

WIPO/IP/HEL/00/8

ORIGINAL: English

DATE: October 2000



NATIONAL BOARD OF PATENTS AND
REGISTRATION OF FINLAND



WORLD INTELLECTUAL
PROPERTY ORGANIZATION

**FORUM ON
CREATIVITY AND INVENTIONS – A BETTER FUTURE FOR
HUMANITY IN THE 21ST CENTURY**

organized by
the World Intellectual Property Organization (WIPO)
and
the National Board of Patents and Registration of Finland

in cooperation with
the Ministry of Trade and Industry of Finland,
the Ministry of Education, Science and Culture of Finland

and
the International Chamber of Commerce (ICC),
the International Federation of Inventors' Associations (IFIA),
the Confederation of Finnish Industry and Employers (TT),
the Finnish Inventors' National Federation (KEKE)

**Finlandia Hall
Helsinki, October 5 to 7, 2000**

CREATING (ESTABLISHING) A SUPPORTIVE ENVIRONMENT FOR THE USE AND
DEVELOPMENT OF INVENTIONS AS A SERVICE TO SOCIETY

*Document prepared by Mrs. Wen Xikai, Deputy Director General, Legal Department,
State Intellectual Property Office (SIPO), Beijing, China*

Introduction

The title of my topic today is "Creating a Supportive Environment for the Use and Development of Inventions as a Service to Society". I shall be illustrating my point of view on this issue and giving an account of four experiences.

I. For a Better Life and Future, it is Necessary to Create a Supportive Environment for the Use and Development of Inventions

1. We all agree that inventions and innovations are the driving force in the development of a national economy. This is a truth in China as in anywhere else in the world. Therefore, besides attaching great importance to the encouragement of invention and innovation, we need to attach even greater importance to the creation of a supportive environment within which inventions and innovations may be used and developed. The governments should exercise to the full its role in creating such an environment as a service to society, as that is the only way in which inventions and innovations can contribute to the generation of employment and the creation of wealth and its exploitation for the benefit of society. Our view on this stems from the following.

2. The historical development of human civilization demonstrates that science and technology (S&T) are the most active and important among the various factors of production. Every important leap forward by human society is due to a breakthrough in the progress of S&T. For example, the global economy has grown more than twenty times over in the twentieth century from little more than one trillion to about 30 trillion US dollars. ¹In developed countries, the contribution of S&T rose from 50% in the 1950s to 70-80% in the latter half of the 1990s. ²As far as China is concerned, since the reform and opening of the country, its economy has maintained a high rate of increase; from 1985 to 1995, China's share of world manufacturing industry grew from 3.6% to 5.2%, and its exports of manufactured goods to industrialized countries from 0.5% to 2.1%. ³In 1998, China's gross product (GNP) came to more than 900 billion US dollars, placing it seventh in the world, while its exports ranked tenth. For five consecutive years, China has been led only by the United States in the absorption of foreign investment. According to some economists, a billion in exports can create about thirty thousand jobs. China is thus occupying a decisive position in world economy and trade. The famous US economist Stigrich has commented that, in the past 20 years, the increase in China's income amounts to 50% of the whole income increase of all the developing countries in the world. ⁴

3. Our success is due to the fact that, ever since we adopted our opening up and reform policy, we have implemented a strategy of building up the country through science and education, by speeding up the development of those disciplines and thereby fostering the emergence of high-quality personnel. It is because S&T have prospered that the application and trading of technology have benefited and brought about the rapid development of our national economy.

¹Intellectual Property, 2000/Special Edition "On the Regime of IPR in S&T Progress and Economic Development" Mr. Wang Xianlin, p. 219.

²Electronics Intellectual Property, No. 6, 2000, Ms. Chen Xiaozhu, p. 4.

³United Nations Industry Development Organization: "Globalization: Challenge, Opportunities and Features of Economic Development" China Soft Science, No. 6, 1997.

⁴China Business Times, Sept. 14, 2000, front page.

4. At this point it is worth mentioning two decisions of the Central Committee of the Chinese Communist Party and the State Council. One is the Decision on Enhancing the Progress of Science and Technology, promulgated in 1995, which put forward the concept of S&T being the production force and made the development of high and new technology and the related industries one of the main features in the implementation of the Decision. The other is the Decision on Enhancing Technology Innovation, Developing High Technology and Achieving Industrialization, which was promulgated in 1999, and for the first time in history made the enhancement of technology innovation, the development of high technology and the achievement of industrialization the top priority in the formulation of four S&T policy. These two decisions set the tone for China's S&T policy towards the end of the twentieth century and the beginning of the twenty-first century.

