

Standing Committee on the Law of Patents

Fifteenth Session

Geneva, October 11 to 15, 2010

SUMMARY BY THE CHAIR

Agenda Item 1: Opening of the session

1. The fifteenth session of the Standing Committee on the Law of Patents (SCP) was opened by the Director General, Mr. Francis Gurry, who welcomed the participants. The session was chaired by Mr. Maximiliano Santa Cruz (Chile). Mr. Philippe Baechtold (WIPO) acted as Secretary.

Agenda Item 2: Adoption of the draft agenda

2. The SCP adopted the draft agenda (document SCP/15/1 Prov.) as proposed, with the inclusion of new documents SCP/15/2 Add., SCP/15/4 and SCP/15/4 Add. and of a presentation by Professor Lionel Bently on the experts' study on exclusions, exceptions and limitations.

Agenda Item 3: Adoption of the draft report of the fourteenth session

3. The Committee adopted the draft report of its fourteenth session (document SCP/14/10 Prov.1) as proposed.

Agenda Item 4: Report on the international patent system

4. The discussions were based on documents SCP/15/2, SCP/15/2 Add. and SCP/12/3 Rev.2.

5. The SCP agreed that document SCP/12/3 Rev.2 would remain open for further discussion at the next session of the SCP. Document SCP/15/2 will be updated based on the comments received from Member States.

Agenda Item 5: Preliminary studies on selected issues

6. Professor Lionel Bently, Center for Intellectual Property and Information Law, Cambridge University, United Kingdom, who was the coordinator of the experts' study on exclusions, exceptions and limitations, made a presentation on the study, and answered questions raised by delegations and representatives.
7. Discussions were based on documents SCP/13/2, 3, 4 and 5, and SCP/14/2, 3, 4, 5 and 7, and SCP/15/3, 4 and 4 Add. Many delegations stated that these documents constituted a good basis for discussion, and requested further elaborations and clarifications on various issues contained in the documents.
8. The SCP agreed that the preliminary and other studies submitted at the 13th, 14th and 15th sessions of the SCP would remain open for future discussion at the SCP.
9. Comments made by members and observers of the Committee on the studies submitted at the 13th, 14th and 15th sessions of the SCP will be compiled in separate documents and placed next to the relevant studies on the WIPO website. A hyperlink to the documents containing the comments will be provided in each study.

Agenda Item 6: Future work

10. Following the decision of the 2010 WIPO General Assembly on the coordination mechanisms and monitoring, assessing and reporting modalities of relevant bodies on the implementation of the Development Agenda recommendations, Member States will be given the opportunity to express their views on this issue under a specific item to be included in the agenda of the 16th session of the Committee. These views will be considered in the context of the standardized procedure that WIPO will propose for relevant WIPO bodies.
11. The non-exhaustive list of issues will remain open for further elaboration and discussion at its next session, and four further issues will be included in the list, namely, "Impact of the patent system on developing countries and LDCs", "Patents and food security", "Strategic use of patents in business" and "Enhancing IT infrastructure for patent processing".¹
12. As regards the future work, the Committee will address the following issues:
 - (i) Exceptions and limitations to patent rights: The Secretariat will prepare a draft questionnaire for consideration by Member States at the 16th session of the Committee;
 - (ii) Quality of patents, including opposition systems;
 - (iii) Patents and health;

¹ See attached revised list.

- (iv) Client-patent advisor privilege: The Secretariat will prepare a study taking into account the comments made by Member States;
 - (v) Transfer of technology: The Secretariat will update the existing preliminary study (document SCP/14/4), taking into account the comments made by Member States.
13. Following requests from some Member States, the annexes of document SCP/15/3, which are available in English only, will be translated into other languages.
14. The International Bureau informed the SCP that its sixteenth session was tentatively scheduled to be held from May 16 to 20, 2011, in Geneva.
15. The SCP noted that the present document was a summary established under the responsibility of the Chair and that the official record would be contained in the report of the session. The report would reflect all the interventions made during the meeting, and would be adopted in accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), which provided for the members of the SCP to comment on the draft report made available on the SCP Electronic Forum. The Committee would then be invited to adopt the draft report, including the comments received, at its following session.

16. The SCP noted the contents of this summary by the Chair.

[Annex follows]

LIST OF ISSUES
(in the order of their appearance in document SCP/12/3)

Economic impact of the patent system

Transfer of technology

Competition policy and anti-competitive practices

Dissemination of patent information (including the registration of licenses)

Standards and patents

Alternative models for innovation

Harmonization of basic notions of substantive patentability requirements (e.g. prior art, novelty, inventive step, industrial applicability, disclosure)

Disclosure of inventions

Database on search and examination reports

Opposition system

Exceptions from patentable subject matter

Limitations to the rights

Research exemption

Compulsory licenses

Patent quality management systems

Client-attorney privilege

Patents and health (including exhaustion, the Doha Declaration and other WTO instruments, patent landscaping)

Relationship between the patent system and the CBD (Genetic resources/Traditional knowledge/disclosure of origin)

Relation of patents with other public policy issues

Patents and the environment, with particular attention to climate change and alternative sources of energy

Patents and food security

Impact of patent system in developing countries and LDCs

Strategic use of patents in business

Enhancing IT infrastructure for patent processing