

# IP NEGOTIATIONS MONITOR

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



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### Inside

<b>WORLD TRADE ORGANIZATION (WTO)</b> .....	<b>3</b>
TRIPS Council .....	3
Future WTO Meetings.....	4
<b>WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)</b> .....	<b>4</b>
Meeting of the International Authorities under the Patent Cooperation Treaty (PCT).....	4
Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).....	5
Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).....	5
Future WIPO Meetings .....	6
<b>WORLD HEALTH ORGANIZATION (WHO)</b> .....	<b>6</b>
Executive Board.....	6
Future WHO Meetings .....	8
<b>FOOD AND AGRICULTURE ORGANIZATION (FAO)</b> .....	<b>8</b>
International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).....	8
Future ITPGRFA Meetings.....	9
Commission on Genetic Resources for Food and Agriculture (CGRFA).....	9
Future CGRFA Meetings.....	10
<b>INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)</b> .....	<b>10</b>
UPOV Council.....	10
Future UPOV Meetings.....	10
<b>CONVENTION ON BIOLOGICAL DIVERSITY (CBD)</b> .....	<b>10</b>
<b>UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)</b> .....	<b>10</b>
Technology Executive Committee (TEC).....	10
<b>INTERNET GOVERNANCE</b> .....	<b>11</b>
Working Group on Enhanced Cooperation (WGEC).....	11
Future WGEC Meetings.....	11
<b>UNITED NATIONS HUMAN RIGHTS COUNCIL</b> .....	<b>11</b>
Future HRC Meetings .....	11
<b>FREE TRADE AGREEMENTS</b> .....	<b>11</b>

**Regional Comprehensive Economic Partnership (RCEP) ..... 11**  
**Future RCEP Negotiations ..... 12**  
**Trans-Pacific Partnership Agreement (TPPA)..... 12**

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

### **TRIPS Council**

#### ***Extraordinary session on the amendment of the TRIPS Agreement***

An extraordinary session of the TRIPS Council was held on **30 January 2017** in Geneva, Switzerland. The meeting was chaired by Ambassador Modest Jonathan Mero from Tanzania. The meeting updated members of the TRIPS Council on the status of acceptance of the Protocol Amending the TRIPS Agreement to introduce a new Article 31 *bis*.

The Chair informed the TRIPS Council that the amendment to the TRIPS Agreement had entered into force on 23 January 2017 with the acceptance of the Protocol by two-thirds of the WTO members.

The amendment is the result of a negotiated solution among WTO Members, known as the Paragraph 6 system, under the Doha Declaration on TRIPS and Public Health. It modifies elements of intellectual property rules under the WTO TRIPS Agreement that constrained the ability of Members to make available affordable medicines. The use of a compulsory license (allowing production or importation of a patented medicine without the agreement of the patent holder) was legally restricted to be predominantly for the domestic market. The amendment establishes new rules allowing Members to export/import limited quantities of patented medicines under certain circumstances. To date there is only one recorded instance of the use of the system (export of an HIV/AIDS medicine from Canada to Rwanda.) The reasons for the lack of use of the system have not been assessed yet in the WTO context.

Member States unanimously welcomed the entry into force of the amendment. Many members also pointed to the need for further improvement of the system. Bangladesh stressed on the need to work further on the process and make it more effective, referring to the fact that the system has been used only once. Kenya also expressed support for further work to improve the system and make it practically viable. South Africa also took note of the recommendation of the UN Secretary-General's High-Level Panel on Access to Medicines (UNHLP) to make the Paragraph 6 system more effective. Tanzania also called for further improvement of the system. India referred to concerns it had raised regarding delays to access to affordable generic medicines caused by cumbersome processes under the paragraph 6 system in 2003, and similar recommendations in the report of the UNHLP. India also referred to discussions at a Side Event to the TRIPS Council

in November 2016 that was organized by the South Centre, where several participants had highlighted that the system is not workable in its current form as it is too complex, cumbersome and administratively unwieldy as well as commercially unviable for companies to supply medicines. In this context, India urged the TRIPS Council to engage on the question of improving and making the Paragraph 6 system more effective.

