

WIPO General Assembly

Forty-Third (21st Ordinary) Session
Geneva, September 23 to October 2, 2013

REPORTS ON OTHER WIPO COMMITTEES

prepared by the Secretariat

1. The present document contains information reports which are being submitted to the WIPO General Assembly in a consolidated document on the work of the following WIPO Committees: Standing Committee on the Law of Patents (SCP), Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), Committee on WIPO Standards (CWS) and Advisory Committee on Enforcement (ACE).

2. *The WIPO General Assembly is invited:*

(i) to take note of the information contained in this document.

(ii) in response to the request made by the CWS, referred to in paragraph 29 of Annex I, to give any instructions to the CWS on its future work on pending matters in accordance with the last sentence of paragraph 5 of document CWS/2/13.

[Annexes follow]

I. REPORT ON THE WORK OF THE STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

1. During the period under consideration, the Standing Committee on the Law of Patents (SCP) held its nineteenth session from February 25 to 28, 2013. The session was chaired by Mr. Vittorio Ragonesi from Italy.

GENERAL ACTIVITIES

2. Following the decision taken at its eighteenth session, held from May 21 to 25, 2012, the SCP continued to address the following five topics during its nineteenth session: (i) exceptions and limitations to patent rights; (ii) quality of patents, including opposition systems; (iii) patents and health; (iv) the confidentiality of communications between clients and their patent advisors; and (v) transfer of technology. In order to facilitate the dialogue among Member States, prior to the nineteenth session of the SCP, the Chair of the SCP had held two informal consultations in Geneva. The discussions at the nineteenth session were based on a number of proposals submitted by various delegations¹ and several documents prepared by the Secretariat. Delegations discussed those proposals from various angles, and the Committee deepened its understanding of the above topics. The summary of the discussions at the nineteenth session of the SCP is contained in the Summary by the Chair (document SCP/19/7).

3. As regards future work, without prejudice to the mandate of the SCP, the Committee agreed that its work for the twentieth session be confined to fact-finding and not lead to harmonization at this stage.

4. In particular, as regards the topic “exceptions and limitations to patent rights”, the Committee agreed that, based on input received from Member States, the Secretariat would prepare two documents, for its twentieth and twenty-first sessions, respectively, on how exceptions and limitations were implemented in Member States, including practical challenges, without evaluating the effectiveness of those exceptions and limitations. The document to be prepared for the twentieth session of the SCP will analyze the following five exceptions and limitations: private and/or non-commercial use; experimental use and/or scientific research; preparation of medicines; prior use; and use of articles on foreign vessels, aircrafts and land vehicles. The document to be prepared for the twenty-first session of the SCP will analyze the exceptions and limitations regarding acts for obtaining regulatory approval from authorities, exhaustion of patent rights, compulsory licensing and/or government use and farmers’ and/or breeders’ use of patented inventions. In addition, at each of the two future sessions of the SCP, a half-day seminar as proposed in document SCP/19/6 will be organized.

5. Regarding the topic “quality of patents, including opposition systems”, the Committee agreed that, based on information received from Member States, the Secretariat would prepare a compilation of worksharing programs among patent offices and use of external information for search and examination.

¹ Regarding the topic “exceptions and limitations to the rights”, proposals were submitted by the Delegation of Brazil (documents SCP/14/7 and SCP/19/6). With respect to the topic “quality of patents, including opposition systems”, the following proposals were submitted by delegations: (i) proposals by the Delegations of Canada and the United Kingdom (documents SCP/17/8 and SCP/18/9); (ii) a proposal by the Delegation of Denmark (document SCP/17/7); (iii) proposals by the Delegation of the United States of America (documents SCP/17/10 and SCP/19/4); and (iv) a proposal by the Delegation of Spain (document SCP/19/5). Concerning the topic “patents and health”, proposals were submitted by the Delegation of South Africa on behalf of the African Group and the Development Agenda Group (documents SCP/16/7 and 7 Corr.), and by the Delegation of the United States of America (document SCP/17/11).

6. With respect to the topic “patents and health”, it was decided that a sharing session on countries’ use of health-related patent flexibilities would be organized during the twentieth session of the SCP. In addition, the Committee shared the understanding that the Secretariat would prepare a summary document of that event during that same session of the SCP.

7. Concerning the topic “confidentiality of communications between clients and their patent advisors”, the SCP agreed that the Secretariat would prepare a document compiling laws and practices on, and summarizing information on experiences relating to, the issue of confidentiality of communications between clients and their patent advisors received from Member States. In addition, it was agreed that the Secretariat would make a presentation on that topic at the twentieth session of the SCP, followed by discussions.

8. As regards the topic “transfer of technology”, the agreement reached by the Committee was to request the Secretariat to revise document SCP/18/8 by adding further practical examples and experiences on patent-related incentives and impediments to transfer of technology on the basis of inputs received from members and observers of the SCP, taking into account the dimension of absorptive capacity in technology transfer.

9. In addition, the Committee agreed that the information concerning certain aspects of national/regional patent laws² would be updated, based on the comments received from Member States.

