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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 WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) took place on **19-20 October 2017** in Geneva, Switzerland. The session was chaired by Ms. Irene Young from Hong Kong, China.

The agenda of this session of the TRIPS Council included discussions on the standing agenda items on 1) notification of laws and regulations under the TRIPS Agreement, 2) review of national implementing legislation, 3) relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), 4) review of the provisions of Article 27.3 (b) of TRIPS, 5) protection of traditional knowledge and folklore, 6) annual review of the special compulsory licensing system (under paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health), 7) non-violation and situation complaints, 8) review of the implementation of the TRIPS Agreement under Article 71.1, 9) review of the application of the provisions of the section on geographical indications under Article 24.2, 10) annual review on implementation of Article 66.2 of the TRIPS Agreement, and 11) technical cooperation and capacity building. The TRIPS Council also discussed IP and innovation focusing on inclusive innovation of small and medium-sized enterprises (MSMEs) growth, and IP and public interest with a focus on compulsory licensing.

The TRIPS Council took note of three notifications under Article 63.2 of the TRIPS Agreement from Norway (law relating to right to employees' inventions), Chinese Taipei (copyright law, patent law, patent enforcement rules, trademark law and trademark enforcement rules), and China (copyright law implementation regulations, new plant varieties protection law, and computer software protection). Gabon notified its responses to a checklist of issues on enforcement, and Liberia submitted information regarding contact points for the exchange of information and cooperation on trade in infringing goods. India posed questions to the European Union (EU) concerning a recent notice by the European Commission on the customs enforcement of intellectual property rights concerning goods brought into the customs authority of the EU without being released into free circulation, including goods in transit. In particular, India requested documents from the EU, such as a list of all the applicable custom laws issued by the EU that could be in the form of regulations/directives/guidelines. India also asked if the EU could clarify whether EU Regulation 608/2013 is directed only at goods intended and/or suspected of entering in the EU market. Brazil and the EU also made statements on this

issue. The EU stated that it would provide its responses to the questions raised by India later as the questions were submitted only a few days before the TRIPS Council meeting.

The TRIPS Council took note of the information provided by the Chair that the reviews of national implementing legislations of all developed and developing country members of the WTO had been completed, including newly acceded members Seychelles and Kazakhstan.

There was no progress on discussions on the issue of TRIPS-CBD relationship, review of Article 27.3 (b), and the protection of traditional knowledge and folklore, with members reiterating their current positions. The Chair noted that there had been no responses or updates since 2003 to the illustrative list of questions on Article 27.3 (b) (IP/C/W/122) and only 25 members had submitted responses. Similarly, there had been no notifications of domestic mechanisms to protect genetic resources and traditional knowledge. The Chair encouraged members to submit such information. The TRIPS Council agreed to revert to these three issues at its next meeting.

The TRIPS Council also agreed to extend the by 2 years deadline for the ratification of the Protocol Amending the TRIPS Agreement to introduce the new Article 31 *bis* incorporating the special compulsory licensing system under paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health which allows generic medicines to be exported under a compulsory license to a WTO member with insufficient pharmaceutical manufacturing capacity under certain conditions. The least developed countries (LDC) had proposed a 4 year extension of the deadline for ratification and India had proposed an indefinite extension of the deadline. Currently, the Protocol has been ratified by 118 members.

No comments or suggestions were made by members on the issue of review of implementation of the TRIPS Agreement under Article 71.1.

On the review of application of the provisions on geographical indications (GI) under Article 24.2 of the TRIPS Agreement, Switzerland submitted an update of its responses to a checklist of questions. The Chair noted that only 50 members had submitted responses to the questions and encouraged other members to submit their responses, including information on bilateral agreements related to the protection of GIs.

The TRIPS Council also took note of updates to the annual reports from Japan, Australia, US, Canada, New Zealand, Norway and Switzerland as well as reports from the EU, Austria, the Czech Republic, Denmark, Estonia, Finland, Germany,

Ireland, Sweden and the UK on actions taken or planned by them under Article 66.2 of the TRIPS Agreement. The TRIPS Council agreed to revert to the matter at its next meeting.

On the issue of technical cooperation and capacity building to assist developing countries and LDCs to implement the TRIPS Agreement, the TRIPS Council took note of submissions from Japan, Australia, US, Canada, New Zealand, Switzerland, Norway, the EU, Croatia, the Czech Republic, Denmark, Estonia, France, Germany, the Netherlands, Slovakia, Spain, Sweden, the UK, and the Community Plant Varieties Office. The FAO, WIPO, WHO, GCC, ARIPO and the WCO also submitted updated information. The WTO Secretariat also submitted updated information of its own technical cooperation activities.

### *Non-violation and Situation Complaints*

The TRIPS Council also could not arrive at any agreement on the question of applicability of non-violation and situation complaints to disputes arising under the TRIPS Agreement. Divergent positions were reiterated on the issue of non-violation and situation complaints under TRIPS. Most WTO members insisted that the moratorium be transformed into a permanent waiver, and in alternative, preferred an extension of the moratorium. The United States and Switzerland, on the contrary, reiterated their position that the moratorium should not be extended and that non-violation and situation complaints would become applicable to disputes arising under the TRIPS Agreement. The Chair undertook informal consultations based on a draft text of a decision for the 11th WTO Ministerial Conference modelled on the decision on the extension of the moratorium at the 10th Ministerial Conference. The TRIPS Council agreed to keep this issue open for the Chair to undertake further consultations in order to make a recommendation through the General Council to the Ministerial Conference in a timely manner.

