination. The most contentious issue regarding future work was the suggestion by developing countries for a discussion of the UNHLP report and implementation of its recommendations under the agenda item on patents and health. Developed countries vehemently opposed any future work in relation to the UNHLP report. Following extensive informal consultations, the SCP agreed that in its next session the WIPO Secretariat will submit a study on the constraints to the use of public health-related patent flexibilities, to be prepared by the Secretariat in consultation with experts, including the WHO and the WTO. There was no reference to discussions on the UNHLP report in the next session of the SCP. It was agreed that the topics currently on the agenda of the SCP will continue to remain on the agenda of the next session of the SCP.

Future WIPO Meetings

The twenty-fourth session of the Meeting of International Authorities under the Patent Cooperation Treaty (PCT) will take place from **8 to 10 February 2017** in Reykjavik, Iceland.

The thirty-third session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional knowledge and Folklore (IGC) will take place from **27 February to 3 March 2016** in Geneva, Switzerland.

The thirty-seventh session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) will take place from **27 to 31 March 2017** in Geneva, Switzerland.

FOOD AND AGRICULTURE ORGANIZATION (FAO)

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

Ad hoc Technical Committee on Sustainable Use (ACSU)

The Third meeting of the Ad hoc Technical Committee on Sustainable Use (ACSU-3) took place from **24 to 25 October 2016** in Vienna, Austria. The meeting was co-chaired by Mr. Riccardo Bocci from the Europe Region and Mr. William Wigmore from the South West Pacific Region.

The meeting discussed implementation of the programme of work on the sustainable use of PGRFA, and interrelations between the International Treaty, especially its Article 9, with relevant instruments of UPOV and WIPO.

With regard to implementation of the programme of work on the sustainable use of PGRFA, a representative from FAO briefed the ACSU on the Second Global Plan of Action and relevant reporting formats. The committee was also given a presentation on the progress in defining the functions and contents of a Toolbox on Sustainable Use for PGRFA and reconfirmed the necessity of developing the Toolbox as a practical instrument to assist Contracting Parties with the Implementation of Article 6 of the International Treaty. It suggested that the Toolbox should initially focus on one to a few priority areas, particularly, adding value to and sustaining the use of landraces/farmers' varieties and seeds systems; as well as participatory plant breeding. It requested the Secretariat to prepare an information document for the Seventh session of the Governing Body of the Plant Treaty, after collecting and compiling all the material in those thematic areas. Presentations were also given on the progress report on activities of the Platform for Co-Development and Transfer of Technology, the outcomes of an electronic survey by the Secretariat on implementation of Farmers' Rights, the outcomes of the second Global Consultation on Farmers' Rights in Bali, Indonesia, in September 2016, and of capacity building activities undertaken in Latin America and Africa for implementation of Farmers' Rights. The ACSU reaffirmed the relevance of these supporting initiatives. It also emphasized the importance of prioritizing regional activities on sustainable use of PGRFA, and also stressed on the importance of promoting the mainstreaming of biodiversity in agriculture and its impact on sustainable use of PGRFA in the Conference of the Parties (COP) of the Convention on Biological Diversity (CBD). It invited the Secretariat to explore the possibility of

establishing a joint programme on biodiversity in agriculture for sustainable use of PGRFA with the CBD Secretariat, FAO, Global Forum on Agricultural Research, CGRFA, CGIAR and other stakeholders, for the consideration of the seventh session of the Governing Body of the International Treaty.

On the interrelations between the International Treaty with relevant instruments of UPOV and WIPO, the ACSU took note of a preliminary list of issues on interrelations under the four elements under Article 9 of the International Treaty (document IT/ACSU-3/16/Inf.6). The committee also received the draft programme of the Symposium on Possible Interrelations between the Treaty and the International Convention for the Protection of New Varieties of Plants (UPOV) which was held on 26 October 2016 in Geneva. The Committee requested the Secretariat to inform the Seventh session of the Governing Body of the International Treaty about the main outcomes of the symposium.

