

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

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ADVISORY COMMITTEE ON ENFORCEMENT

First Session

Geneva, June 11 to 13, 2003

CONCLUSIONS BY THE CHAIR

Introduction

1. The first session of the Advisory Committee on Enforcement (ACE) was opened by Mr. Wolfgang Starein, Director, Enforcement and Special Projects Division, who welcomed the participants on behalf of the Director General and also acted as Secretary.
2. The ACE unanimously elected, for one year, Mr. Henry Olsson, Special Government Adviser, Ministry of Justice, Sweden, as Chair.
3. The Draft Agenda (Document WIPO/ACE/1/1) was adopted unanimously, as proposed. The ACE discussed administrative matters as well as its mandate and scope of activities on the basis of paragraphs 1 to 12 and 14(i) of document WIPO/ACE/1/2. It also considered issues pertaining to the enforcement of intellectual property rights, coordination, training, and development of enforcement strategies and matters concerning the electronic exchange of information set out in documents WIPO/ACE/1/3 to 5. Furthermore, the ACE discussed its future work and agreed on a theme for its next session in 2004, taking into account the proposal of the Secretariat contained in paragraphs 13 and 14(ii) of document WIPO/ACE/1/2. The results of the discussions are reflected in the Conclusions by the Chair, in paragraphs 4 to 22, below.

Conclusions by the Chair

4. The Members of the Committee expressed their great appreciation for the setting up of the Committee as a forum for discussion on enforcement matters, in particular as regards technical assistance and cooperation, while noting that norm-setting was excluded from the mandate.

5. The Committee agreed that the issue of enforcement of intellectual property rights is of great importance and that WIPO is in an eminently appropriate position to provide technical assistance and education and to contribute to the creation of awareness in this field.
6. The Committee noted the setting up of the Enforcement and Special Projects Division within the Secretariat and the establishment of the Electronic Forum on Intellectual Property Issues and Strategies (the IPEIS Forum) which, in the view of the Committee, provides an excellent mechanism for the exchange of information in this field.
7. The Committee heard general statements by the Group of Latin American and Caribbean States (GRULAC) and Group B. Both statements saluted the establishment of the Committee and said that its work was considered important. The GRULAC statement noted furthermore, *inter alia*, that, in their view, the exclusion of norm-setting implied that the work of the Committee would cover the implementation of existing obligations in the field of enforcement and excluded measures of a prescriptive nature and that the issue of enforcement should be seen in the broader context of societal interests and obligations.
8. The Committee adopted the proposals in paragraphs 1 to 12 of document WIPO/ACE/1/2. Pending the outcome of further informal consultations the Committee decided to defer the decisions on the admission of the European Communities as a non-voting Member of the Committee and of the Civil Society Coalition as an Observer, on the understanding that the requests would be taken up at the earliest opportunity. Mention was, in that context, made of the need for the involvement of the widest possible number of stakeholders.
9. Following a comprehensive discussion on the subject, the Committee agreed that the document entitled WIPO/CME/3 which was annexed to document WIPO/ACE/1/3 should be considered purely as a source of information to serve as background for the discussion on future work under Agenda item 6.
10. The Committee took note of the comments and remarks made by Member States and Observers. It noted with particular satisfaction the considerable number of WIPO expert missions, training and study visits and seminars and workshops, as well as other activities mentioned in document WIPO/ACE/1/4, and encouraged WIPO to continue to include enforcement issues in its activities, both in the context of Cooperation for Development and in other contexts, such as the one related to Small and Medium-Sized Enterprises (SMEs). As in the past, cooperation should, in the view of the Committee, be sought both with other intergovernmental organizations (such as the World Trade Organization (WTO), the World Customs Organization (WCO), the World Health Organization (WHO), the Food and Agriculture Organization (FAO), the United Nations Conference on Trade and Development (UNCTAD), and regional organizations) and with non-governmental organizations, some of which have a considerable experience in enforcement issues.
11. The Committee expressed its great appreciation for the activities carried out in the framework of the IPEIS Forum as being a particularly appropriate tool for exchange of information and experience in the field of enforcement.
12. The Committee agreed generally with the proposals contained in paragraph 8 of document WIPO/ACE/1/5. Thus, working documents should be posted on the Forum only in their final form, and participation in the Forum would no longer be restricted; registration

would no longer be required as a pre-condition for access to the Forum. Also, the WIPO website would provide a link to the Forum.

13. The Committee encouraged the Secretariat to structure the information available on the Forum in such a way that the different categories of information could be easily accessible and searchable.

14. The Committee agreed with the suggestion made by the Secretariat to the effect that it encouraged Member States to invite officials, in particular from enforcement agencies and intellectual property offices, to submit information for publication on the Forum.

15. In accordance with the proposals in paragraph 9 of the document at issue, the opinion was expressed that the Secretariat should bear no responsibility for the contents or the accuracy of the information posted. As regards the right of the Secretariat to decide on a case-by-case basis whether information submitted should be excluded from publication in whole or in part or only be published in amended or neutral form, the opinion was expressed that that option should be used in a prudent way.

16. The Committee agreed with the principle of a thematic approach as proposed by the Secretariat in paragraph 13 of document WIPO/ACE/1/2.

17. The Committee discussed the themes pertaining to the enforcement of intellectual property rights to be addressed in future meetings, including the five themes suggested by the Secretariat in paragraph 13 of document WIPO/ACE/1/2. It also noted and discussed the considerable number of themes suggested by Member States. Some support, as well as reservations, was expressed for the themes raised during the meeting. Remarks were made and clarifications sought. The Committee noted the remarks and clarifications offered by various speakers. The Committee agreed that the suggested themes and the question of their priority should be the subject of a further and more comprehensive discussion and decision at the next meeting of the Committee. The Committee invites submissions by interested parties in this regard.

18. In accordance with a suggestion by the Secretariat, the next meeting of the Advisory Committee would include presentations on the role of the judiciary and quasi-judicial authorities, as well as of prosecution, in enforcement activities (including related issues such as litigation costs).

19. Furthermore, the Committee encouraged the relevant stakeholders to provide the Secretariat with information about their experiences, including those pertaining to national enforcement strategies.

20. The Committee noted the views expressed on the option of having meetings of the committee outside of Geneva. There was, however, no consensus on this issue.

21. The Committee noted the various specific practical issues raised by Member States in the course of the discussion, such as the ones raised by the Delegation of India on enforcement by customs authorities. Those issues are or will be published on the IPEIS website (www.wipo.int/ipeis/) for discussion and will be kept in mind in the future work of the Committee.

22. The Committee noted a request by the Delegation of Saudi Arabia, supported by some other Delegations, that working documents be prepared in Arabic. The Secretariat responded that a decision had been taken that the documents would be available in English, French and Spanish but that the matter will be submitted to the Assembly for consideration.

23. The Committee adopted the Conclusions by the Chair, set out in paragraphs 2 to 22, above.

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