### *IP and Innovation*

Discussions on IP and innovation took place based on an *ad hoc* agenda item with the focus on inclusive innovation and growth of MSMEs, based on guiding questions proposed by Australia, Canada, the European Union, Japan, Singapore, Switzerland, Chinese Taipei and the US. The proponents asked members to exchange experiences and examples of successful measures promoting inclusive innovation and MSME growth, particularly how IP frameworks and innovation policy or programmes have assisted MSMEs to successfully grow, create economic growth and employment, and foster participation in the global trading system and

value chains. India noted that the formal IP system based on exclusion and proprietary knowledge is not compatible with the diffusion of knowledge. India also specified that the evidence does not support the assertion that increasing patent monopolies drives innovation. It stressed that innovation needs to be driven by public interest and IP is only one among many factors that contributes to innovation.

### *IP and the Public Interest*

The TRIPS Council discussed issues relating to compulsory licensing under the *ad hoc* agenda item on IP and the public interest. South Africa, Brazil, India, China, the EU, US, Japan and the Holy See delivered statements under this agenda item. Brazil referred to a recent judicial decision in Germany to grant a provisional compulsory license on an antiretroviral medicine raltegravir on the ground that there is need for certain patients with HIV/AIDS to receive this medicine. South Africa referred to other instances of issuance of compulsory licenses including compulsory licenses on medicines in Germany and Malaysia, as well as on computer circuit technology in the US. India also drew attention to several other instances of compulsory licenses issued in the US on various technologies.

On the *ad hoc* agenda item on IP and innovation, discussions continued in the TRIPS Council on inclusive innovation MSME trade. Switzerland, the Republic of Korea, Japan, the EU, Australia, US, Chinese Taipei, Canada, Chile, Costa Rica, Brazil, India, South Africa and China made statements under this agenda item.

The TRIPS Council also admitted the African Regional Intellectual Property Organization (ARIPO) and the African Intellectual Property Organization (OAPI) as observers to the TRIPS Council. It also agreed to grant *ad hoc* observer status to the GCC and the EFTA. Many members expressed support for the grant of observer status to the CBD, the South Centre and the International Vaccine Institute.

### **Special Session of the TRIPS Council**

A meeting of the special session of the TRIPS Council took place on **18 October 2017** in Geneva, Switzerland. The meeting was chaired by Ambassador Dacio Castillo from Honduras. The objective of this special session was to enable members to put on record their views on the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, ahead of the 11th WTO Ministerial Conference. This was the first formal meeting of the special session of the TRIPS Council since the circulation

of a draft composite text (TN/IP/21) in 2011. Members continued to voice their differences on the scope of the mandate of the special session. While the US and Japan continued to express that the mandate of the special session was limited to discussions on a GI register for wines and spirits, many other members that had submitted a proposal on addressing this issue along with related issues of a mandatory disclosure requirement of the country providing/source of genetic resources and/or associated traditional knowledge in patent applications and extension of GI protection under TRIPS to other products in addition to wines and spirits (TN/C/W/52). All members agreed that there was not much scope for the resumption of substantive discussions before the 11th WTO Ministerial Conference in Buenos Aires. The Special Session took note of the statements made by various delegations.

### **WTO Ministerial Conference**

The 11th WTO Ministerial Conference took place from **10 to 13 December 2017** in Buenos Aires, Argentina. The Ministerial Conference adopted a decision (WT/MIN(17)/66) directing the TRIPS Council to continue its examination of the scope and modalities for non-violation and situation complaints in relation to the TRIPS Agreement, under Article XXIII 1(b) and (c) of GATT 1994, and make recommendations to the next session of the Ministerial Conference in 2019. The decision also extended the moratorium on such complaints under the TRIPS Agreement by agreeing that in the meantime WTO members will not initiate such complaints under the TRIPS Agreement.

### **Future WTO Meetings**

Dates for the meetings of the TRIPS Council and the Working Group on Trade and Transfer of Technology in 2018 have not yet been scheduled by the WTO Secretariat.

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

### **Standing Committee on the Law of Patents (SCP)**

#### *Twenty-Sixth Session*

The twenty-sixth session of the WIPO Standing Committee on Copyright and Related Rights (SCP) took place from **3 to 6 July 2017** in Geneva, Switzerland. The session was chaired by Ms. Bucura Ionescu from Romania.

The SCP continued discussions on the topics of 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 GRULAC for revision of the WIPO Model Patent Law of 1979.

On exceptions and limitations to patent rights, the SCP requested the WIPO Secretariat to develop a draft reference document on exceptions and limitations to patent rights providing a description of the different exceptions and limitations, their objectives and goals, national and regional implementation, challenges faced by member States in their implementation, and the results of implementation of the exceptions and limitations. The SCP also agreed that the twenty-seventh session of the SCP will discuss in this context a draft reference document on exceptions to patent rights for acts for obtaining regulatory approvals.