Future ITPGRFA Meetings

The Sixth meeting of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing will take place in the **first quarter of 2017** in Rome, Italy.

Commission on Genetic Resources for Food and Agriculture (CGRFA) Future

Team of Technical and Legal Experts on Access and Benefit-Sharing

No meeting of the Commission on Genetic Resources for Food and Agriculture or its subsidiary bodies took place during the reporting period.

Future CGRFA Meetings

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

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)

UPOV Council

The fiftieth ordinary session of the UPOV Council took place on **28 October 2016** in Geneva, Switzerland. The session was chaired by Mr. Raimundo Lavignolle from Argentina.

The Council was informed by the Chair that Kenya had acceded to the 1991 Act of the UPOV Convention on 11 April 2016. The Council also approved the launch of an UPOV electronic application form (EAF) in January 2017 for rose, soya, bean, lettuce, apple fruit varieties and potato. The Council took note of the work of the ninetieth session of the UPOV Consultative Committee, adopted a number of test guidelines, and approved the financial statements for 2015. It also took note of the report of the External Auditor and of the status of financial contributions. Further, the Council approved the Financial Management Report for the 2014-2015 Biennium and took note of the report of the UPOV Secretary-General on the activities of the UPOV and the results and performance indicators in 2015, the performance report for the 2014-2015 Biennium and a report on activities during the first nine months in 2016. The Council approved the work programme for the seventy-fourth session of the UPOV Administrative and Legal Committee (CAJ), as well as the Technical Working Parties (TWP) and the Working Group on Biochemical and Molecular Techniques, and DNA-profiling in Particular (BMT). The Council also approved the work of the UPOV Technical Committee (TC). The Council also approved the calendar of meetings for 2017.

The Council noted that 61 members of UPOV currently offer plant variety protection to all plant genera and species, while 13 members of UPOV offer protection to a limited number of plant genera and species. Of these 13, 5 members had extended protection to additional plant genera and species in 2015.

UPOV Administrative and Legal Committee (CAJ)

The seventy-third session of the UPOV Administrative and Legal Committee (CAJ) took place on **25 October 2016** in Geneva, Switzerland. The session was chaired by Mr. Martin Ekvad from the European Union.

The Chair informed the CAJ about the accession of Kenya to the 1991 Act of the UPOV Convention on 11 April 2016. The Committee took note of developments in the UPOV Technical Committee (TC). It also agreed to certain amendments in the draft *Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)* and agreed that the draft be presented for adoption by the UPOV Council at its thirty-fourth extraordinary session in April 2017. Further, the CAJ considered a joint proposal by the International Seed Federation (ISF) and the European Seed Association (ESA) to include textual language in the explanatory notes on how an essentially derived variety (EDV) can be

obtained through the physical use of a hybrid variety. In this context, the CAJ also considered comments submitted by Russia that the proposal by ISF/ESA that hybrids can be considered as EDVs is inappropriate as a hybrid and each of its parent lines are independent objects of protection. The Committee agreed to discuss this issue further in its seventy-fourth session.

The Committee also approved certain amendments to the draft *Explanatory Notes on Propagating Material under the UPOV Convention* (the term "propagating material" is not defined under the UPOV Convention). It was agreed that the draft explanatory notes be presented for adoption by the UPOV Council at its thirty-fourth extraordinary session in April 2017. The CAJ also considered requests by Russia for possible revision of the explanatory notes on *Conditions and Limitations Concerning Breeders' Authorization in Respect of Propagating Material under the UPOV Convention* and *Provisional Protection under the UPOV Convention*. It was agreed that these proposals will be further considered in the seventy-fourth session of the CAJ.

The CAJ deferred the preparation of a draft revision of the UPOV Model Breeders' Rights Gazette pending developments in relation to the development of a prototype electronic application form (EAF). In this regard, the CAJ agreed to proposals relating to the development of the electronic application form and recommended that the fiftieth ordinary session of the UPOV Council approve the launch of the EAF on 9 January 2017.

The CAJ also took note of the Working Group on Variety Denominations (WG-DEN), the developments of the UPOV information databases, and developments in molecular techniques. It also agreed to the programme for the development of TGP documents and the programme for the seventy-fourth session of the CAJ.