#### ***Regular session of the TRIPS Council***

A regular session of the TRIPS Council took place from **8-9 November 2016** in Geneva, Switzerland. The session was chaired by Ambassador Alfredo Suescum from Panama.

The agenda of this session of the TRIPS Council included discussions on the standing agenda items of 1) relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), 2) review of the provisions of Article 27.3 (b) of TRIPS, 3) protection of traditional knowledge and folklore, 4) non-violation and situation complaints, among others. The TRIPS Council also discussed the report of the UN Secretary-General's High-Level Panel on Access to Medicines, proposals relating to a work programme on e-commerce, as well as discussions on IP and innovation focusing on inclusive innovation and small and medium sized enterprises (MSME).

There was no progress on discussions on the issue of TRIPS-CBD relationship. The US opposed a proposal by some developing country members that the CBD secretariat be invited to provide a presentation in the TRIPS Council on the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, and also opposed the proposal for the WTO Secretariat to update the factual document on the status of discussions.

#### ***Non-violation and situation complaints***

Divergent positions were reiterated on the issue of non-violation and situation complaints under TRIPS. India noted that introduction of non-violation complaints under the TRIPS Agreement would have a debilitating impact on the regulatory policy space of members and on the use of TRIPS flexibilities, and reiterated the proposal by the majority of the membership to make non-violation complaints inapplicable to TRIPS. India also rejected the assumption of the US that non-violation complaints would be automatically applicable to TRIPS on the expiry of the moratorium on its application.

## *E-commerce*

With regard to a work programme on e-commerce, Brazil proposed to launch a comprehensive discussion of copyright management in the digital environment, including the importance of transparency in the remuneration of copyright and related works in the digital environment, availability of exceptions and limitations to copyright in the digital environment, and the alignment of territoriality of copyright laws to the digital environment. Argentina, Brazil and Paraguay had also submitted a joint communication informing the TRIPS Council about a resolution adopted by the MERCOSUR on the recognition of electronic or digital signatures. The TRIPS Council also considered a proposal by Canada, Chile, Colombia, Cote d'Ivoire and the European Union for a work programme on e-commerce and also a non-paper by Brunei, Colombia, Costa Rica, Hong Kong, China, Israel, Malaysia, Mexico, Nigeria, Pakistan, Panama, Qatar, Seychelles, Singapore and Turkey. While many TRIPS Council members welcomed the discussions for a work programme on e-commerce, some members also pointed to the need to avoid duplication of work that is being pursued in other fora.

## *UN Secretary General's High Level Panel on Access to Medicines*

On the discussions on the report of the UN Secretary General's High-Level Panel on Access to Medicines, the UNHLP report was supported by the developing countries including Bangladesh, Brazil, China, Egypt, India, Indonesia, Nigeria and South Africa. Brazil stated that the UNHLP report encourages members to make full use of the policy space available in TRIPS Article 27 by adopting and applying rigorous definitions of invention and patentability that curtail the evergreening of patents and ensure that only genuine innovations are awarded patent rights. Brazil also stressed the recommendation of the UNHLP for governments and the private sector to refrain from explicit or implicit threats, tactics or strategies that undermine the right of WTO members to use TRIPS flexibilities. India stressed on the UNHLP recommendation for governments to require manufacturers and distributors of health technologies to disclose information to drug regulatory and procurement authorities about the R&D, production, marketing and distributions costs, and the extent of public funding received in the development of the health technology, including tax credits, subsidies and grants. Some developed countries criticized the report as narrowly focusing on IP-related issues. India suggested that in future sessions of the TRIPS Council specific discussions could take place under this agenda item, under which members

could share their experiences on specific recommendations of the UNHLP.

## *IP and Innovation*

On IP and innovation, Australia, the European Union, Japan, Switzerland and the US proposed a discussion on inclusive innovation and micro, small and medium-sized enterprises (MSMEs). Some countries shared their national experiences on the subject. However, developing countries like India questioned the assumption of the proponents that increasing patent monopolies will drive greater innovation, pointing to an alternative view gaining ground that increasing patent monopolies would actually stifle innovation.

## **Future WTO Meetings**

The next regular session of the TRIPS Council will take place from **13-14 June 2017** in Geneva, Switzerland.