CONTRIBUTION OF THE SCP TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

10. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, the following statements extracted from the preliminary draft report³ of the nineteenth session of the SCP (document SCP/19/8 Prov1., paragraphs 133 to 136) are reproduced hereafter:

“133. The Chair suggested that delegations who wished to make statements on the contribution of the SCP to the implementation of the respective Development Agenda Recommendations submit them in writing to the Secretariat, and those statements would be transmitted to the WIPO General Assembly in line with the decision taken by the 2010 WIPO General Assembly relating to the Development Agenda Coordination Mechanism.

“134. The SCP endorsed the above suggestion by the Chair.

“135. On behalf of the European Union and its 27 Member States, the Delegation of Ireland submitted the following statement:

“On behalf of the European Union and its Member States, we would like to recall that the SCP, according to document SCP/1/2, paragraph 3 on page 2, was established to serve as a forum to discuss issues, facilitate coordination and provide guidance concerning the progressive international development of patent law including patent law harmonization. In fulfilling its mandate, this Committee can serve the well functioning of the patent system and the promotion of innovation and technology transfer, and also contribute to the implementation of a number of Recommendations of the Development Agenda.

² http://www.wipo.int/scp/en/annex_ii.html

³ In accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), the preliminary draft report of the nineteenth session of the SCP has been made available on the SCP Electronic Forum to the members of the SCP to comment on it, prior to its submission to the twentieth session.

“Since we have made relatively little progress on the different items on the agenda of this Committee, due to divergent views on how to move forward, it might be difficult to give a full picture at this stage of the implementation of the relevant Development Agenda Recommendations.

“From a procedural perspective, we would like to underline that in reporting to the General Assembly on its contribution on the implementation of the respective Recommendations of the Development Agenda, the SCP should stick to the modalities already agreed in the form of reporting. Also, according to established WIPO practice, we believe that this item in our agenda should not be a permanent one.

“We also would like to point out that when implementing a balanced work program of the SCP, we should avoid the duplication of work with other WIPO Committees and other international organizations.

“136. On behalf of the DAG, the Delegation of Brazil submitted the following statement:

“DAG attaches great importance to the Coordination Mechanism of the Development Agenda, approved in 2010. According to the decision, the SCP is one of the relevant bodies to report to the General Assembly, and proceeded accordingly in 2011 and 2012. We therefore understand that this item in the agenda should be made permanent, thus correctly implementing the decision by the General-Assembly.

“The SCP has diversified its work program since the Development Agenda was approved. The agendas of the sessions are not one-sided and aim at involving subjects of interest to all Members. This balance is necessary to ensure that the Committee does not pursue, in a single-minded way, the interests of ever higher level of protection of patent rights and harmonization, what would leave aside development needs with an unwelcome “one-size-fits-all” approach.

“In this sense, the adoption by the Committee of the work program put forward by Brazil in document SCP/14/7 regarding exceptions and limitations to patent rights would be in line with Recommendation 17, which states that WIPO’s activities should take into account the flexibilities in intellectual property rights’ agreements. The discussions on quality of patents might relate to Recommendations 8 and 10, if it brings to light the need for providing access to patent databases and assistance to Members for improvement of national intellectual property institutional capacity through further development of their infrastructure, thus stimulating an efficiency which in turn plays an important role in the quality of patents.

“Nevertheless, much is to be done in other areas. Cluster C, on transfer of technology, still demands further work, since the obstacles and initiatives necessary to promote the transfer and dissemination of technology continue to be unclear for some Member States. Furthermore, the above-mentioned Recommendation 17 does not appear to be implemented in the subject of Patents and Health, which has, as one of its goals, to explore the flexibilities which are useful to improve the policies with regard to health. Adopting the proposal by the African Group and the Development Agenda Group is an important step towards the implementation of this Recommendation.

“DAG expects to see the continuation of the works of this Committee with a balanced agenda that takes into account the needs of all Member States while supporting the goals of the Development Agenda.”

II. REPORT ON THE WORK OF THE STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT)

11. During the period under consideration, the SCT held two sessions, namely the twenty-eighth session (December 10 to 14, 2012) and the twenty-ninth session (May 27 to 31, 2013). The twenty-eighth session was chaired by Mr. Imre Gonda (Deputy Head, Trademark, Model and Design Department, Hungarian Intellectual Property Office), while the twenty-ninth session was chaired by Mr. Adil El Maliki (Director General, Moroccan Industrial and Commercial Property Office (OMPIC)).

Trademarks

12. At its twenty-seventh session, held in Geneva from September 18 to 21, 2012, the SCT considered proposals submitted by the Delegations of Barbados and Jamaica contained in documents SCT/27/6 and SCT/27/7. In furtherance of the work previously undertaken, the SCT requested the Secretariat at that session to conduct a study on the current legislative provisions and practices in national or regional legislation relating to the protection of country names in the field of registration of trademarks, as well as best practices related to the implementation of such provisions.

13. Accordingly, the Secretariat produced document SCT/29/5 entitled "Study on the Protection of Country Names". This study is based on its records of national systems and on information made available through submissions by the following SCT members: Antigua and Barbuda, Argentina, Australia, Belarus, Belgium⁴, Belize, Chile, China, Colombia, Costa Rica, Czech Republic, Ecuador, Finland, Georgia, Germany, Greece, Ireland, Italy, Japan, Lithuania, Luxembourg⁴, Myanmar, Netherlands⁴, Norway, Philippines, Portugal, Republic of Moldova, Romania, Russian Federation, Slovakia, Slovenia, Spain, Turkey, Ukraine, United Kingdom and Viet Nam. All submissions in their entirety were posted on the SCT Electronic Forum web site page at: <http://www.wipo.int/sct/en/comments/>. This document is also based on the submissions presented by the members indicated in paragraph 6 of the above-mentioned document, for the twenty-seventh session of the SCT.