Symposium on Possible Interrelations between the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the International Convention for the Protection of New Varieties of Plants (UPOV Convention)

A symposium on "Possible interrelations between the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the International Convention for the protection of New Varieties of Plants (UPOV Convention)" took place on **26 October 2016** in Geneva, Switzerland. Representatives from governments, intergovernmental organizations, civil society, the seed industry and the academia participated in

the symposium. Panellists shared their diverse perspectives on the interrelations between farmers' rights and plant breeders' rights under the ITPGRFA and the UPOV Convention. While representatives from the seed industry concluded that there is no *a priori* conflict between the two instruments, civil society representatives and farmers' organizations pointed out that the use, exchange and selling on local markets of farm-saved seeds need to be supported for conserving seed diversity and reaching seed and food security. These, together with compliance with access and benefit-sharing (ABS) requirements and participation of farmers in decision-making are important areas of interrelation between the ITPGRFA and the UPOV Convention, which need attention.

Future UPOV Meetings

No meetings of the UPOV bodies are scheduled in the first quarter of 2017.

WORLD HEALTH ORGANIZATION (WHO)

Member State Mechanism on Substandard/Spurious/Falsely-labelled/ Falsified/Counterfeit Medical Products

The meeting of the Member State Mechanism (MSM) on Substandard/Spurious/Falsely-Labelled/ Falsified/Counterfeit Medical Products took place from **23 to 25 November 2016** in Geneva, Switzerland.

The Member State Mechanism agreed to recommend to the World Health Assembly (WHA) to drop using the term "counterfeit" to refer to quality-compromised medical products. This agreement follows years of discussions among WHO member states as to the appropriate terminologies that should be utilized to refer to unsafe medical products circulated by unscrupulous actors. The recommendation, when endorsed by the WHA, will put an end to nearly 30 years of practice in WHO of using the term "counterfeit" when referring to quality-compromised medicines.

The MSM agreed that the "term 'counterfeit' is now usually defined and associated with the protection of intellectual property rights", acknowledging the definition of "trademark counterfeit goods" included in the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The MSM's decision follows the recommendations of an informal technical working group on draft working definitions of SFFFC medical products, which met on 22 November in Geneva. This group was established by the fourth meeting of the MSM

to refine the working definitions of SSFFC medical products, based on those currently used by the WHO global surveillance and monitoring system. The MSM also replaced the term “counterfeit medical products” with “falsified medical products” to refer to quality-compromised medical products due to deliberate or fraudulent misrepresentations. The scope of the new definition of falsified medical products excludes IP considerations. Moreover, the group agreed to drop the terms “spurious” and “falsely-labelled”, and elaborated definitions for “substandard” as well as “unregistered/unlicensed” medical products. The MSM also replaced the use of “substandard/spurious/falsely-labelled/falsified/counterfeit medical products” with “substandard and falsified medical products”, as the term to be used in its name and in all future documentation on the subject of medical products of this type.

CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

Conference of the Parties (COP) to the Convention on Biological Diversity

The thirteenth meeting of the Conference of the Parties to the Convention on Biological Diversity took place from **4 to 17 December 2016**, in Cancun, Mexico. The Conference of the Parties was presided over by Mr. Rafael Pacchiano Alaman, Minister of Environment and Natural Resources of Mexico. The agenda of the COP included discussions on synthetic biology and on Article 8 (j) and related provisions of the CBD.

The COP adopted decision XIII/16 on *digital sequence information on genetic resources* and decided to consider at the CBP COP 14 any potential implications of the use of digital sequence information on genetic resources for the three objectives of the CBD, having noted that digital sequence information on genetic resources is a cross-cutting issue that may concern the three objectives of the CBD, and the need for a coordinated and non-duplicative approach on this matter under the CBD and the Nagoya Protocol. Parties, other governments, indigenous peoples and local communities, and relevant organizations and stakeholders are invited to submit views and relevant information to the Executive Secretary on the potential implications of the use of digital sequence information on genetic resources for the three objectives of the CBD. The Executive Secretary is requested to compile and synthesize the views and information submitted and to commission a study, which are to be considered by an ad hoc technical expert group, which is to submit its outcomes for consideration by a meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTA).