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

### **Meeting of the International Authorities under the Patent Cooperation Treaty (PCT)**

The twenty-fourth session of the Meeting of International Authorities under the Patent Cooperation Treaty (PCT) took place from **8 to 10 February 2017** in Reykjavik, Iceland. The session was chaired by Mrs. Borghildur Erlingsdottir from the Nordic Patent Institute.

The Meeting of International Authorities (MIA) discussed a summary report from the Quality Subgroup of the MIA, the developments of PCT online services and priorities for further work by the International Bureau of WIPO and the PCT International Authorities, the use of experience of a pilot project on the use of eSearchCopy service by participating patent offices, extension of appointment of International Authorities, promoting linkage between the international and national phase processing of patent applications, the transmittal of copies of documents cited in international search reports or international preliminary examination reports, number of words in abstracts or front page drawings in patent applications, use of national classification systems in international applications, progress of a pilot project on PCT collaborative search and examination, reports of task forces on PCT sequence listing and PCT minimum documentation, and the establishment of Authority file by an office.

The MIA approved the continuation of the Quality Subgroup and also approved the

recommendations of the Quality Subgroup. The MIA also approved a model agreement which will serve as the basis for bilateral discussions between the International Bureau and International Authorities to be designated under the PCT. Further, the MIA agreed that the Japan Patent Office will work with the International Bureau to incorporate modifications to the PCT International Search and Preliminary Examination Guidelines which also includes a proposal to include the Patent Prosecution Highway (PPH) with the PCT. The Patent Prosecution Highway is a system developed in collaboration with USPTO, EPO and JPO under which a patent applicant can seek expedited or fast tracked prosecution of an application in one office based on the search results on the claims in another office participating in the PPH.

The MIA also recommended that International Authorities should provide clear methods for applicants and designated Offices to obtain cited documents. The MIA further recommended that the International Bureau should submit further information and proposals in the PCT Working Group on the number of words that can be used in abstracts and front page drawings.

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

The thirty-third session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) took place from **27 February to 3 March 2017** 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.

The focus of the discussions in this session of the IGC was on the draft articles on protection of traditional cultural expressions. The IGC developed a new revised text of the draft articles which will be considered further in the next session of the IGC. Negotiations on the draft text had resumed after 2014 and during this session the draft text went through two revisions by two facilitators appointed by the IGC to streamline and clarify the draft text.

The core issue in the draft text is the scope of protection for TCEs. While developing countries prefer to adopt a tiered approach that would allow different kinds of protection for different kinds of

TCEs, developed countries, particularly the US, expressed a preference for more discussion on this approach.

### **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 **27-30 March 2017** 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), 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 had 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 had agreed that the DLT will remain on the agenda of the SCT. In this session, the Chair encouraged delegations to make use of the time available until the next session of the General Assembly in October 2017 to bridge the remaining gaps in the draft DLT.

The SCT also invited member States to submit additional or revised replies to a questionnaire relating to industrial design registration over graphical user interface, Icon and Typeface/Type Font designs. It also invited accredited NGOs to submit additional comments and observations and on that basis prepare a revised compilation of the comments, observations and examples received for consideration of the SCT. 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, and also organize an information session on this issue at the next session of the SCT.

The SCT also agreed to take stock of the progress made towards implementation of the WIPO Digital Access Service for priority documents for industrial designs in the short term.

On trademarks, the SCT discussed a compilation of comments and observations on the identified areas of convergence on the protection of country names against registration and use as trademarks

– 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 Chair requested the Secretariat to invite member States to submit in priority further comments and observations on these areas of convergence and submit a compilation of the same at the next session of the SCT. The Chair also requested the Secretariat to prepare an analytical document based on the revisions to the compilation of comments and observations on the areas of convergence. 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.

The SCT also considered a proposal by the WIPO Secretariat on replacing the current mode of paper based communication of the list of international non-proprietary names (INN) for pharmaceutical substances recommended by the WHO. The Chair requested the Secretariat to liaise with the WHO Secretariat to explore whether and how national and regional IP offices could make use of the Internet based mechanisms of the WHO to directly access INN data.