14. The twenty-ninth session of the SCT considered the Study on the Protection of Country Names. The Chair of that session concluded that the Secretariat should revise document SCT/25/4 on the basis of document SCT/29/5 and present it to the SCT for consideration at its next session. In addition, some delegations announced that they would present proposals for consideration of the SCT at its next session (document SCT/29/9, paragraph 12).

15. Furthermore, the Secretariat presented an update on trademark-related aspects of the expansion of the Internet Domain Name System (DNS) of which the SCT took note with the request to the Secretariat to be kept informed on developments in the DNS.

⁴ The information on the protection of country names in Belgium, Luxembourg, and Netherlands was submitted by the Benelux Office for Intellectual Property (BOIP) on behalf of those countries.

Industrial Designs

16. Regarding the work of the SCT on industrial design law and practice, reference is made to document WO/GA/43/12 (Matters Concerning the Convening of a Diplomatic Conference for the Adoption of a Design Law Treaty).

Geographical Indications

17. During the period under consideration, the SCT did not address issues of substance concerning geographical indications.

CONTRIBUTION OF THE SCT TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

18. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, the following statements made by delegations at the twenty-ninth session of the SCT are reproduced hereafter⁵:

“319. The Delegation of Brazil, speaking on behalf of the DAG, observed that the current work of the SCT regarding industrial designs was under the scope of several DA Recommendations, considering that a full Cluster provided the principles to be followed during norm-setting activities. Such activities, as provided by Recommendation 15, should be inclusive and member-driven, take into account different levels of development, take into consideration a balance between costs and benefits, be a participatory process which considers the interests and priorities of all WIPO Member States and the viewpoints of other stakeholders, and be in line with the principle of neutrality of the WIPO Secretariat. The Delegation noted that those requirements had been applied by the Committee in the present session. Cluster A, relating to technical assistance and capacity building, was, to some extent, taken into consideration by Delegations. The documents circulated by the African Group, the Republic of Korea and the European Union all put forward concrete suggestions of articles to be included in a possible DLT and the relevant DA Recommendations were numbered one, two, nine, ten, 11 and 12. The Delegation considered that the broad range of such recommendations underlined the importance and the potential benefits that technical assistance and capacity building had for developing countries, in particular LDCs. Additionally, the 2012 General-Assembly had urged the SCT to give consideration to appropriate provisions regarding technical assistance and capacity building for developing countries and LDCs in the implementation of the possible future DLT. For the DAG, this might only be reached by including such provisions as an article of that treaty. In light of that, the Delegation thanked the Delegation of the European Union, the Republic of Korea and the African Group for their proposals, and urged other Member States to show flexibility in that matter.

“320. The Delegation of Algeria, on behalf of the African Group, expressed its satisfaction that an item concerning the coordination mechanism had been included in the agenda of the SCT and hoped that this would become a standing item on the agenda. It recognized the importance of the Development Action Plan in the overall work of WIPO, and believed that it corresponded to what was required, in order to create a more balanced and inclusive intellectual property system, in particular for developing countries and LDCs. The Delegation noted that a coordination and evaluation mechanism, both efficient and effective, would constitute the best approach in evaluating the way WIPO implemented

⁵ Paragraphs 319 to 324 of the draft report of the twenty-ninth session of the SCT (SCT/29/10 Prov.).

actions in favor of development. The Committee should report on its actions in the area of development and submit such report to the General Assembly. The Delegation expressed the view that the work of the SCT was covered by both categories A and B of the Development Action Plan, relating respectively to capacity building and norm setting. It considered that, as a regulatory Committee, the SCT should comply with those recommendations and implement the necessary measures concerning capacity building and development activities. The Delegation highlighted the fact that the mandate given by the Assembly to the Committee in 2012 referred explicitly to the importance of including in the treaty capacity building and technical assistance provisions, and said that the SCT should ensure that such articles were included in the treaty.

“321. The Delegation of South Africa aligned itself with the statement made by the Delegation of Brazil on behalf of the DAG as well as the statement made by the Delegation of Algeria on behalf of the African Group. It stressed the importance of the implementation of the monitoring, assessing, discussing and reporting mechanism also known as coordination mechanism. The 2010 WIPO General Assembly had approved that mechanism so that all relevant WIPO bodies report on their contribution towards the implementation of the DA Recommendations. The Delegation emphasized that over and above its proposal concerning the reporting to the General Assembly on the mainstreaming of the DA Recommendations, the coordination mechanism would, if properly applied, facilitate the coordination through the Organization of cross cutting issues and activities, in a complimentary manner so as to avoid duplication. The Delegation understood that norm-setting in WIPO should follow certain processes and principles outlined in Cluster B on norm-setting, flexibilities, public policy and public domain, of the DA Recommendations. It pointed out three principles outlined in Recommendation 15 of the Development Agenda: norm-setting activities should be inclusive and Member-driven, take into account different levels of development and take into consideration the balance between costs and benefits. Hence, the Delegation requested a study on the impact of the activities currently undertaken by the Committee. In addition, the General Assembly decision in 2012 had clearly stated that the Committee should adopt provisions on technical assistance and capacity building, which would thus be in conformity with the relevant DA Recommendations. The Delegation believed that the above principles could be adhered to at all times, and proposed that the Secretariat undertake a thorough assessment and reporting of the contribution of the Committee to the implementation of the relevant DA Recommendations for submission to the General Assembly, which could go beyond a compilation of Member State statements. Furthermore, the Delegation concurred with the Delegation of Algeria that this needed to be a standing agenda item of the Committee. In conclusion, the Delegation stated that it would continue to support the mainstreaming of the DA into all of WIPO’s activities.