On quality of patents, including opposition systems, the SCP discussed responses to a questionnaire survey on how patent offices define or understand the term “quality of patents” and on cooperation between patent offices on search and examination. The SCP requested the Secretariat to update the survey responses at the next session of the SCP and continue discussions on this topic based on existing proposals. The SCP also agreed to have sharing session n further examples and cases relating to assessment of inventive step and also hold a half-day information exchange session on cooperation between patent offices in search and examination during the twenty-seventh session of the SCP.

On patents and health, the SCP discussed a study prepared by the WIPO Secretariat with inputs from WTO and WHO on the constraints faced by developing countries and LDCs to utilise the public health related flexibilities in the patent system for enabling access to medicines, particularly essential medicines. The SCP requested the Secretariat to prepare a supplement to the study including comments submitted by member States and observers and present the same at the next session of the SCP. The SCP also agreed to hold a sharing session on patents and other related issues on access to medicines and a half-day information exchange session on publicly accessible databases on patent information status and data on medicines and vaccines. The SCP also agreed to continue discussions on existing proposals on this topic.

On confidentiality of communications between clients and their patent advisors, members continued to disagree on future substantive work on the topic. It was agreed that the SCP will



organise a sharing session on the experience of member States in implementing the same through national legislation as well as cross border issues relating to it, at the next session of the SCP.

On patents and technology transfer, the SCP agreed to hold a sharing session at its next session on patent law provisions that contributed to effective transfer of technology.

Member States continued to disagree on a proposal by GRULAC for a revision of the WIPO Model Patent Law of 1979, and agreed to hold a an information session on legislative assistance in the field of patents and related capacity building.

### *Twenty-Seventh Session*

The twenty-seventh session of the WIPO Standing Committee on the Law of Patents (SCP) took place from **11 to 15 December 2017** in Geneva, Switzerland. The session was chaired by Mr. Damaso Pardo from Argentina.

The SCP continued discussions on exceptions and limitations to patent rights, patents and health, quality of patents including opposition systems, confidentiality of communications between clients and their patent advisors, and transfer of technology and legislative assistance in the field of patents and related capacity building.

On exceptions and limitations to patent rights, the SCP discussed a draft reference document regarding exceptions regarding acts for obtaining regulatory approval from authorities. The SCP requested the WIPO Secretariat to submit a second revised draft of the reference document to the next session of the SCP and invite member States to submit any additional inputs in this regard. The committee also requested the Secretariat to prepare a first draft reference document on the research exception and submit the same to the twenty-ninth session of the SCP.

On patents and health a half-day information exchange session on publicly accessible databases on patent information status and data on medicines and vaccines was held. In addition, a sharing session among member States on patents and other related issues on access to medicines was held. The SCP also continued discussions on the existing proposals from the African Group and the US. Canada and Switzerland submitted a revised proposal to conduct a review of existing research on patents and access to medical products and health technologies. The SCP agreed to continue information exchange sessions on publicly accessible databases on patent information status and data taking into consideration the proposal by the African Group, to update a feasibility study on

disclosure of international non-proprietary names (INN) for the next session of the SCP, and that member States will share their experiences with regard to enhancing examiners capacity, particularly in small and medium-sized offices and that the Secretariat will report on its technical assistance activities in this area at the twenty-eighth session of the SCP. The SCP also agrees to continue discussions on the revised proposal submitted by Canada and Switzerland.

On quality of patents the SCP discussed updated responses to a questionnaire on the understanding of the term “quality of patents” and cooperation between patent offices in search and examination. A half-day information exchange session also took place on cooperation between patent offices in search and examination. A sharing session was also held on examples and cases relating to assessment of inventive step in patent claims. It was agreed to continue with such a sharing session at the next session of the SCP. The SCP agreed that the Secretariat will prepare a further study on inventive step. The WIPO Secretariat presented a webpage on opposition and administrative revocation measures. The SCP agreed to hold a sharing session on opposition and administrative revocation mechanisms at the twenty-eighth session of the SCP.

The SCP held a sharing session on experiences of member States in implementing the confidentiality of communication between clients and their patent advisors through national legislation, including cross-border issues. The SCP agreed to continue sharing experiences and court cases of different member States.

The SCP also held a sharing session on patent law provisions that contributed to effective transfer of technology and agreed to continue sharing such information.

### **Program and Budget Committee**

#### *Twenty-Sixth Session*

The twenty-sixth session of the WIPO Program and Budget Committee (PBC) took place from **10 to 14 July 2017** in Geneva, Switzerland. The session was chaired by Ms. Maria Ines Rodriguez from Argentina.

The PBC reviewed the Program Performance Report (PPR) for 2016 and recognizing its nature as a self-assessment by the Secretariat recommended that the Assemblies of WIPO acknowledge the progress made by the WIPO programs towards achieving the expected results set in the approved program and budget.

The PBC also undertook a first review of the draft proposed Program and Budget for the 2018/19 biennium and agreed to modifications for program narratives and the results framework for certain specific programs and requested the WIPO Secretariat to issue a revised version of the proposed draft Program and Budget based on the agreed modifications and revised personnel expenditure figures based on outcomes on consultations with the International Civil Services Commission (ICSC). The PBC also agreed to further consider at its next session outstanding issues relating to performance indicators and narratives for certain specific programs, as well as proposals for a 10 per cent decrease in the unit value contribution of all WIPO member States, methodology for allocation of income and expenditure by respective treaty Unions administered by WIPO, and conditions for provisioning for the funding of a diplomatic conference in the 2018/19 biennium.