In respect of geographical indications (GIs), a one day information session took place in the SCT to provide information on the features, experiences and practices of different national and regional GI protection systems, as well as protection of GIs on the Internet, and protection of GIs and country names in the domain name system. It was agreed that further steps on this matter will be discussed at the next session of the SCT based on a proposal by the Chair to develop a list of questions for a questionnaire on these issues for further follow-up discussions. Existing proposals on these issues will remain on the agenda.

### **Future WIPO Meetings**

The thirty-fourth session of the WIPO Standing Committee on Copyright and Related Rights (SCCR) will take place from **1-5 May 2017** in Geneva, Switzerland.

The thirtieth session of the PCT Committee for Technical Cooperation will take place from **8-12 May 2017** in Geneva, Switzerland.

The tenth session of the Patent Cooperation Treaty (PCT) Working Group will take place from **8-12 May 2017** in Geneva, Switzerland.

The nineteenth session of the WIPO Committee on Development and Intellectual Property (CDIP) will take place from **15-19 May 2017** in Geneva, Switzerland.

The fifth session of the Committee on WIPO Standards (CWS) will take place from **29 May to 2 June 2017** in Geneva, Switzerland.

The thirty-fourth session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) will take place from **12-16 June 2017** in Geneva, Switzerland.

The twenty-sixth session of the WIPO Standing Committee on the Law of Patents (SCP) will take place from **3-6 July 2017** in Geneva, Switzerland.

The twenty-sixth session of the WIPO Program and Budget Committee (PBC) will take place from **10-14 July 2017** in Geneva, Switzerland.

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

### **Executive Board**

The 140th session of the Executive Board (EB) of the World Health Organization (WHO) took place from **23 January – 1 February 2017** in Geneva, Switzerland. The session was chaired by Dr. Ray Busuttil from Malta.

The agenda of this session of the EB included 45 items and sub-items. Most of the items involved interim reporting by the WHA Secretariat others required discussion among Member States, including on the implementation of resolutions and decisions of the WHA.

The EB undertook two rounds of shortlisting and selection of candidates for the post of the Director-General of the WHO, to recommend three candidates for the final election by the World Health Assembly in May 2017 – Dr. Tedros Adhanom Ghebreyesus from Ethiopia, Dr. David Nabarro from the UK and Dr. Sania Nishtar from Pakistan.

The EB took note of a progress report by the WHO Secretariat with regard to a blueprint for research and development (R&D blueprint) preparedness and response for potentially epidemic diseases.

The EB also took of a progress report on the implementation of the Global Action Plan on Antimicrobial Resistance which reported that 32 countries have submitted National Action Plans and 59 countries are in the process of drafting their National Action Plans. Developing countries highlighted the urgency of ensuring financial and technical assistance for taking actions to tackle antimicrobial resistance (AMR). Member States also expressed their support for advancing the negotiations on the Stewardship and Development Framework for AMR, reaffirming the

principles (affordability, effectiveness, efficiency, equity and the principle of de-linkage) of the Consultative Expert Working Group on Research and Development: Financing and Coordination (CEWG). They also called for ensuring that during the process of the development of the Stewardship and Development Framework there should be consultations with experts but also with Member States. Developing countries also stressed the important role governments will need to play in the regulatory aspects for tackling antimicrobial resistance and the need to ensure affordable access to medicines, vaccines and diagnostics. Member States further highlighted the importance of looking at the animal health and agricultural aspects as key challenge areas.

The EB took note of a report by an independent expert group reviewing the WHO Pandemic Influenza Framework (PIP Framework) established by the member States in 2011 to provide a framework to facilitate sharing of influenza viruses of pandemic potential and also facilitate benefit sharing. The PIP Framework calls for a review of the PIP Framework by 2016 with a view to proposing to the 2017 World Health Assembly revisions to the framework to reflect appropriate developments. The EB also took note of a study by the Secretariat on how the implementation of the Nagoya Protocol might affect the sharing of pathogens and its potential public health implications. The review group had identified two areas where member States could consider amending the framework: 1) the definition of PIP biological materials could be expanded to include genetic sequence data; 2) specific points in the text of the framework could be altered to emphasize member States' choice of database.

With regard to the public health implications of the Nagoya Protocol, the review group recommended that the PIP framework be recognized as a specialized international instrument under the Nagoya Protocol. The review group also discussed whether the PIP framework should be expanded to include seasonal influenza viruses. The review group recommended that the Director General undertake a study to determine whether such an expansion will be practical and desirable.