“322. The Delegation of Belgium, speaking on behalf of Group B, recalled its previously expressed position on this point and said that inclusion of this agenda item should be requested at each session of the SCT.

“323. The Chair noted that a number of delegations made declarations on the contribution of the SCT to the implementation of the respective WIPO DA Recommendations. He stated that all declarations would be recorded in the report for the twenty-ninth session of the SCT and that they would be transmitted to the WIPO General Assembly.

“324. Some delegations were of the opinion that this item should become permanent on the Agenda for the SCT. Other delegations stated that, while they did not object to adding that item to the Agenda for this session, the addition of this item should be decided by the SCT on an *ad-hoc* basis.”

III. COMMITTEE ON WIPO STANDARDS (CWS)

19. During the period under consideration, the Committee on WIPO Standards (CWS) held its third session from April 15 to 19, 2013. The meeting was chaired by Ms. Oksana Parkheta (Ukraine). Ambassador Alfredo Suescum (Panama) was elected as Vice-Chair.

ADOPTION OF THE AGENDA

20. Following informal consultations conducted by the Vice-Chair, the CWS agreed to revise agenda Item 4 to read: "Informal consultations to agree on mutual solutions on pending matters, in accordance with the last sentence of paragraph 5 of document CWS/2/13".

21. The Delegation of Algeria, speaking on behalf of the African Group, stated that the adoption of the agenda was without prejudice to positions of any delegation on pending matters in the future, and further stated that the Group reserved the right to request the addition of a new agenda item regarding the coordination mechanism in future sessions of the CWS.

22. The Delegation of Iran (Islamic Republic of) supported the statement made by the Delegation of Algeria, speaking on behalf of the African Group.

23. The Delegation of Belgium, speaking on behalf of the Group B, stated that the Group did not see any need for such a standing agenda item as proposed by the African Group.

24. The Delegation of Spain stated that the CWS had achieved a last minute agreement which was basically to renegotiate. However, this agreement had been formulated in an unintelligible way or in a way difficult to understand by a person that was not involved in the day to day events of the Organization. Taking into account all the efforts that the CWS, the Secretariat, experts and delegates had made this week and the threat to the technical work of the Committee that would continue to exist, the Delegation of Spain considered that the CWS should examine whether it was worth spending all that time and efforts to arrive at just this result.

25. The Delegation of Brazil requested that the summary by the Chair and the report of the present session of CWS should reflect that no agreement had been reached regarding pending matters under agenda Item 4. The Delegation of Brazil considered that it would be necessary for the CWS to hold further discussions on these matters at the next session of the CWS, if the General Assembly does not settle pending matters.

26. The Delegation of India supported the statement made by the Delegation of Algeria, speaking on behalf of the African Group.

27. Taking note of the above statements, the CWS unanimously adopted the further revised agenda as proposed in document CWS/3/1 Rev.1.

INFORMAL CONSULTATIONS TO AGREE ON MUTUAL SOLUTIONS ON PENDING MATTERS, IN ACCORDANCE WITH THE LAST SENTENCE OF PARAGRAPH 5 OF DOCUMENT CWS/2/13

28. The Vice-Chair conducted informal consultation sessions, held in parallel with the plenary sessions, with a view to agree on mutual solutions on pending matters, in particular, coordination mechanism, the relationship between CWS and Development Agenda Recommendations, and organizational matters and special rules of procedure. Discussions were based on oral or written proposals including those made by Poland, the African Group, the Group of Countries of Latin America and the Caribbean (GRULAC), Brazil and India. The

Vice-Chair reported on the outcome of informal consultations and observed that progress was made towards solutions, though no agreement was reached. He urged delegations to preserve what was achieved in discussions.

29. The CWS agreed that the CWS Chair should request the Secretariat to prepare and present the Report of the CWS (see document CWS/3/14) and convey the request of the CWS to the General Assembly in order to give any instructions of the General Assembly to the CWS on its future work on pending matters in accordance with the last sentence of paragraph 5 of document CWS/2/13.⁶

GENERAL ACTIVITIES

30. Following discussions of the corresponding draft agenda items, the CWS adopted the revision of WIPO Standard ST.9. In the trademark domain the CWS agreed to start the tasks to prepare recommendations for the electronic management of sound marks and for the electronic management of motion or multimedia marks for adoption as WIPO standards.