The PBC also reviewed the proposed Capital Master Plan and endorsed capital investment projects relating to ICT, safety, security and premises, and agreed to further consider the allocation of these projects to the respective Unions at the next session of the PBC.

The PBC recommended the WIPO Assemblies to approve proposed amendments to the WIPO Policy on Investments, as well as certain proposed amendments to WIPO Financial Regulations and Rules (FRR). The PBC also requested the Secretariat to present a revised version of other proposed amendments to the FRR at the next session of the PBC and also requested the Independent Advisory Oversight Committee (IAOC) to review these proposals and present its views at the next session of the PBC.

The PBC also requested the Secretariat to give a presentation to the next session of the PBC on its after services health insurance (ASHI) liability and approaches being explored to fund its ASHI liability. The PBC recommended the WIPO Assemblies to request the Secretariat to continue to monitor specific proposals to be made by the UN Secretary-General to the UN General Assembly related to WIPO's ASHI liability and present concrete proposals to the twenty-eighth session of the PBC accordingly.

The PBC took note of the status of constitutional reforms process reported by the Secretariat and encouraged the continuation of outreach efforts to member States for ratification process for the 1999 and 2003 amendments to the WIPO Convention and other WIPO administered treaties. The PBC requested the Secretariat to report back to its twenty-eighth session on the status of ratifications to the 1999 and 2003 amendments to the WIPO Convention.

The PBC also received presentations on proposals for opening new external offices in the 2018/19 biennium, as well as a proposal for the 2016/17 biennium, and agreed to continue discussions on these proposals at the next session of the PBC.

### *Twenty-Seventh Session*

The twenty-seventh session of the WIPO Program and Budget Committee (PBC) took place from **11 to 15 September 2017** in Geneva, Switzerland. The session was chaired by Ms. Maria Ines Rodriguez from Argentina.

The PBC recommended to the WIPO Assemblies to take note of the report of the WIPO Independent Advisory Oversight Committee (IAOC) and the report by the External Auditor. The PBC also took note of the report by the Director of WIPO's Internal Oversight Division (IOD).

The PBC also took note of a report by the WIPO Secretariat on the implementation of the recommendations of the UN Joint Inspection Unit (JIU), and welcomed and endorsed the Secretariat's assessment of the status of implementation of specific JIU recommendations and called upon the Secretariat to present its assessment for the open recommendations made by the JIU for member States' consideration.

Further, the PBC recommended the Assemblies to approve the annual Financial Report and Financial Statements for 2016 and took note of the status of the payment of contributions as on 30 June 2017.

The PBC undertook a comprehensive review of the proposed Program and Budget for the 2018/19 biennium and agreed to certain modifications in the proposed Program and Budget and also to maintain the unit contribution value at the same level as in the 2016/17 biennium. The PBC also agreed to continue discussions on outstanding elements of the proposed program and budget during the WIPO Assemblies. The PBC also agreed to continue discussions on the proposed Capital Master Plan during the Assemblies.

The PBC took note of a progress report by the Secretariat on implementation of comprehensive integrated enterprise resource planning (ERP) system in WIPO. It also recommended the Assemblies to approve proposed amendments to the WIPO Financial Regulations and introduction of new regulations, and also took note of proposed amendments to the Financial Rules and the introduction of new Financial Rules.

An exchange of views took place in the OBC on the methodology for establishing new External Offices for the 2016/17 and 2018/19 biennia. However, the PBC could not reach consensus on the opening of new External Offices and recommended the WIPO Assemblies to further consider the matter.

### **Advisory Committee on Enforcement (ACE)**

The twelfth session of the Advisory Committee on Enforcement (ACE) of WIPO took place from 4 to 6 September 2017 in Geneva, Switzerland. The session was chaired by Mr. Hector Manuel Balmacaan Godoy from Paraguay.

The agenda for this session of the ACE focused on exchange of information on 1) awareness building activities and strategic campaigns as a means for building respect for IP among general public, especially the youth; 2) institutional arrangements concerning IP enforcement policies and regimes, including mechanism to resolve IP disputes in a balanced, holistic and effective manner; 3) WIPO legislative assistance in the area of IP enforcement; and 4) capacity building and support from WIPO for training activities at national and regional levels to agencies involved in IP enforcement. The ACE discussed a number of studies and national contributions relating to environmentally safe disposal or destruction of IP infringing goods, internal coordination among different national agencies involved in IP enforcement, certain national experiences of specialized courts for settling IP disputes, application of rules of private international law to IP disputes involving cross border legal issues, the activities in the Hague Conference on Private International Law (HCCH) related to IP disputes and enforcement, addressing online trademark infringements, and national experiences of public awareness campaigns among consumers and students. The ACE also discussed a survey tool developed by WIPO Secretariat to assist countries to assess consumer awareness, as well as a report of WIPO's activities on IP enforcement and a report on the approach of the WIPO Secretariat in the design and delivery of legislative assistance on IP enforcement.

On the issue of environmentally safe disposal of IP infringing products, the ACE discussed a study commissioned by WIPO to an external consultant, and also the national experiences of Italy and Mexico on this issue.