Developed countries expressed concern about inclusion of genetic sequence data in the definition of PIP biological material and supported the need to recognize the PIP Framework as a specialized international instrument under the Nagoya Protocol. Developing countries expressed support for inclusion of genetic sequence data within the scope of the PIP Framework and the need for further analysis led by the CBD on whether the PIP Framework can be a specialized instrument under the Nagoya Protocol.

Discussions on these issues will continue in the Assembly in May 2017.

The EB adopted a decision – EB140(5) – to extend the allocation of the PIP partnership contributions between pandemic preparedness measures and pandemic response activities, as decided by the EB in 2012, till 28 February 2018. In 2012, the EB decision 131(2) allocated 70 per cent of the PIP partnership contributions to pandemic preparedness activities and 30 per cent to pandemic response activities from 2012 to 2016. The PIP partnership contributions are annual cash contributions received by the WHO from influenza vaccine, diagnostic and pharmaceutical manufacturers who use the WHO Global Influenza Surveillance and Response System (GISRS) which monitors the evolution of influenza viruses and provides recommendations in areas including laboratory diagnostics, vaccines, antiviral susceptibility and risk assessment. The decision by the EB to extend the current allocation formula for the PIP partnership contributions will allow the member States to decide on the new allocation methodology based on the outcome of the discussions on the review of the PIP Framework in the WHA in May 2017.

The EB decision also requested the WHO DG to continue consultations with the Secretariat of the Convention on Biological Diversity (CBD) and other relevant international organizations as appropriate, on access to pathogens and fair and equitable sharing of benefits, in the interest of public health and report to the 2017 Assembly.

The EB took note of a report by the WHO Secretariat proposing technical definitions for medicines and vaccines shortages and stock outs. Developing countries pointed to the need for further improvement in the definitions and noted that the proposed definition excluded price barriers to procurement, IP barriers, unreasonably stringent regulatory standards and lack of competition.

The EB discussed a report by the Secretariat containing the executive summary of a comprehensive evaluation of the implementation of the WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (GSPOA) and approved the terms of reference for the overall programme review after considering amendments to the same proposed by three EB members. In 2009, the WHA requested the DG to conduct an overall programme review of the GSPOA on its achievements, remaining challenges and recommendations on the way forward to the Health Assembly. The 2015 WHA extended the time frame for the overall programme review to 2018. It also requested the DG to initiate a comprehensive evaluation of the implementation of the GSPOA, to be undertaken

by an independent expert evaluator, to be overseen by an ad-hoc evaluation management group. Some developed countries called for an assessment of the need for continuation of the GSPOA beyond 2022, and also sought to ensure that the panel for the overall programme review arrive at conclusions by consensus and specifically consult firms involved in biomedical research and development. However, these were not agreed upon for inclusion in the terms of reference for the overall programme review.

The EB also took note of a report by the WHO Secretariat on the implementation of the recommendations of the WHO Consultative Expert Working Group on Research and Development: Financing and Coordination (CEWG). The report included the terms of reference and a costed work plan for a Global Observatory on R&D and a WHO Expert Committee on Health R&D. It also developed further the proposal and operational plan for a voluntary pooled fund. The report also presented an updated status of the implementation of R&D demonstration projects. Developing countries pointed to challenges regarding the financial sustainability of the three mechanisms.

The EB also discussed the report of the UN Secretary-General's High Level Panel on Access to Medicines. While many member States expressed willingness to further discuss the issues raised in the report, developed countries like the US tried to dismiss the report as narrow in focus and lacking consensus among panellists on its key recommendations. It was agreed that in the 2017 World Health Assembly the WHO Secretariat will prepare a new document on shortage of medicines that will include access to medicines and that it would take into consideration the comments that had been made during the session and look at the work that has been done in the context of the GSPOA. This report would provide an overview of what has been done and what has not be done because of lack of resources or lack of consensus.

The EB took note of the decision by the WHO Member State Mechanism on substandard/spurious/falsely-labelled /falsified /counterfeit medical products to drop the term "counterfeit" in referring to quality-compromised medical products, 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 WHO Secretariat agreed to take into account the comments and to modify the website of the MSM if such a decision is adopted. The draft decision was approved and will be presented at the WHA for its adoption.