31. The CWS noted the status report on the work of the ST.14 Task Force regarding some category codes used in search reports established for patent applications and the identification of non-patent literature citations in patent documents, and made several recommendations to the Task Force.

32. The CWS approved the creation of a new task to prepare a proposal to establish a new WIPO standard for the exchange of patent legal status data by industrial property offices.

33. The CWS noted progress reports by Task Force leaders about the preparation of a new WIPO standard on the presentation of nucleotide and amino acid sequence listings using XML, the revision of WIPO Standards ST.36, ST.66, ST.86, on the preparation of Annexes V and VI, and the revision of WIPO Standard ST.96. It was agreed that the work for the mapping and development of tools for the bi-directional transformation between WIPO Standards ST.96 and ST.36, ST.66 or ST.86 should be primarily carried out by the XML4IP Task Force along with ST.36, ST.66 and ST.86 Task Forces. It was also agreed that, for the time being, the XML-based Task Forces should not be reorganized.

34. The CWS also noted the Report on the Survey on application numbering systems and approved its publication. The ST.10/C Task Force was requested to prepare a new questionnaire regarding the application and priority application numbering systems used by the industrial property offices (IPOs) in the past.

35. After considering the list of tasks, the CWS agreed on their final version for their incorporation in the CWS Work Program.

TECHNICAL ADVICE AND ASSISTANCE FOR CAPACITY BUILDING TO INDUSTRIAL PROPERTY OFFICES IN CONNECTION WITH THE MANDATE OF THE CWS

36. The CWS noted the report (see Annex II) providing information on highlights of activities of the Secretariat, related to providing technical advice and assistance to capacity building to IPOs undertaken during the year 2012, as requested by the WIPO General Assembly at its 40th session held in October 2011.

⁶ “Under the facilitation of the Chair of the WIPO General Assemblies, informal consultations on the coordination mechanism, the mainstreaming of the Development Agenda recommendations and expression thereof in the special rules of procedures will be conducted after the second session of CWS in order to reach an understanding preferably before the forthcoming autumn (2012) session of the General Assemblies.”

IV. REPORT ON THE WORK OF THE ADVISORY COMMITTEE ON ENFORCEMENT (ACE)

37. During the period under consideration, the Advisory Committee on Enforcement (ACE) held its eighth session on December 19 and 20, 2012.

GENERAL ACTIVITIES

38. The eighth session of the ACE was chaired by Ambassador Thomas Fitschen, Deputy Permanent Representative, Permanent Mission of Germany, and attended by delegations from 67 Member States and 21 Observers.

39. The eighth session addressed the following work program:

“Developing on the substantive study contained in WIPO/ACE/5/6, analyze and discuss IPRs infringements in all its complexities by asking the Secretariat to undertake:

- (1) (...);
- (2) Identification of different types of infractions and motivations for IPR infringements, taking into account social, economic and technological variables and different levels of development;
- (3) Targeted studies with an aim to developing analytical methodologies that measure the social, economic and commercial impact of counterfeiting and piracy on societies taking into account the diversity of economic and social realities, as well as different stages of development; and
- (4) Analysis of various efforts, alternate models and other possible options from a socio-economic welfare perspective to address the counterfeiting and piracy challenges”.⁷

40. The work program was addressed on the basis of expert presentations.⁸ Under Item (2) of the work program, the Committee heard the results of a survey on consumers’ awareness and attitudes in relation to counterfeiting, presented by the Secretariat of the National Board against Counterfeiting, Hungarian Intellectual Property Office. A number of Delegations noted the importance of awareness-raising and education in building respect for IP, and expressed interest in sharing survey methods and education materials.

41. Under Item (3) of the work program, presentations were made on the United Kingdom (UK) IP Crime Report Team’s methodology in developing the UK Annual IP Crime Report, a reference document that shares IP enforcement activities with diverse stakeholders and provides a factual, bigger picture on IP Crime within the UK; on RAND Europe’s report, requested by the European Commission, which sets forth a new approach to estimate the impact of IP infringement on sales; on recent activities undertaken in the Republic of Moldova to measure the social, economic and commercial impact of counterfeiting and piracy; and on the study on the economic impact of counterfeiting in Morocco, undertaken by the National Committee for Industrial Property and Anti-Counterfeiting (CONPIAC), a public private partnership.

42. Under Item (4) of the work program, presentations were made on the Korean Intellectual Property Office (KIPO)’s anti-counterfeiting activities, especially in relation to KIPO’s Special Judicial Police Force, the monetary reward system to promote reporting of counterfeit goods, the IP online monitoring system, and raising consumer awareness; on voluntary mechanisms

⁷ Paragraph 12 of document WIPO/ACE/5/11, paragraph 13 of document WIPO/ACE/6/11, and paragraph 20 of document WIPO/ACE/7/11.

⁸ Documents WIPO/ACE/8/4 to WIPO/ACE/8/11.

for resolving IP disputes, which contextualized IP enforcement in the real and the virtual worlds, highlighting the potential role of voluntary mechanisms in online IP enforcement; and on the work of the Panel of the World Watch and Jewelry Show BASELWORLD, which provides streamlined remedies for IP infringement during the exhibition. In addition, the Delegation of Algeria presented the “Stop Piracy” campaign that was undertaken in October 2012 in Algiers, which represents the long-term and sustainable efforts that Algeria is making to combat counterfeiting and piracy.