Nine WIPO member States shared experiences on coordinating IP enforcement at the national and regional level – Armenia, Chile, China, Japan, Namibia, the Philippines on behalf of the ASEAN, Thailand, Turkey and Viet Nam. Egypt, Panama and Switzerland gave presentations to the ACE

on their experiences with regard to efficient court procedures as mechanisms to resolve IP disputes in a balanced, holistic and effective manner.

The ACE was also briefed about a draft guide on the intersection between IP law and private international law, to be jointly published by WIPO and the Hague Conference on Private International Law (HCCH). A representative from HCCH also briefed the ACE about the work of HCCH on transborder enforcement of IPRs and its ongoing negotiations for recognition and enforcement of foreign judgments including IP matters. The US expressed concern on the lack of time to fully evaluate the draft convention before a Diplomatic Conference in 2018, and stressed on the need to consult stakeholders in the future. The HCCH Secretariat explained its close working relationship with WIPO and the technical assistance provided by WIPO on IP questions.

The ACE also considered a study by an academic on institutional arrangements to address online IP infringements, and also discussed experiences of Italy, Korea, Thailand, UK, Europol, and Motion Picture Association of America (MPAA).

The ACE also discussed the findings of a survey by EUIPO on perception, awareness and behaviour among EU citizens towards IP protected products and a WIPO Consumer Survey Toolkit for measuring consumer attitudes and assessing the effectiveness of communication campaigns for building respect for IP. The ACE also shared experiences of five member States – Antigua and Barbuda, Ethiopia, Georgia, Oman and Peru – and the Link University, Rome, on awareness raising activities and strategic campaigns for building respect for IP among the youth.

The ACE also discussed a report by the WIPO Secretariat on the legislative assistance provided by WIPO in the area of IP enforcement. GRULAC (Costa Rica) stated that it will be desirable if member States that have received legislative assistance from WIPO share their experience in the ACE. Ecuador referred to its own legislative experience in the development of its new IP law. The African Group (Senegal) called for maintaining this topic on the agenda of the ACE and for providing sufficient attention to this topic at the next session of ACE. Brazil sought data on technical assistance demands from different regions and details about the approach of WIPO to encourage countries that have received technical assistance from WIPO to share their experiences in ACE. The Secretariat replied that the technical assistance demand across regions has been constant over the years and stated that the Secretariat encourages recipient countries to share their experiences in ACE.



The ACE also undertook an exchange of success stories on capacity building and support from WIPO for training activities with Namibia, the Philippines, Moldova and Madagascar participating in a panel discussion. South Africa shared information about training of law enforcement officials with assistance from WIPO.

The ACE also discussed a report by the WIPO Secretariat on recent activities of WIPO in the field of building respect for IP.

The ACE agreed to continue discussions on the four thematic topics from this session at the next session of the ACE.

### **Assemblies of the Member States of WIPO**

The fifty-seventh series of meetings of the Assemblies of the Member States of WIPO (WIPO Assemblies) took place from **6 to 11 October 2017** in Geneva, Switzerland. The following 21 Assemblies and other bodies of the member States of WIPO met during the WIPO Assemblies meetings:

The forty-ninth (23rd ordinary) session of the WIPO General Assembly chaired by Ambassador Janis Karklins from Latvia; the seventy-fourth (48th ordinary) session of the WIPO Coordination Committee chaired by Ambassador Daniyar Mukashev from Kyrgyzstan; the thirty-eighth (23rd ordinary) session of the WIPO Conference chaired by Ambassador Juan Raul Heredia Acosta from Mexico; the forty-ninth (21st ordinary) session of the PCT (Patent Cooperation Treaty) Union Assembly chaired by Mr. Sandris Laganovskis from Latvia; the fifty-first (22nd ordinary) session of the Madrid Union Assembly chaired by Mr. Nikoloz Gogilidze from Georgia; the thirty-fourth (22nd ordinary) session of the Lisbon Union Assembly chaired by Joao Pina de Morais from Portugal; the tenth (5th ordinary) session of the Singapore Treaty (Singapore Treaty on the Law of Trademarks) Assembly chaired by Mr. Vancho Kargov from Macedonia; and the second (2nd ordinary) session of the Marrakesh Treaty (Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled) Assembly chaired by Mr. Abdelsalam Al Ali from the UAE; the Paris Union Assembly and the Paris Union Executive Committee; the Berne Union Assembly and the Berne Union Executive Committee; the Hague Union Assembly; the Nice Union Assembly; the Locarno Union Assembly; the IPC (International Patent Classification) Union Assembly; the Budapest Union Assembly; the Vienna Union Assembly; the WCT (WIPO Copyright Treaty) Assembly; the WPPT (WIPO Performances and Phonograms Treaty)

Assembly; and the PLT (Patent Law Treaty) Assembly.

The WIPO General Assembly approved the proposed Program and Budget for the 2018/19 biennium after extensive discussions stretching till the end of the Assemblies. It also decided that for the 2018/19 biennium, if any fee-financed union of WIPO does not have sufficient revenue to cover its expenses, the required amount shall be provided from the reserves of the Contribution Financed Unions, if those reserves are fully sufficient, otherwise from the reserves of the other fee-financed unions. It also noted that this amount is to be repaid by the recipient union when its reserves allow it to do so. This decision was taken after extensive discussions following objections raised by the US concerning financing the deficit of the Lisbon Union Assembly to which the US is not a party, from the fees generated by other unions, much of which is paid by applicants from the US.