The EB took note of a report by the WHO Secretariat on the implementation of the WHO Framework of Engagement with Non-State Actors (FENSA) and endorsed the agreements reached at the Programme Budget and Administration Committee (PBAC) which is responsible for overseeing the implementation of FENSA. These agreements included accepting 5 new organizations into official relations with the WHO, including the Bill and Melinda Gates Foundation.

The EB also took note of a report by the WHO Secretariat on the status of the implementation of WHO reform. There are three broad areas of WHO reform: programmes and priority-setting; governance; and management. The report notes that inadequate financing of the programme budget and donor dependence remains a challenge. There is currently a current funding shortfall of the base budget of US\$ 471 million. This report was also discussed in the PBAC, which had expressed concern about the funding shortfalls in certain programmes and noted the need to ensure alignment and predictability of funding across all levels of the WHO.

### **Future WHO Meetings**

The Seventieth World Health Assembly will take place from **22-31 May 2017** in Geneva, Switzerland.

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

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

*Compliance Committee of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)*

The second meeting of the Compliance Committee of the International Treaty on Plant Genetic Resources for Food and Agriculture took place from **21-22 February 2017** in Rome, Italy.

The Compliance Committee discussed a synthesis of reports received from Contracting Parties to the International Treaty on the measures taken by them to implement their obligations under the Treaty.

*Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing*

The sixth meeting of the *ad hoc* Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing



took place from **14-17 March 2017** in Rome, Italy. The meeting was co-chaired by Mr. Bert Visser from the Netherlands and Mr. Javad Mozafari from Iran.

The Working Group discussed options to expand the benefit-sharing provisions under the International Treaty and the legal modalities for the same that could be recommended to the Governing Body of the Treaty. The Working Group also considered a revised draft Standard Material Transfer Agreement with particular focus on the development of a subscription system which will require users to pay for using the multilateral system before accessing plant genetic material through the multilateral system. The Working Group was also invited to consider issues related to genetic information such as genetic sequence data (GSD) associated with material access from the multilateral system.

#### *Ad Hoc Advisory Committee on the Funding Strategy*

The eighth meeting of the *ad hoc* Advisory Committee on the Funding Strategy took place from **20-21 March 2017** in Rome, Italy. The objective of the meeting was to review the funding strategy for the Plant Treaty in the 2016-17 biennium.

#### **Future ITPGRFA Meetings**

The second meeting of the Scientific Advisory Committee on the Global Information System of Article 17 of the Treaty will take place from **13-14 April 2017** in Rome, Italy.

#### **Commission on Genetic Resources for Food and Agriculture (CGRFA)**

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. The session was chaired by Mr. Chang-Yeon Cho from the Republic of Korea.

With regard to access and benefit-sharing (ABS) for genetic resources for food and agriculture, the Commission requested the FAO to continue working to raise awareness about ABS for genetic resources for food and agriculture and to assist countries in developing legislative, administrative or policy measures on ABS for genetic resources for food and agriculture. It also requested the FAO to develop non-prescriptive explanatory notes on the distinctive features and specific features of different sub-sectors of GRFA to complement ABS elements. It further requested the FAO to convene jointly with the Secretariats of the CBD and the International Treaty on Plant Genetic

Resources for Food and Agriculture an international workshop to assist countries to identify and raise awareness about the distinctive features and specific features of different sub-sectors of GRFA in the context of the ABS elements. It also requested the FAO to increase collaboration with the International Treaty.

The Commission endorsed the report of the eighth session of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture. The Commission also welcomed the progress made in the implementation of the Second Global Plan of Action for Plant Genetic Resources for Food and Agriculture and stressed the importance for a greater number of country reports on implementation of the Global Action Plan. It expressed concern about the high number of genebank accession due for regeneration for which no resources are currently available and requested governments and relevant international organizations to provide necessary resources for the same. The Commission also requested the FAO to support the National Focal Points in reporting on the implementation of the Global Plan of Action and also to consult CGRFA members and observers to further simplify the reporting format.