43. The Committee took note of the presentation by the Secretariat on recent activities of WIPO in the field of Building Respect for IP, which include assistance to Member States in the areas of legislation, training and awareness-raising, and activities aimed at enhancing systematic and effective international coordination and cooperation to build respect for IP.⁹

44. With regard to the Committee’s future work, the Committee agreed to consider, at its ninth session, the following topics: “Practices and operation of alternative dispute resolution systems in IP areas” and “Preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view to reducing the size of the market for counterfeited or pirated goods.”

CONTRIBUTION TO THE IMPLEMENTATION OF THE DEVELOPMENT AGENDA RECOMMENDATIONS

45. Under agenda item 9, the Chair invited views by Delegations on the contribution of the ACE to the implementation of the WIPO Development Agenda. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, the following statements extracted from the draft Summary by the Chair of the eighth session of the ACE, (document WIPO/ACE/8/12 Prov., paragraphs 36 and 37) are reproduced hereafter.

“36. The Delegation of Brazil, speaking on behalf of the Development Agenda Group, welcomed the opportunity to present the Group’s views in relation to the contribution of the ACE to the implementation of the recommendations of the Development Agenda. The Group noted that this is in line with the General Assembly’s decision on coordination mechanisms and monitoring, assessing and reporting modalities. The Group made some comments on how the ACE is contributing to the implementation of the Development Agenda, especially in relation to Recommendation 45. This Recommendation is directly related to the competences of the ACE. It defines that WIPO shall “approach intellectual property enforcement in the context of broader societal interests and especially development-oriented concerns, with a view that ‘the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations’, in accordance with Article 7 of the TRIPS Agreement”. The principles contained in this Recommendation shall guide WIPO activities regarding enforcement. The Group was confident that WIPO has been making progress in the implementation of Recommendation 45 since the adoption of the Development Agenda. The work program followed, so far, provides various pertinent elements for discussion that correspond to the different views and objectives of Member States on issues of enforcement. The results of this work program were evident in the documents submitted during this session. The studies and presentations reflect WIPO’s efforts to develop an “inclusive approach” in its activities on building respect for IP; they

⁹ Document WIPO/ACE/8/2.

take into account diversified views and opinions on enforcement issues and are a good basis to promote a balanced discussion on building respect for intellectual property. Despite such achievements, the Group noted its belief that there is still a long way to fully implement Recommendation 45. It cited, for example, that the contribution of the protection and enforcement of intellectual property rights to the transfer and dissemination of technology can be further developed. As the Group has pointed out in the past, measuring the economic consequences of all types of intellectual property violations, especially those related to counterfeiting and piracy, is a constant challenge. Reliable statistics are essential to formulate effective measures against those violations. With regard to the work program of the ACE, the Development Agenda Group would like to see a balanced agenda for the future work, taking into account different views and needs of Member States, as it has been the case in the past sessions.

“37. The Delegation of South Africa noted that it aligns itself with the statement made by the Delegation of Brazil on behalf of the Development Agenda Group. The Delegation stressed the importance of the implementation of the monitoring, assessing, discussing and reporting mechanism (Coordination Mechanism). The 2010 WIPO General Assemblies approved this mechanism with a view that all relevant WIPO bodies should report on their contribution towards the implementation of the Development Agenda Recommendations. The Delegation emphasized that over and above its purpose of enabling the reporting to the General Assembly on the mainstreaming of the Development Agenda, the Coordination Mechanism is also meant to provide an opportunity to Member States to scrutinize cross-cutting issues/activities in the Organization. In this regard, time has come that an agreement is reached on a standing agenda item on the contribution of the ACE to the implementation of the relevant Development Agenda Recommendations. As stated at the 2012 General Assembly, South Africa remains committed to the mainstreaming of the Development Agenda in all of WIPO's work. The Delegation is pleased to see that the activities conducted by the ACE are primarily premised on Development Agenda Recommendation 45. The Delegation noted the document WIPO/ACE/8/2 entitled “Recent Activities of WIPO in the Field of Building Respect for IP”. In this regard, the Delegation's view is that, over and above other sources/activities, the document provides a good basis for assessing the contribution of the Committee to implementing the Development Agenda. However, there needs to be more detailed information on the activities undertaken by the Secretariat. On the issues pertaining to international coordination and cooperation, the Delegation noted the importance of WIPO's engagement with other intergovernmental organizations, international organizations and other relevant stakeholders in the field of intellectual property. In this area of WIPO's work as well, more detailed information is needed. The Delegation concluded by noting that it would like to reiterate the need for a balanced approach between enforcement and development in the work undertaken by the Committee in line with Recommendation 45 of the Development Agenda.”

46. The ninth session of the ACE is scheduled to take place in Geneva, in the first quarter of 2014. As in previous sessions, discussions of the agreed work program will be supported by working documents and expert presentations.