The General Assembly extensively discussed proposals from various countries for establishing new WIPO External Offices but was unable to reach any agreement. The General Assembly decided that the 2018 WIPO General Assembly will consider opening up to four WIPO External Offices in the 2018/19 biennium, including one in Colombia.

The WIPO General Assembly was also invited to decide on the membership and composition of the WIPO Program and Budget Committee (PBC) for the period from October 2017 to October 2019. Currently, the PBC is comprised of 53 member States. Indonesia on behalf of the Asia and the Pacific Group had submitted a proposal suggesting that the PBC should be open to the full participation of all interested WIPO members as there is no limitation on the number of member States that can participate in the PBC under the WIPO Rules of Procedure or existing guidelines. For the 2018/19 biennium the Asia and the Pacific Group proposed that the number of seats in the PBC be expanded to proportionately reflect the size of the respective regional groups and the proportion of their membership in WIPO. Following informal consultations the PBC unanimously elected 53 members for the PBC for the period from October 2017 to October 2019, and requested the Chair of the WIPO General Assembly to undertake further consultations on an inclusive, transparent and effective PBC taking into account considerations of geographical representation, with a view to making a decision at the 2018 WIPO General Assembly.

The General Assembly also took note of audit and oversight reports from the Independent Advisory Oversight Committee (IAOC), the External Auditor and the Director of the Internal Oversight

Divisions (IOD) of WIPO. The General Assembly appointed the Comptroller and Auditor General of the United Kingdom as the WIPO External Auditor for a period of six years from 1 January 2018.

The General Assembly took note of the reports from the different WIPO standing committees relating to patents (SCP), copyright and related rights (SCCR), trademarks, industrial designs and geographical indications (SCT), WIPO standards (CWS), development and intellectual property (CDIP), the advisory committee on enforcement (ACE) and the intergovernmental committee on IP and genetic resources, traditional knowledge and folklore (IGC).

The General Assembly could not reach an agreement on convening a diplomatic conference for adoption of a Design Law Treaty (DLT) laying down formality requirements for applicants seeking registration and protection of their industrial designs. The General Assembly decided that at its next session in 2018 it will continue considering the convening of a diplomatic conference on the Design Law Treaty, to take place in the first half of 2019.

The General Assembly also renewed the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) for the 2018/19 biennium along with a work programme for the 2018/19 biennium. The IGC was mandated to continue to expedite its work with the objective of reaching agreement on an international legal instrument(s), without prejudice to the nature of outcomes, relating to IP which will ensure the balanced and effective protection of genetic resources, traditional knowledge and traditional cultural expressions. The IGC will build on its existing work, including text-based negotiations, with a primary focus on narrowing existing gaps and reaching a common understanding on core issues. The 2019 General Assembly will take stock of the progress made and decide on whether to convene a diplomatic conference or continue negotiations.

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

The thirty-eighth session of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) took place from **30 October to 2 November 2017** in Geneva, Switzerland. The session was chaired by Mr. Adil El Maliki from Morocco.

On industrial designs, the SCT could not agree on continuing discussions on resolving the outstanding issues in the draft text of the Design

Law Treaty and regulations under the treaty. While the African Group remained willing to engage in further discussions, the developed countries from Group B and the EU objected to continuing any further discussion in the SCT and preferred to resume discussions at the 2018 WIPO General Assembly.

The SCT held an information session on Graphical User Interface (GUI), icons and typeface/type font designs. The SCT expressed its desire to continue discussions on this topic and the Chair requested the WIPO Secretariat to prepare a document summarizing the main points from the information session and include all the presentations made at the information session in annex to the document, invite member States and accredited NGOs to propose aspects of GUI, icon, typeface/type font designs on which further work would be desirable, and compile all such proposals for the consideration of the SCT at its next session, and include for the next session of the SCT a presentation by France of the EU "Convergence Programme 6: Graphical Representation of Designs."

The SCT also took note of the progress made by some member States in implementation of the Digital Access Service (DAS) for priority documents for industrial designs.

The SCT considered comments submitted by member States on practices, approaches and possible areas of convergence on the protection of country names against registration and use as trademarks. The Chair requested the WIPO Secretariat to organise a half-day information session in the format of a moderated roundtable, addressing the examination by offices of trademarks consisting of, or containing, country names, and taking into account the perspectives of users.

The SCT adopted a workplan on geographical indications. The Chair requested the Secretariat to prepare a list of questions posed by member States and observer IP organizations on 1) the features, experiences and practices of different national and regional geographical indications protection systems; and 2) the protection of geographical indications on the Internet and geographical indications and country names in the Domain Name System (DNS).

### **Committee on Development and Intellectual Property (CDIP)**

The twentieth session of the WIPO Committee on Development and Intellectual Property (CDIP) took place from **27 November to 1 December 2017** in Geneva, Switzerland. The session was

chaired by Ambassador Walid Doudech from Tunisia.

The CDIP took note of progress reports on the implementation of six ongoing CDIP approved projects for implementing specific Development Agenda recommendations, and agreed to grant a six-month extension of one of those projects – Intellectual Property and Socio-Economic Development, Phase II.