5. Since the 1980s, the rapid development of S&T and the globalization of the economy have brought about mutual economic, political and cultural infiltration and fusion between various countries, nationalities and regions. With scientific and technological progress, economic prosperity and the upholding of the rule of law being the common goal, mankind as a whole has become more and more closely interlinked. This mutual infiltration and organic integration of science, economy and law has served as the starting point for humankind to go forward into the knowledge-based era, with knowledge being the key productive element. Faced with the challenges and opportunities of the development of a knowledge-based economy, it is vitally important that the governments should take various measures to provide a healthy environment for the making and marketing of inventions and innovations.

6. With the ever-growing importance of S&T to the development of the national economy, there has been a sharp increase in international trade involving intellectual property rights (IPRs). According to the statistics, in 1955 the world trade in licenses amounted to 500-600 million US dollars; by 1965, the figure had risen to 2.5 billion, while in 1975 it reached 11 billion in 1985 about 40 billion. So in the space of 30 years volume of the licensing trade will have leapt by a factor of 66.7. The figure for 2000 is estimated at about 200 billion.⁵ This amply illustrates the importance of the development of S&T to the world economy. Without strong S&T, there can be no strong national or world economy. I think this is one of the reasons why IPR protection has become one of the three main concerns of WTO and why the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as TRIPS) emphasizes that "the protection and enforcement of IPR 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."⁶

7. The negotiations for China's entry into the WTO, at both the bilateral and multilateral level, have now reached the final stage, so it will not be long before China becomes a Member. China's entry into the WTO will undoubtedly inject new vigor and vitality into the world as a whole, and the government is under the obligation in such circumstances to increase further the pace of opening up to the outside world and to create a better environment for international trade.

⁵"China After its Accession to WTO", Jilin People's Publishing House, 1999, p. 616.

⁶TRIPS, Article 7.

8. With this in mind, the Chinese Government has endeavored to create a supportive environment to encourage invention and to facilitate the use and implementation of inventions. At this point, I should like to give you some information on how we are approaching that objective and what we have done so far.

II. Full Use of the Government's Role in Implementing Innovation Both in Science & Technology and in Management Practices

9. As already mentioned, if our reform is to be furthered and our economic progress speeded up, the establishment of a supportive environment for inventions is of vital importance. And it is for the Government to bring its role in standardization, education, guidance, encouragement and effective protection into full play as a service to society. The following is an account of what we have been trying to do for years in pursuit of this objective:

(a) The Government's Role: to Establish a Patent System that will Encourage and Promote Invention and Innovation

(i) Reasons for the Establishment of the Patent System

10. The level of S&T reflects the scope and depth of man's understanding of nature and his ability to tame and harness nature for sustainable development. It is only through innovation and invention that technology can progress, so the key to technological development is the quantity and quality of invention and innovation. It is our belief that, despite the limitations inherent in the current intellectual property system, which can only be remedied over time and by concerted effort on the part of all countries, one cannot expect to succeed in the quest for S&T modernization without the environment that a comprehensive intellectual property system provides.

11. Since the late 1970s, therefore, China has been formulating laws and regulations to protect intellectual property rights, and especially patent rights, and has been making steady progress in their vigorous implementation. From our point of view, the main things that the patent system can contribute to the promotion of scientific and technological progress are the following:

(ii) The Incentive to Create and to Invest in Creation

12. Progress in S&T requires new input to generate new breakthroughs. By granting exclusive rights to inventors and creators for a certain period of time, the patent system gives recognition for achievements, safeguards the rights and interests of the institutions or individuals who have provided the major material or technological inputs, curbs unfair competition, raises product quality, ensures credibility and improves cost-effectiveness; it thus encourages the investor to make more financial material and intellectual resources available for R&D activities and fully exploit the value of the invention or innovation, and at the same time ensures that the inventor profits from his creative activity.

(iii) A Regulatory System to Serve the Public Interest

13. The patent system is not for monopolistic purposes only; it not only protects the rights and interests of the owner of the patented subject matter, but also determines its relation to the interests of the State and society as a whole. Every patent presupposes a sharing of rights and

acceptance of obligations as complementary requirements, while the protection of patent rights and the prohibition of their abuse are mutual constraints. So correct use of the patent system is conducive to the establishment of a dynamic, highly efficient new mechanism in which scientific research, the introduction of foreign technology, innovation, dissemination and utilization are integrated in a single whole, and it helps create an ideal environment for the rapid dissemination and utilization of S&T achievements. The patent system is also a prerequisite for the promotion of international trade.