[Annex II follows]



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REPORT ON THE PROVISION OF TECHNICAL ADVICE AND ASSISTANCE FOR CAPACITY BUILDING TO INDUSTRIAL PROPERTY OFFICES IN CONNECTION WITH THE MANDATE OF THE CWS

Document prepared by the Secretariat

1. This report aims to implement the decision taken by the General Assembly in 2011 relating to the mandate of the CWS, and to provide regular written reports on the details of activities undertaken during the year 2012 in which the Secretariat or the International Bureau (“IB”) of WIPO “endeavored to provide technical advice and assistance for capacity building to IP Offices by undertaking projects regarding dissemination of IP standards information” (see paragraph 190 of document WO/GA/40/19). A complete list of such activities is available under the Technical Assistance Database (www.wipo.int/tad).
2. As IP standards are implemented in various systems and tools, the following activities also implicitly cover dissemination of relevant IP standards information.

TECHNICAL ASSISTANCE FOR BUILDING INFRASTRUCTURE IN IP INSTITUTIONS

3. This program (Program 15) is to develop and strengthen national and regional IP institutions in accordance with the Development Agenda, through provision of modernization services, to enable them to participate in the global IP infrastructure and to maximize their benefits from the access and use of its collective resources.
4. The Program's assistance covers a comprehensive set of modernization services. These include: technical advice and guidance; needs assessment; automation of business processes; provision of software systems customized to specific national requirements;

establishment of national IP databases; training of IP institutions staff with knowledge transfer to their technical focal points and online communication with WIPO international IP services (Madrid and PCT). WIPO's advice and assistance is given, taking account of WIPO Standards on IP data and information. Training related activities account for a significant portion of the Program's work and are critical in achieving the desired results.

5. In the framework of this program 130 missions in IP Offices were undertaken in 2012, Activities took place in all regions in a total of 51 IP Offices. In some Offices more than one mission were undertaken. By the end of 2012, there were more than 60 IP Offices actively using software systems provided under this program for their day to day IP administration operations. For more information please consult the web site of WIPO's technical assistance program for Industrial Property Offices (http://www.wipo.int/global_ip/en/activities/technicalassistance/index.html).

NARROWING THE TECHNOLOGY KNOWLEDGE GAP AND IMPROVING ACCESS TO TECHNICAL KNOWLEDGE

6. Within the framework of recommendation 8 of the Development Agenda, which aims to narrow the technology knowledge gap and improve access to technical knowledge, the following projects under Program 14 were further developed in 2012: Technology and Innovation Support Centers (TISCs), Access to Research for Development and Innovation (ARDI), Access to Specialized Patent Information (ASPI) and Patent Landscape Reports (PLRs). Training activities included a general introduction to WIPO Standards in order to raise awareness of users in developing countries of the role of WIPO Standards.

7. TISCs, or institutions offering similar services, are designed to provide innovators in developing countries with access to locally based, high quality technology information services and other related services. The IB promotes the establishment and development of TISCs in cooperation with national and regional industrial property offices.

8. To support the development of TISCs and raise awareness of intellectual property and technology information among local stakeholders, on-site training was provided in 2012 in 28 countries participating in the project (15 first basic, 9 second intermediate and 4 third advanced training events). The total number of established TISC national networks following first basic training was 35, of which 6 were established in 2010, another 14 in 2011, and a further 15 following the first basic training events just mentioned as carried out in 2012. A further 7 Service Level Agreements, providing the framework for activities to be carried out in establishing and developing TISCs, were concluded in 2012 bringing the overall total to 36 countries. For more information please consult the TISCs web site (www.wipo.int/tisc).

9. On-site training for TISCs has always been supported and reinforced through the provision of distance learning courses in cooperation with the WIPO Academy. In order to further strengthen online training and encourage the exchange of experiences and best practices, a newly developed "eTISC" knowledge management platform was launched at the end of 2012. The eTISC platform provides advanced social media tools and integrates new services aimed at reinforcing WIPO's activities in supporting the development of TISCs worldwide, including specially targeted e-learning modules and webinars. The TISC community can be joined online at <http://etisc.wipo.org>.

10. A further element in developing online training was the launch also in 2012 of an interactive e-Tutorial on using and exploiting patent information, available on CD-ROM and online at <http://wipo.int/tisc/etutorial>. The e-Tutorial comprises 3 sections on: Patent Basics, Patent Search and Retrieval, and Patent Analysis. Each section contains a number of interactive tutorials explaining how to use and exploit patent information, followed by a number of interactive scenarios providing story-based exercises putting theory into practice.

11. The ARDI program is coordinated by the IB together with its partners in the publishing industry with the aim of increasing the availability of scientific and technical information in developing countries. By improving access to technical literature from diverse fields of science and technology, the ARDI program seeks to reinforce the capacity of developing countries to participate in the global knowledge economy and to support researchers in developing countries in creating and developing new solutions to technical challenges faced on a local and global level.

12. Since 2011, ARDI has been a member of the Research4Life (R4L) partnership, which includes WHO's HINARI program focusing on biomedical and health journals, FAO's AGORA program for agriculture based journals, and UNEP's OARE program on environmental issues. During 2012, the content of ARDI dramatically increased to over 10,000 peer-reviewed scientific and technical journals and e-books. The number of institutional users is also increasing. For more information please consult the ARDI web site (www.wipo.int/ardi).

13. The Access to Specialized Patent Information (ASPI) program is similarly a public-private partnership with the world's major commercial patent database vendors, and provides access to more advanced and sophisticated search and analysis tools for use by institutions in developing and least developed countries. The number of users is also steadily increasing. For more information please see the ASPI web site (www.wipo.int/aspi).