The CDIP also took note of a report by the WIPO Secretariat on measures undertaken to disseminate the information contained in the database on flexibilities. The CDIP also took note of information in a document on contribution of relevant WIPO bodies towards the implementation of the respective Development Agenda Recommendations.

The CDIP took note of a roadmap by the Secretariat on promoting the usage of the web forum established under Development Agenda project on IP and technology transfer, and agreed that the issues raised in this context will be discussed at the next session of the CDIP. The CDIP also took note of a report on the activities of WIPO and WIPO resources related to technology transfer and encouraged the Secretariat to continue the promotion of these activities and resources. The CDIP also took note of a mapping of international fora and conferences with initiatives and activities on technology transfer and agreed that any updates in this regard will be discussed at the next session of the CDIP.

The CDIP took note of a report of a roundtable on technical assistance and capacity building and report on the WIPO Roster of Consultants.

The CDIP also approved the follow-up approach suggested by the Secretariat for a pilot project on IP and Design Management for Business Development in developing countries and LDCs. The CDIP also agreed to continue discussions at its next session on a revised proposal by African Group for organizing biennially an international conference on IP and development. The CDIP also took note of a compilation of technology exchange and licensing platforms and agreed to close discussions on this topic. The CDIP further agreed to continue discussions at its next session on the way to address SDGs in future CDIP sessions, including the establishment of a permanent agenda item.

The CDIP also agreed to continue discussions at its next session on the outstanding recommendations 5 and 11 from the Independent Review of the Implementation of the Development Agenda Recommendations. The CDIP also invited interested member States to submit comments on the modalities of implementing the

adopted recommendations from the Independent Review.

For the first time, discussions took place in the CDIP under a new standing agenda item on IP and development. Some delegations made specific proposals for work to be undertaken under this agenda item. It was agreed that interested member States may submit their proposals in writing for discussion at the next session of the CDIP.

### **Future WIPO Meetings**

The thirty-fifth session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) will take place from **19 to 23 March 2018** in Geneva, Switzerland.

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

### **Special Session of the Executive Board**

A Special Session of the Executive Board of the World Health Organization (WHO) took place from **22 to 23 November 2017** in Geneva, Switzerland. The Special Session was chaired by Dr. Assad Hafeez from Pakistan as the President of the Executive Board.

The objective of the session was to discuss the draft 13th general programme of work 2019-2023 (GPW) which is being prepared by the WHO Secretariat through a consultative process with member States of the WHO. Member States welcomed the process for GPW 13 and supported the ambition of aligning GPW 13 with the SDGs. It was agreed that a revised draft of the GPW taking into consideration the comments and observations made during the special session of the EB by member States will be published on the WHO website by 5 January 2018 before the next session of the EB in January 2018.

### **Member State Mechanism on Substandard and Falsified Medical Products**

The Sixth meeting of the Member State Mechanism on Substandard and Falsified Medical Products took place from **30 November to 1 December** in Geneva, Switzerland. The session was chaired by Dr. Belen Escribano Romero from Spain.

The agenda of the sixth meeting of the MSM included an update from the WHO Secretariat on the activities and budget to implement the

workplan of the MSM, update on implementation of the workplan and agreed list of prioritized activities for 2016-2017, a draft list of prioritized activities to implement the workplan of the MSM for 2018-2019, WHO's participation in the Global Steering Committee for the Quality Assurance of Health Products, and update on WHO's activities for regulatory systems strengthening and on the application of WHO's global benchmarking tool.

The update on implementation of the MSM workplan and the list of prioritized activities for 2016-2017 included conducting a study on the public health and socioeconomic impact of substandard and falsified medical products, and the completed study was submitted for the consideration of the MSM.

The proposed list of prioritized activities for 2018-2019 included a proposal to establish a working group to develop guidance and risk indicators to identify possible justifications for an intervention by competent authorities regarding medical products in transit, on public health grounds. The WHO secretariat had prepared a discussion document outlining criteria that could justify a country's customs authorities intervening to check medicines passing through their ports on the grounds of public health concerns. The proposal to establish a working group on situations where medical products can be seized in transit was opposed strongly by India, Brazil, Egypt and Iran. The MSM could not agree on establishing a working group on this issue.

### **Future WHO Meetings**

The 142nd session of the Executive Board of the WHO will take place from **22 to 27 January 2018** in Geneva, Switzerland.

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

### **International Treaty on Plant Genetic Resources (ITPGRFA)**

#### *Governing Body*

The Seventh Session of the Governing Body of the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) took place from **30 October to 3 November 2017** in Kigali, Rwanda. The session was chaired by Mr. Muhamad Sabran from Indonesia.

Discussions took place during the Governing Body meeting on enhancing the Multilateral System (MLS) of access and benefit-sharing (ABS), a proposal by Switzerland to expand

Annex I of the ITPGRFA to all plant genetic resources for food and agriculture, how to address the topic of digital sequence information, implementation of the sustainable development agenda (SDG) and role of plant genetic resources for food and agriculture, implementation of the Funding Strategy, farmers' rights, implementation of the Global Information System, implementation of the work programme on sustainable use of plant genetic resources for food and agriculture, the multi-year programme of work, and compliance and cooperation with the Convention on Biological Diversity, the Crop Trust, CGRFA and other organizations.