14. Patent protection encourages creativeness by rewarding the inventor or investor with the exclusive right to prohibit others from exploiting his invention without his consent; thus it provides favorable conditions and a suitable environment for international economic and technical cooperation by enabling knowledge and technology to move across national boundaries and encouraging countries to seek, maintain and develop advantages through international competition. Indeed with the unprecedented pace at which science and technology are advancing today, the protection of IP in accordance with the principle of equality and mutual benefit has become an integral part of the new world order.

(b) Brief Introduction of the Chinese Patent System

15. On the basis of above considerations, China established its patent system in the early 1980s, and has been constantly amending and revising its patent law to suit the needs of the country's reform and economic construction and to be in line with international standards. I should like now to give you a brief introduction to the evolution of Chinese patent legislation and its recent amendment.

(i) The Patent Law of 1984

16. The first Chinese Patent Law was adopted on March 12, 1984, at the fourth session of the Standing Committee of the Sixth National People's Congress. The Law came into force on April 1, 1985. This is an important step China has taken to give the country the benefit of S&T and to rule the country by legislation, enabling the construction of the economy to promptly shift its focus to the progress of S&T and improved labor performance. We received 14,372 patent applications in the same year. From 1986 to 1992, the average rate of increase in patent applications was 23%.

(ii) First Revision of the Chinese Patent Law to Align it with the TRIPS Agreement

17. The first revision of the Chinese Patent Law was adopted in September 1992 by the 27th session of the Standing Committee of the Seventh National People's Congress. The revision was intended to serve the purposes of further opening up and reforming and to effect alignment with the international standards on patents embodied in the TRIPS Agreement. The revised Patent Law took effect on January 1, 1993. Under it, the term of protection for an invention patent was extended from 15 years to 20 years from the filing date, while for utility models and designs it was extended from five years to ten years from the filing date. The technological area in which patent protection was available was broadened to cover chemicals and drugs. The patentee is granted the right of importation, and the pre-opposition procedure was replaced by the post-grant revocation procedure in order to shorten the overall grant procedure. The conditions governing the grant of compulsory licenses have been amended to conform to the TRIPS Agreement and the protection of patent rights through the administrative channels has been strengthened. With these amendments, it can be said

without any hesitation that the level of protection provided for in our patent law is already up to international standards.

18. During this period, the number of patent applications filed rose year by year; in 1993, it was 77,276, and by 1999 it had leapt to 134,239.⁷

(iii) The Latest Amendment of the Chinese Patent Law

19. On the strength of 20 years' experience of opening up and reform, China's basic conditions and environment, both at home and abroad, for economic and social development have changed dramatically, and our scientific and economic development is at a turning point. The adjustment and optimization of the production structure has become the main focus of economic development. In order to take full advantage of the important role of the patent and intellectual property system in technology innovation and S&T improvement, and also to implement the "Decision on Strengthening Technology Innovation, Developing High Technology and Achieving Industrialization" issued by the Central Committee of the Communist Party of China and State Council as part of the preparation for China's accession to WTO, the 17th session of the Standing Committee of the Ninth National People's Congress adopted the second revision of the Chinese Patent Law on August 25, 2000. About 36 articles were revised in order to do the following in particular:

- to make it clear that the legislation to amend the Patent Law was designed to promote the development and innovation of S&T and create better conditions for a deeper reform to come;
- to intensify patent protection and improve the judicial and administrative enforcement of the Law;
- to simplify and improve the procedures for examination and the grant of patent rights and their maintenance, and to safeguard the legitimate interests of the parties concerned;
- to promote opening up to, usher in accession to WTO and be in line with the TRIPS Agreement;
- to build up a diligent, impartial, practical and efficient patent examination and administration workforce.

20. This revision drew on the practical experience and achievements of more than 15 years of legislation in order to further our economy and reform our structures. The revised Patent Law will enter into force on July 1, 2001.

(c) The Government's Role: to Raise Awareness in the General Public

21. The coming into being of a new system is always accompanied by a breakthrough in ideology and a campaign of propaganda and media agitation. This means that general public awareness is the key to the full implementation of the new system; so the Government's role does not end with the regulatory or legislative enactments that establish the patents system: it is all the more important for it to adopt various measures to create an environment conducive to respect for knowledge and talent and to the making of inventions and creations. Consequently, while improving its legal system and strictly enforcing its laws, the Chinese

⁷Annual Report, 1999, SIPO.