14. The PLR project was based on the Development Agenda project DA_19_30_31 "Developing Tools for Access to Patent Information" described in document CDIP/4/6, adopted by the Committee on Development and Intellectual Property (CDIP).

15. The PLRs provide a comprehensive overview and analysis of the innovation and patenting activity in a specific technological field, globally or in a specific geographical area, based on a state of the art search of at least the PCT minimum documentation. They target research and analysis in areas of interest which meet the needs of developing countries, such as public health, climate change, food and agriculture, energy etc. The results are presented and analyzed in a comprehensive manner and are visualized through graphs and statistics with the help of various analytical tools. The results and conclusions drawn can provide information on trends in a specific technological field or subsectors over time, the major players in the said area, the collaborations that take place, the geographical distribution of the patent protection sought, while the technologies identified can be grouped in various categories. They are useful tools for policy makers that can facilitate and optimize policy and investment decisions related to innovation, R&D, technology transfer, etc. Furthermore, these reports function as examples of access to and exploitation of patent information and how patent search strategies and methodologies should be tailored according to the particular subject matter and the challenges and limitations linked to each case.

16. In November 2012 the second phase of this project was approved by the CDIP. Seven patent landscape reports have been prepared and published by the IB in cooperation with other intergovernmental organizations and non-governmental organizations, such as FAO, WHO, Medicines Patent Pool, AATF etc. Six more reports should be prepared and published in 2013 as according to the approved second phase. These reports cover a range of subjects, such as desalination and use of alternative energies, solar cooking and cooling, antiretrovirals, plant salinity tolerance, vaccines etc. For more information on the project and access to the reports, please consult the dedicated website: http://www.wipo.int/patentscope/en/programs/patent_landscapes/pl_ongoingwork.html. In addition the second phase provides for the establishment of draft methodological guidelines for preparation of patent landscape reports and the organization of a regional conference on patent analytics.

CAPACITY BUILDING OF IP OFFICERS AND EXAMINERS FOR UTILIZATION OF INTERNATIONAL TOOLS

17. Upon request, several training courses on the use of International Classifications for officials or examiners of IP Offices were conducted in 2012, namely for ARIPO (all Classifications), Bahrain (IPC, Nice, and Locarno Classifications), Brunei Darussalam (Locarno Classification), Kenya (Nice and Vienna Classifications), Philippines (Nice, Vienna and Locarno Classifications) and United Arab Emirates (IPC).

BETTER UNDERSTANDING OF IP STANDARDS

18. In order to increase awareness of IP Standards in developing countries and to facilitate the participation by more developing countries in the preparation of a new or revised WIPO Standard, following the decision of the General Assembly in October 2011, the participation in the second session of the CWS of eight developing countries was funded by the International Bureau, namely: Mauritania, Morocco, Nepal, Nicaragua, Panama, Tanzania, Vietnam and Zambia.

PATENT DATA EXCHANGE

19. The IB has been working together with the IP Offices in certain groups of developing countries to promote the exchange of patent data with a view to providing users in those countries with greater access to patent information originating from those IP Offices. The exchange of patent data was organized in accordance with relevant WIPO standards. During the reporting period, two projects made good progress, namely; LATIPAT and ARABPAT.

20. LATIPAT; The Spanish Patent and Trademark Office (OEPM), the European Patent Office (EPO), and industrial property offices in Latin America cooperate to promote the exchange of patent information and to set up and maintain an updated regional database containing the information on patents published in Latin American countries, under the LATIPAT project. The exchange of data is intended to provide access to the region's technological information contained in patents, to serve as a common reference platform for the publication and consultation of Latin American patents and to facilitate the provision of data to PATENTSCOPE. The level of participation of the countries is very high, of the 19 IP Offices in Latin American, 16 are actively participating in the project and send their information regularly.

21. In this regard, under the auspices of this project the Eighth Expert Meeting was held in Medellin in November 2012, in order to continue the process of strengthening the capacities of IP Offices to provide their data, and the focus was placed on enhancing data quality and exchange of full text searchable patent documents, legal status data, citation data and data regarding search and examination reports to be included in LATIPAT, PATENTSCOPE and in the INVENES platforms.

22. ARABPAT; In October 2012, the Executive Chiefs of the European Patent Office (EPO), WIPO and the Moroccan Intellectual Property Office (OMPIC) signed a MoU to cooperate with, in particular but not limited to, the IP Offices of the countries which are members of the AGADIR Agreement (Egypt, Jordan, Morocco and Tunisia). The Agreement promotes the production, dissemination and exchange of up to date high quality bibliographic data, image data, legal status data and searchable full-text data on patents published by them. It would provide access to this information by the general public through the respective patent information platforms PATENTSCOPE, ESPACENET and the Moroccan Publication Server established by WIPO, EPO and OMPIC, respectively.

23. The CWS is invited to take note of the 2012 activities of the International Bureau, related to providing technical advice and assistance for capacity building to IP Offices. This document will serve as a basis of the relevant report to be presented to the WIPO General Assembly to be held in October 2013, as requested at its 40th session held in October 2011 (see paragraph 190 of document WO/GA/40/19).

[End of Annex II and of document]