The terminology is subject to further discussion in the study and the expert group.

On synthetic biology, the COP reaffirmed decision XII/24, in which it urged Parties and invited other governments to take a precautionary approach. It decided to extend the mandate of the current Ad Hoc Technical Expert Group on Synthetic Biology with new terms of reference, and requested the Subsidiary Body on Scientific, Technical and Technological Advice to review the recommendations of the Ad Hoc Technical Expert Group on Synthetic Biology and make further recommendation to the COP. The terms of reference of the Ad Hoc Technical Expert Group on Synthetic Biology include, to 1) review recent technological developments within the field of synthetic biology to assess if the developments could lead to impacts on biodiversity and the three objectives of the Convention, including unexpected and significant impacts; 2) identify any living organisms already developed or currently under research and development through techniques of synthetic biology which do not fall under the definition of living modified organisms under the Cartagena Protocol, 3) further analyse evidence of benefits and adverse effects of organisms, components and products of synthetic biology vis-à-vis the three CBD objectives, and gather information on risk management measures, safe use and best practices for safe handling of organisms, components and products of synthetic biology; and 4) evaluate the availability of tools to detect and monitor the organisms, components and products of synthetic biology, in order to avoid or minimize any potential negative effects on the conservation and sustainable use of biodiversity.

In respect of Article 8 (j) and related provisions of the CBD, the COP adopted the Mo'otz Kuxtal Voluntary Guidelines (CBD/COP/DEC/XIII/18). These are voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge. They are intended to provide guidance for the development of mechanisms, legislation, administrative and policy measures or other appropriate initiatives. These guidelines do not apply to traditional knowledge associated with genetic resources under the Nagoya Protocol.

The COP also requested the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions at its tenth meeting to complete a draft of the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity for consideration and adoption by the CBD COP 14.

Conference of the Parties serving as the Meeting of the Parties (COP/MOP) to the Nagoya Protocol on Access and Benefit-sharing

The second meeting of the Conference of the Parties serving as the Meeting of the Parties (COP/MOP) to the Nagoya Protocol on Access and Benefit-sharing took place from **4 to 17 December 2016** in Cancun, Mexico. The COP/MOP meeting was presided over by Mr. Rafael Pacchiano Alaman, Minister of Environment and Natural Resources of Mexico.

The agenda of the COP/MOP included the following important substantive issues: 1) report of the Compliance Committee established under Article 30 of the Nagoya Protocol to promote compliance with the provisions of the Protocol and to address cases of non-compliance; 2) review of progress towards the Aichi Biodiversity Target 16 to make the Nagoya Protocol come into force and be operational by 2015, consistent with national legislation; 3) the Access and Benefit-Sharing Clearing-House mechanism under Article 14 of the Nagoya Protocol; 4) cooperation with other international organizations, conventions and initiatives; 5) the need for and modalities of a global multilateral benefit-sharing mechanism under Article 10 of the Nagoya Protocol; 6) assessment of the review and effectiveness of the Protocol under Article 31 of the Nagoya Protocol.

The COP/MOP decided to consider at the COP/MOP 3 any potential implications of the use of digital sequence information on genetic resources for the objective of the Nagoya Protocol, and recognized the importance of addressing this matter in the framework of the Nagoya Protocol in a timely manner. The SBSTA of the CBD is to consider the outcomes of the ad hoc technical expert group and to make a recommendation on the potential implications of the use of digital sequence information on genetic resources for the objective of the Nagoya Protocol, for the consideration of the COP/MOP 3.