Government has spared no effort in publicizing the legal system for the protection of intellectual property, teaching about it and accelerating the training of professional staff in this specialty. In China the promulgation or revision of every intellectual property law is followed by widespread publicity in the media and the distribution of large quantities of educational videotapes and texts of the law itself. Meanwhile, all levels of government arrange legal knowledge forums and training classes so that the law in question may be made known to all. Many high-profile and easy-to-follow activities are organized all over the country. Editorials and reports on IP have been published in all kinds of mass media, not least China's own *Intellectual Property News*.

22. In this connection it is worth mentioning that our administrative authorities responsible for patent affairs in various provinces and cities have done a lot of successful work. For various reasons, sometimes even State-owned large-scale, high new technology enterprises still do not know why patent protection is important to them. They may have quite a number of State-award-winning new products, but no prizes for patenting. The reason is that until now the heads of those enterprises had no perception of IPR protection. After painstaking work, screening their work and training practices, many of the enterprises have since formulated their own regulations for the administration of IPRs. More and more now have their own patent regimes and patent personnel. I mention this to show that the Government still has much to do to create a supportive environment for IPR protection. To raise IPR awareness in the public, we found the following arguments very convincing:

- To be a Member of WTO, we have to make our laws and regulations on intellectual property protection compatible with the TRIPS Agreement. This requires us to study carefully both our own IPR laws and the Agreement;
- To be a Member of WTO, we shall assume all the duties of signatories and abide by its trade rules. Our companies will have to learn to protect themselves with intellectual property rights, otherwise they cannot hope to be among the winners in global competition;
- In the age of the knowledge-based economy that we are now facing, the number of patents acquired is an important parameter with which to judge the overall competitiveness of an enterprise or even a country. Anyone who expects to gain an upper hand in competition has to use patents to protect this high-technology product.

(d) The Government's Role: to Concentrate on Making Enterprises Aware of Their Dependence on S&T to Make Progress

23. We practise a socialist market economy which calls for orderly and legitimate competition. Facing with an ever-changing market, we ought to use every means of encouraging the enterprises to make use of the legal protection offered by the patents system, notably by helping them analyze and summarize patent information, study the market and formulate competition strategy, promote R&D activities, abstain from infringing the patents of others and use high-tech inventions to acquire superiority in the market in the face of competition. The enterprises are advised to improve their innovation-encouraging mechanism; they are also taught to file patent applications for patents in time, and to use patent licensing and technology transfer to earn rewards for their R&D activities.

24. I should like to take China Petrochemical Corporation (SINOPEC) as an example. SINOPEC is a giant enterprise group which was ranked 73rd in the Fortune Global 500

in 1998. In terms of revenue, SINOPEC ranked 58th in 1999. They have learned the significance of R&D and the role of IPR protection from experience, and they now attach great importance to technological innovation and the protection of innovative technologies and products. Up to now they have filed more than 4,000 applications, of which 50% are for invention patents, while 2,400 have been granted. Their patent applications and patents cover 32 countries.

25. We encourage small and medium-sized enterprises to do the same. Though inferior to large corporate groups in terms of human, financial and material resources, the role of small and medium-sized enterprises should not be overlooked; indeed it is all the easier for small and medium-sized enterprises to deploy and utilize resources effectively under the patent system. Quite a number of examples of R&D investment being richly rewarded after applications for patents have ensured a secure place in the market, even though products concerned may be not technically complex. If one takes Class H04 (Electric Communication Technique) of the International Patent Classification (IPC) as an example, a total of 19,400 applications had been published by the Chinese Patent Office by the end of 1999. Of those, 7,300 were filed by 15 major companies, while the rest were filed by small and medium-sized enterprises and individuals.

26. This shows that our enterprises have gradually understood that in the age of the knowledge-based economy, whoever has high quality patents is going to have the upper hand in competition.

(e) The Government's Role: to Improve Legal Environment Constantly by Intensifying Patent Protection and Enforcing the Law Strictly

27. China has established and improved its IPR protection system at an unprecedented rate during the past 15 years or so. It has essentially reached the level at which there are laws to abide by and as far as patents are concerned, our protection has been broadly in line with the TRIPS Agreement since 1993. However, in order to provide better conditions for patent protection and facilitate international trade, the latest revision of the Patent Law further intensifies protection, while the jurisdiction and administrative enforcement are improved in various respects, and the protection level is raised. I shall just mention a few of the changes.