The Commission also requested the FAO to support countries in the development or revision of their national seed policy or legislation, taking into account the Commission's Voluntary guide for national seed policy formulation.

The Commission also referred the revised draft Voluntary guidelines on national level conservation and use of farmers' varieties/landraces to the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture for further review and invited National Focal Points, CGRFA members and observers to provide comment on the draft guidelines before 1 June 2017.

The Commission also decided to establish a new work stream on "digital sequence information on GRFA" and requested the Secretariat to prepare a scoping study on this issue for consideration by the Commission at its next session, to discuss the implication of the use of digital sequence information on GRFA for the conservation and sustainable use of GRFA, including exchange, access and fair and equitable benefit-sharing.

The Commission also discussed cooperation with international instruments and organizations, as well as collaboration with the International Treaty on Plant Genetic Resources for Food and Agriculture.

### **Future CGRFA Meetings**

The ninth session of the Intergovernmental Technical Working Group on Animal Genetic Resources for Food and Agriculture will take place from **6-8 July 2017** in Rome, Italy.

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

#### **UPOV Council**

No meetings of the UPOV bodies took place during the reporting period.

#### **Future UPOV Meetings**

The Ninety-Third session of the UPOV Consultative Committee will take place on **6 April 2017** in Geneva, Switzerland.

The Thirty-Fourth extraordinary session of the UPOV Council will take place on **6 April 2017** in Geneva, Switzerland.

### **CONVENTION ON BIOLOGICAL DIVERSITY (CBD)**

No meetings of the subsidiary bodies of the Convention on Biological Diversity or the Nagoya Protocol.

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

#### **Technology Executive Committee (TEC)**

The Fourteenth session of the Technology Executive Committee took place from **28-31 March 2017** in Bonn, Germany. The session was chaired by Mr. Michael Rantil from Sweden.

The agenda of the TEC was amended to reflect that the TEC has been invited to participate in the first meeting of the Paris Committee for Capacity Building (PCCB) to be held in Bonn in May 2017. The Committee also took note of the election of 8 new members and the re-election of 5 members of the TEC.

The TEC took note of the outcomes of the Marrakech climate change conference on matters relating to technology development and transfer, the preparations for the Bonn climate change conference in May 2017, including events which are of relevance to the TEC, and the invitation to TEC to participate in the first meeting of the Paris

Committee for Capacity Building. The TEC also took note of an update from the UNEP and UNDESA on the progress of the Technology Facilitation Mechanism (TFM) launched in 2015 to support the achievement of the Sustainable Development Goals.

The TEC also took note of the existing and possible areas for further collaboration between the TEC and the Climate Technology Centre and Network (CTCN).

The UNFCCC Secretariat presented an overview of the workplan of the TEC for 2016-2018, background information on the country-driven activity and the process for conducting and prioritizing technology needs by developing countries including the role and ongoing work of TEC on this matter, including possible alignment of technology needs assessments with the process to formulate and implement national adaptation plans, methodology on monitoring and evaluation of implementation of technology needs assessment results, follow-up activities on climate technology financing, and follow-up activities from the evaluation of the Poznan strategic programme on technology transfer. A thematic dialogue on industrial energy efficiency and material substitution in carbon intensive sectors also took place in this session of the TEC. The TEC also discussed inputs from the TEC for Technical Experts Meeting (TEM) on mitigation in May 2017, and a draft TEC Brief on South-South cooperation and triangular cooperation on technologies on adaptation. The TEC also took note of the inputs provided by TEC to the Technology Experts Meeting on adaptation (TEM-A) and discussed further possible inputs that could be provided to TEM-A. The TEC was also invited to provide guidance on the preparation for a special event to be held in May 2017 on how innovation can support the implementation of the technology elements of the NDCs and the Paris Agreement mid-century strategies, based on a draft agenda prepared by the task force on innovation and research, development and demonstration (RD&D).

The Committee was also invited to provide guidance on a draft technical paper on enhancing climate technology research, development and demonstration financing, activities for mapping enabling environments and barriers, and recommendations for entry points for collaboration with the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with the Climate Change Impacts (WIM ExCom). The TEC also discussed updated procedures for preparing the joint chapter of the joint annual report of the TEC and the Climate Technology Centre and Network (CTCN), as well as the preparation of the joint report of TEC and CTCN to the COP-MOP of the Paris Agreement.