With regard to cooperation with other international organizations, conventions and initiatives, the COP/MOP took note of the WHO initiative to carry out a study on "Implementation of the Nagoya Protocol and pathogen sharing: Public Health Implications", and requested the Executive

Secretary to liaise with the WHO on its outcomes and to transmit information on the study to the Nagoya Protocol COP/MOP 3. The COP/MOP also requested the Executive Secretary, subject to the availability of resources, to conduct a study into criteria that could be used to identify what constitutes a specialized international access and benefit-sharing instrument, and what could be a possible process for recognizing such an instrument, and to refer the study for further consideration by the Subsidiary Body on Implementation before consideration by the COP/MOP 3. The Executive Secretary was further requested to continue to engage with relevant ongoing processes and policy debates, including in the WHO, the WIPO, the FAO CGRFA, the FAO ITPGRFA, the CGIAR Centers and others, as appropriate, to collect information on current discussions on the relationship between the use of digital sequence information on genetic resources and access and benefit-sharing arising out of the utilization of genetic resources.

On Access and Benefit-Sharing Clearing-House and information sharing the COP/MOP decided to request the Executive Secretary to refine the modalities for the operation of the ABS Clearing-House for consideration of the COP/MOP 3, and decided to review the implementation of the Access and Benefit-sharing Clearing House as part of the assessment and review-process to evaluate the effectiveness of the Protocol established by Article 31 of the Protocol.

The COP/MOP adopted rules of procedure for the Compliance Committee, noted that it cannot yet fully assess the need for and modalities of support to address challenges related to compliance with the provisions of the Protocol with a view to making effective use of the compliance mechanism, and decided that the Committee will reassess this need at a future meeting in the light of the experience gained by the Committee in carrying out its functions and further developments in implementation of the Protocol.

The COP/MOP also decided to conduct the first assessment and review of the Protocol, having identified selected elements and sources of information for the assessment. The latter includes national interim reports that should be submitted by Governments 12 months before NP COP/MOP 3.

The COP/MOP also requested the Subsidiary Body on Implementation to explore the need for a global multilateral benefit-sharing mechanism and make recommendations for consideration by the COP/MOP 3.

The COP/MOP urged parties to take further steps towards the effective implementation of the Protocol, including by establishing institutional

structures as appropriate and legislative, administrative or policy measures and, to make all relevant information available to the Access and Benefit-sharing Clearing-House. They also reiterated the need for capacity-building and development activities, including technical training and support, and called for Parties and other Governments to implement the International Treaty on Plant Genetic Resources for Food and Agriculture and the Nagoya Protocol in a mutually supportive manner.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

Conference of the Parties to the UNFCCC

The twenty-second Conference of the Parties (COP) to the UNFCCC took place from **7 to 18 November 2016** in Marrakech, Morocco. The COP was presided over by Mr. Salaheddine Mezouar, Minister of Foreign Affairs and Cooperation of the Kingdom of Morocco.

The Conference of the Parties adopted a decision on enhancing climate technology development and transfer through the Technology Mechanism of the UNFCCC. The decision welcomes the rolling workplan of the Technology Executive Committee (TEC) for 2016-2018, and invites UNFCCC Parties and all relevant stakeholders to consider the key messages of the TEC when implementing climate technology action, in the areas of climate technology financing, South-South and triangular cooperation on technologies for adaptation, and technology needs assessments.

In respect of the activities of the Climate Technology Centre and Network (CTCN) in 2016, the decision by the COP encourages enhanced cooperation between the Climate Technology Centre and the Global Environment Facility (GEF), strengthened collaboration between national designated authorities for the Green Climate Fund, the focal points for GEF, and the national designated entities for technology development and transfer. The decision also takes note of the need for sustainable funding of CTCN. It also invited the CTCN to report to COP 23 about the outcomes of increased engagement with the Green Climate Fund, national designated authorities for the Green Climate Fund and national designated authorities for technology development and transfer.