The Governing Body approved Mr. Kent Nnadozie as the new Secretary of the ITPGRFA. The Governing Body adopted 14 resolutions including on establishing an *Ad Hoc* Technical Expert Group on Farmers' Rights, extension of the mandate of the intercessional Working Group on Enhancing the MLS to develop a proposal for a growth plan to attain the enhanced MLS and revise the text of the Standard Material Transfer Agreement (SMTA), a decision to put the topic of digital sequence information on the agenda of the eighth session of the Governing Body, and reconvening the *Ad Hoc* Committee on the Funding Strategy and Resource Mobilization to develop an updated Funding Strategy.

The Governing Body also adopted a resolution on farmers' rights which invites parties to consider developing national action plans for implementation of farmers' rights, consider reviewing and if necessary adjusting national measures affecting the realization of farmers' rights, particularly regarding variety release and seed distribution. The resolution also invites parties and stakeholders, especially farmers' organizations, to submit views, experiences and best practices as examples of possible options for implementation of farmers' rights. The resolution also requests the Secretariat of the ITPGRFA to continue to explore possible interrelations with UPOV and WIPO. Further, the resolution took note of the ongoing work of the Human Rights Council on a possible declaration on the rights of peasants.

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

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



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

### **Administrative and Legal Committee**

The seventy-fourth session of the Administrative and Legal Committee (CAJ) of UPOV took place from **23 to 24 October 2017** in Geneva, Switzerland. The session was chaired by Mr. Anthony Parker from Canada.

The Chair informed the CAJ that Bosnia and Herzegovina had deposited its instrument of accession to the 1991 Act of the UPOV Convention to become the 75th member of the Union.

The CAJ also took note of a report on developments in the Technical Committee. The CAJ agreed to include in the programme of the next session of the CAJ the topics of essentially derived varieties (EDV), conditions and limitations concerning the breeders' authorization in respect of propagating material, and the scope of provisional protection. The CAJ requested the office of the Union to prepare for consideration at its next session proposals for revision of UPOV Model Plant Breeder's Rights Gazette.

The CAJ also took note of developments concerning revision of "Explanatory Notes on Variety Denominations under the UPOV Convention." The CAJ further took note of developments relating to an electronic application form and various UPOV information databases.

### **UPOV Council**

The fifty-first ordinary session of the UPOV Council took place on **26 October 2017** in Geneva, Switzerland. The session was chaired by Mr. Raimundo Lavignolle from Argentina.

The Council approved the conformity of the Plant Variety Protection Order of Brunei Darussalam, the draft PVP laws of Guatemala and Myanmar, with the UPOV 1991 Act. The Council also approved the program and budget for the 2018-2019 biennium for UPOV.

## **INTERNET GOVERNANCE**

### **Working Group on Enhanced Cooperation (WGEC)**

The fourth meeting of the Working Group on Enhanced Cooperation (WGEC) of the Commission on Science and Technology for Development (CSTD) took place from **25 to 27**

**September 2017** in Geneva, Switzerland. The meeting was chaired by Ambassador Benedicto Fonseca from Brazil.

The WGEC is mandated to develop recommendations on how to further implement "enhanced cooperation", as contained in the Tunis Agenda for the Information Society adopted at the World Summit on the Information Society in 2005, taking into account the work of the previous WGEC from 2013-2014.

The WGEC discussed the a zero draft of the report of the WGEC to be submitted to the CSTD at its 21st session, with the objective of initiating a drafting process for the report. The zero draft was prepared as a proposal by the Chair. There was disagreement between WGEC members on whether the report should only refer to recommendations on which there was consensus or whether it should also point to issues on which WGEC members differed.

The WGEC also discussed the revised contributions submitted at its fourth meeting and new or revised contributions submitted during the intercessional period regarding enhanced cooperation to address public policy issues pertaining to the internet. The Chair requested the proponents to further refine their proposals based on the discussions.

### **Future WGEC Meetings**

The fifth meeting of the WGEC will take place from **29 to 31 January 2018** in Geneva, Switzerland.

## **UNITED NATIONS HUMAN RIGHTS COUNCIL**

The thirty-sixth regular session of the United Nations Human Rights Council took place from **11 to 29 September 2017** in Geneva, Switzerland. The session was chaired by Ambassador Joaquin Alexander Maza Martelli from El Salvador.

The HRC adopted a new resolution (A/HRC/RES/36/22) on the promotion and protection of the human rights of peasants and other people working in rural areas. The resolution states that the fifth meeting of the open-ended intergovernmental working group on a United Nations Declaration on the Rights of Peasants and Other People shall take place for five days prior to the thirty-eighth session of the Human Rights Council to negotiate, finalise and submit a draft declaration to the Council. The resolution was supported by 34 States and opposed by the UK and the US.



## FREE TRADE AGREEMENTS

### Regional Comprehensive Economic Partnership (RCEP)

The Nineteenth Round of RCEP negotiations took place from **18 to 28 July 2017** in Hyderabad, India. The Twentieth Round of RCEP negotiations took place from **17 to 28 October 2017** in Songdo, Incheon, Korea.

The RCEP is a regional free trade agreement including ten ASEAN member states and countries that are ASEAN free trade agreement partners – Australia, China, India, Japan, Republic of Korea and New Zealand. RCEP 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.

The 20th round of negotiations included market access negotiations on trade in goods and services, investment, competition policy, intellectual property rights and e-commerce high on the agenda.