## INTERNET GOVERNANCE

### Working Group on Enhanced Cooperation (WGEC)

The second meeting of the Working Group on Enhanced Cooperation (WGEC) of the Commission on Science and Technology for Development (CSTD) took place from **26-27 January 2017** in Geneva, Switzerland. The meeting was chaired by Ambassador Benedicto Fonseca Filho from Brazil.

The Working Group exchanged views on the contributions on two guiding questions agreed at the first meeting of the WGEC – the “High Level characteristics of enhanced cooperation” – under the Tunis Agenda, the way forward and possible outputs. A first reading of the contributions was concluded in this meeting and it was proposed that the WGEC should reconsider the contributions in the future. The WGEC agreed to discuss the recommendations made in the various contributions from WGEC members and observers at the next meeting of the WGEC. Members and observers were invited to submit additional recommendations or revise the recommendations they have made in their contributions by 1 April 2017.

### Future WGEC Meetings

The third meeting of the WGEC will take place from **3-5 May 2017** in Geneva, Switzerland.

## UNITED NATIONS HUMAN RIGHTS COUNCIL

The thirty-fourth regular session of the UN Human Rights Council took place from 27 February to 24 March 2017 in Geneva, Switzerland. This session was chaired by Ambassador Joaquin Alexander Maza Martelli from El Salvador.

During this session of the Human Rights Council, a panel discussion on good practices and key challenges relevant to access to medicines was held on 8 March 2017. Panellists looked at the various ways in which international bodies that deal with health, innovation and intellectual property rights could improve access to medicine. A major focus of the discussions was on the report of the UN Secretary General’s High-Level Panel on Access to Medicines. The panel is expected to lead to a report sent on to the Human Rights Council for possible further action.

Ruth Dreifuss, former president of Switzerland, chair of the Global Commission on Drug Policy, and co-chair of the Secretary-General’s High-Level Panel on Access to Medicines, said the current innovation system is inadequate to address certain areas such as formulation for

children, neglected tropical diseases, and antimicrobials. Michael Kirby, former Justice of the High Court of Australia and Member of the Secretary-General’s High-Level Panel on Access to Medicines said that unless the world, the UN and the Council acts now, the Sustainable Development Goal 3 on good health and well-being cannot be achieved by 2030.

### Future HRC Meetings

The fourth session of the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas will take place from **15-19 May 2017** in Geneva, Switzerland.

## FREE TRADE AGREEMENTS

### Regional Comprehensive Economic Partnership (RCEP)

The Seventeenth Round of Negotiations for the Regional Comprehensive Economic Partnership (RCEP) Agreement took place from **27 February - 3 March 2017** in Kobe, Japan. This round of negotiations was chaired by Mr. Iman Pambagyo from Indonesia.

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.

A specific chapter on IP is being negotiated in a Working Group on Intellectual Property which is chaired by Mr. Derek Loh from Singapore.

It is reported that during the negotiations in Kobe, Japan and Korea made demands for standards of IP protection and enforcement that go beyond the requirements of the TRIPS Agreement. It is reported by observers that many of the proposed provisions in the IP chapter of RCEP mirrors the TRIPS plus provisions in the Trans-Pacific Partnership Agreement. Such provisions, if agreed upon, can have adverse implications on the production and trade of affordable generic medicines among the RCEP countries. The proposed provisions in the IP chapter of RCEP include extending the term of a patent to 25 years (beyond the 20 year term under the TRIPS Agreement), data exclusivity, weakened

patentability criteria, accelerated patent examination, restrictions on patent exceptions, and TRIPS plus IP enforcement measures. The RCEP also can enable pharmaceutical companies to raise investor-State disputes and seek huge financial compensation from States for adopting measures that might impact their IPR, including measures such as issuance of compulsory licenses on public health grounds.

### **Future RCEP Negotiations**

The Eighteenth Round of RCEP Negotiations will take place from 2-12 May 2017 in Manila, Philippines.

### **Trans-Pacific Partnership Agreement (TPPA)**

The United States of America officially withdrew from the Trans-Pacific Partnership Agreement on **30 January 2017**. 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.