The COP also adopted a decision on linkages between the Technology Mechanism and the Financial Mechanism of the UNFCCC. The decision welcomes the decision by the Board of the Green Climate Fund to hold annual meetings

between the Green Climate Fund and the Convention bodies including the TEC and CTCN, and encouraged the Board of the Green Climate Fund to continue to invite the Chairs of the TEC and the Advisory Board of the CTCN, to future meetings of the Board of the Green Climate Fund on issues of common interest. The decision also invites national designated authorities and focal points of the Green Climate Fund to use the support available to them under the Readiness and Preparatory Support Programme to conduct technology needs assessments and develop technology action plans. Further, the decision invites developing country Parties to develop and submit technology-related projects, including those resulting from technology needs assessments and from the technical assistance from the CTCN, to the operating entities under the Financial Mechanism of the UNFCCC.

INTERNET GOVERNANCE

Internet Governance Forum (IGF)

The eleventh Internet Governance Forum (IGF) took place from **6 to 9 December 2016** in Guadalajara, Mexico.

Established by the United Nations Secretary-General, the IGF is a forum for multistakeholder dialogue on public policy issues related to key elements of Internet governance issues, such as the Internet's sustainability, robustness, security, stability and development.

The main sessions of the 11th IGF covered assessing the role of Internet governance in the Sustainable Development Goals, sustainable development, Internet and inclusive growth, national and regional IGFs, connecting human rights, IGF dynamic coalitions, trade policy and the Internet, IGF Best Practice Forums and IGF Policy Options for Connecting the Next Billions, shaping the future of internet governance and future of the IGF and IGF retreat consultation.

The IGF highlighted a various of discussions including:

- increasing access to the Internet in a way that supports development efforts in line with the Sustainable Development Goals;
- enhancing international cooperation and strategic partnership through the IGF to help bridge digital divides and provide crucial opportunities for people living in poverty, women and girls, children, persons with disabilities, older persons, indigenous peoples, marginalized groups and rural communities that still lack acceptable access in the use of the Internet;

- the importance of human rights and their connections with Internet policy and governance;
- the successful transition of the Internet Assigned Numbers Authority functions to the multistakeholder community in October 2016;
- addressing the growing challenges stemming from increased use of the Internet around the world, such as cybersecurity measures;
- addressing the challenges to foster continuous development of the Internet of Things and artificial intelligence;
- the development of the IGF projects, such as National, Regional and Youth IGFs, the IGF Best Practice Forums, IGF Policy Options for Connecting the Next Billions and IGF Dynamic Coalitions.

WIPO participated in the IGF and demonstrated a number of convergence issues between IP and Internet governance.

UNITED NATIONS GENERAL ASSEMBLY

Global Health and Foreign Policy

The United Nations General Assembly adopted a draft resolution on "Global Health and Foreign Policy" in New York, USA on **15 December 2016**. The resolution takes note of the report of the UN Secretary-General's High Level Panel on Access to Medicines and acknowledged the need for further discussions on access to medicines among member States and relevant stakeholders. The operating paragraph of the resolution requests the Secretary General to promote discussion among Member States and relevant stakeholders on appropriate policy options to promote access to medicines, innovation and health technologies as well as other broader aspects, bearing in mind, as appropriate, all relevant reports, such as, the report of the High-level Panel on Access to Medicines and the report of WHO/WIPO/WTO on "Promoting Access to Medical Technologies and Innovation." The resolution was co-sponsored by Argentina, Bangladesh, Brazil, France, Indonesia, Japan, Liberia, Monaco, Morocco, Norway, Senegal, South Africa and Thailand.

UN Technology Bank for the Least Developed Countries

The United Nations General Assembly passed a resolution establishing the UN Technology Bank for the Least Developed Countries (LDCs) on **23 December 2016** in New York. The Technology Bank will be located in Gebze, Turkey.

The Technology Bank will be comprised of a Science, Technology and Innovation Supporting Mechanism (STIM), an Intellectual Property Bank, and a Management Support, Partnerships and Coordination Unit. The objective of the IP Bank will be to 1) assist LDCs build national and regional capacities address and manage IPRs and technology related regulations, 2) facilitate technology transfer on voluntary and mutually agreed terms and conditions, and 3) facilitate identification, utilization and access of appropriate technologies by LDCs while respecting IPRs. The Technology Bank will conduct a series of science, technology and innovation (STI) reviews including technology needs assessments for a group of pilot LDCs in collaboration with UNCTAD and UNESCO.

JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS)

Programme Coordinating Board

The 39th session of the Programme Coordinating Board of UNAIDS took place from **6 to 8 December 2016** in Geneva, Switzerland. The session was chaired by Ambassador Alexandre Fasel from Switzerland.

The agenda of the Programme Coordinating Board included discussion on a synthesis report of existing research and literature on intellectual property (IP)-related and other factors impacting the availability, affordability and accessibility of treatment and diagnostics for HIV and co-infections in low and middle-income countries. In this context, the PCB also discussed the report of the UN Secretary-General's High Level Panel on Access to Medicines, which was presented to the Board by Justice Michael Kirby from Australia. While all member States were in agreement to take note of the UN High Level Panel's report, there was significant disagreement from developing countries to a proposal to take equal note of a trilateral study by WHO, WIPO and WTO on "Promoting Access to Medical Technologies and Innovation." The South Centre urged the PCB to welcome the report of the UN High Level Panel on Access to Medicines and take immediate action to support member States to implement the recommendations relevant to them, instruct the UNAIDS to explore new mechanisms that delink costs of R&D for end prices of health technologies for HIV/AIDS treatment and ensure their affordable access, and reaffirm the critical importance of addressing intellectual property-related factors that impact on the availability and affordability of treatments for HIV/AIDS. After extensive negotiations on the decision text, the PCB agreed to take note of the report of the UN High Level Panel on Access to Medicines and requested UNAIDS to facilitate further discussions

on access to medicines bearing in mind, as appropriate, the report of the UNHLP and other relevant reports, including the trilateral report by WHO/WIPO/WTO. The PCB also requested the UNAIDS to further identify data gaps, best practices and challenges therein, and collect and analyze necessary data, in order to better support countries to address intellectual property-related barriers, as well as the other barriers impacting on availability, affordability and accessibility of medicines, treatments and diagnostics for HIV and HIV co-infections and co-morbidities in low- and middle-income countries.

FREE TRADE AGREEMENTS

Regional Comprehensive Economic Partnership (RCEP)

The fifteenth round of RCEP negotiations took place from **10 to 22 October 2016** in Tianjin, China.

The RCEP is a regional free trade agreement including ten ASEAN member states and countries who are ASEAN's free trade agreement partners – Australia, China, India, Japan, Republic of Korea and New Zealand. Its negotiations were launched on 20 November 2012, aiming to achieve a modern, comprehensive, high-quality and mutually beneficial economic partnership to cover trade in goods, trade in services, investment, economic and technical cooperation, intellectual property, competition, dispute settlement and other issues.

According to the Australian Government Department of Foreign Affairs and Trade, the draft text on Economic and Technical Cooperation was concluded at the fifteenth round of RCEP negotiations. Following the issuance of the *Joint Leaders' Statement on the RCEP Negotiations* on 8 September 2016 in Vientiane, Lao PDR, the parties focused on finding ways to intensify the negotiations towards conclusion of a quality agreement.

The sixteenth round of RCEP negotiations took place from **2 to 10 December 2016** in Tangerang, Indonesia.

Reportedly, the draft text on Small and Medium Enterprises was concluded at the sixteenth round of RCEP negotiations, which is the second concluded draft text. The texts on trade in goods and services, investment, investment, intellectual property and movement of skilled workers are still under negotiations.

Future RCEP Negotiations

The seventeenth round of RCEP negotiations will be held in February 2017 in Kobe, Japan.

Trans-Pacific Partnership Agreement (TPPA)

Japan has ratified the Trans-Pacific Partnership Agreement (TPPA) on **9 December 2016**. The TPPA is a trade agreement among twelve of the Pacific Rim countries – Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States of America and Vietnam. With the latest ratification by Japan, the TPPA has received three ratifications (Canada, USA and Japan). The TPPA requires at least six ratifications among parties who constitute at least 85 per cent of the total GDP of all the TPPA original signatory parties. The TPPA requires parties to apply higher levels of intellectual property protection and enforcement than those required under the WTO TRIPS Agreement.