



South Centre Statement
26th Session of the WIPO Standing Committee on the Law of Patents (SCP)

The 26th session of the WIPO Standing Committee on the Law of Patents (SCP) is meeting this week at the WIPO headquarters in Geneva. The SCP is the committee for substantive discussion and advancing norm-setting, where relevant, on the international aspects of patent law and related issues. The SCP can also provide guidance to the patent-related activities of the WIPO Secretariat, including on technical assistance such as legislative advice using model laws.

Although minimum international standards of patent protection were set out by the Paris Convention and the TRIPS Agreement, patent law remains territorial. This means that countries still have significant room or “flexibility” in the design of domestic patent laws; in particular the Least Developed countries (LDCs). Maintaining this flexibility is critical for policy makers to craft, amend or delay domestic patent laws in accordance with national development priorities and social and economic realities.

Since 2008 discussions are taking place in the SCP on agreed issues, without the expectation of any norm-setting. The current session of the SCP will continue to discuss important issues which are of critical interest to developing countries relating to the development of a manual on exceptions and limitations to patent rights as a reference document for WIPO members, discussions on the quality of patents including opposition systems, developing a work programme on patents and health, and transfer of technology. The SCP will also discuss a proposal by GRULAC for the revision of the 1979 WIPO model law for developing countries on patents. Developed countries are also seeking to develop a work programme in the SCP on work sharing and collaboration on search and examination between patent offices and on recognition of communications between clients and their patent advisors as privileged communication.

The South Centre is participating in the current session of the SCP as an observer. **The following statement was delivered by the South Centre on the first day of the current session of the SCP.**

The 26th session of the SCP marks the ninth year since the SCP had reconvened in June 2008 with a focus on developing a balanced work programme on issues relating to the law of patents to also address development and public policy questions that arise in the context of the patent system. In this process, the SCP has limited its focus to a select number of issues drawn from a list of non-exhaustive issues that was identified by the SCP in 2008. These include critical issues which remain on the agenda particularly on exceptions and limitations to patent rights, quality of patents including opposition systems, patents and health and transfer of technology. While a number of studies, fact-finding surveys, experience sharing sessions have informed the discussions on these issues in the SCP, it is imperative that the SCP moves forward to develop meaningful action oriented solutions to address identified challenges.

In this regard, it will be critical for the SCP to advance its work on exceptions and limitations to develop a non-exhaustive manual on exceptions and limitations as a reference for WIPO Members. On the issue of quality of patents, the SCP should also address the importance of patent opposition

systems, pre-grant and post grant, for ensuring the grant of high quality patents through a robust search and examination process. On the issue of patents and health, it will be critical for the SCP to move beyond experience sharing, fact-finding studies or literature reviews to develop an action oriented work programme to address the challenges that arise to access to medicines in the context of the patents system. In this regard, it will be critical for the SCP to substantially engage on the proposal by DAG and the African Group on patents and health. It is important to note in this context, that many elements of the DAG and African Group proposal are reflected in the recommendations of the UNHLP which have been adopted by consensus among all members of the UNHLP after extensive consultations with a diversity of stakeholders all over the world.

The South Centre also supports the proposal by GRULAC for a revision of the 1979 WIPO Model law on patents.