(i) The Patentee Has the Right to Prohibit "Offering for Sale"

28. As provided in the TRIPS Agreement, we have patents for products and patents for processes. The owner of a product patent has the right to prohibit others from making, using, selling or importing his product. The owner of a process patent has the right to prohibit others from using his process and from using, selling, or importing products obtained directly by means of the process. Here, the only difference between our Law and the TRIPS Agreement is that our Law is silent on the patentee's right to offer for sale. In order to strengthen patent protection and conform still more closely to the TRIPS Agreement, ⁸ offering for sale is written into the Law. The patentee now has the right to prohibit others, without his consent, from marketing or advertising products before sale, and to stop infringing activities in their initial stages.

⁸TRIPS Article 28.1(a).

(ii) The Loophole of “Legitimate Use” of Counterfeit Products is Filled In

29. According to present Article 62 of the Patent Law, where third parties acting in good faith use or sell counterfeit products that infringe a patent, that does not constitute infringement of patent rights. This is not in line with international practice and provides infringers with a loophole permitting the legitimate use of their counterfeit products. Since the revision, the act described is no longer an exception to patent infringement; if the third party acting in good faith cannot prove that he got the products through legitimate channels of distribution, he shall be liable for damages. In this way anyone who knows or should know that the related products are counterfeit is prevented from trading them for industrial or business purposes.

(iii) Provisional Measures Before Legal Proceedings Are Instituted

30. Article 41 of the TRIPS Agreement provides that enforcement procedures should be available for effective action against any act of infringement, including expeditious remedies to prevent infringements. The Agreement further provides that, provisional measures should be available under the following circumstances:

- to prevent an infringement from occurring, and to prevent the entry into the channel of commerce of infringing goods, including imported infringing goods immediately after customs clearance;
- to preserve relevant evidence in regard to the alleged infringing acts.

31. Under the present Patent Law we do not have such provisional measures before legal proceedings are instituted. In order to remain in line with the TRIPS Agreement, and to intensify patent protection, the amended Article 61 provides that, where a patentee or any interested party can provide any reasonable evidence that his right is being infringed, or that such infringement is imminent, and that any delay in stopping the act is likely to cause irreparable harm to his legitimate rights, he may, before instituting legal proceedings, request the People's Court to order the suspension of related acts and to provide for the preservation of the property. So, in order to stop the act that is likely to cause irreparable harm to his legitimate rights, a patent owner may, before instituting legal proceedings, request the People's Court to order the suspension of related acts and to provide for the preservation of the property.

(iv) The Court Has the Final Say on Utility Model or Design Patent Applications or Patents

32. According to Article 32 of the TRIPS Agreement, “An opportunity for judicial review of any decision to revoke or forfeit a patent shall be available.” Under our current Patent Law, however, the decision of the Patent Reexamination Board on the invalidation of a patent and on the reexamination of a utility model or design application is final. In order to protect the legal rights and interests of the interested parties sufficiently and to be in line with the TRIPS requirements, the amended Law stipulates that the final decision on reexamination and on the invalidation of any application for or grant of patent, utility model or design rights lies with the People's Court.

⁹TRIPS Article 50.1.

(v) Local Governments are Invested with the Power to Administer Patent Work

33. Much has been said about the coordinated operation of four double channel enforcement mechanism. And yet, it is the first time ever, since China established its patent system, that the law has invested local People's Governments of provinces, autonomous administrative regions and municipalities directly under the Central Government with the power to administer patent affairs. This shows that China attaches great importance to the establishment and development of a local patent administration regime, and to the training of a grassroots workforce in patent work. These administrative authorities have played a very important part in the enforcement of the law and the furtherance of the patent cause. In order that they can improve their work legally, the amended Article 3 provides that "The authorities for patent work in the People's Governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for patent administration work in their own administrative areas."

(vi) Law Enforcement is Enhanced by the Administrative Channel

34. Ever since China established the patent system in 1984, the mechanism of "double channels and coordinated operation" has been used. This means that the judicial and administrative channels cooperate with each other to protect patent rights. This suits China's circumstances and is in line with the TRIPS Agreement. In the amended Law, the role and function of the administrative authorities were further streamlined and intensified.

35. Firstly, the amended Article 57 expressly provides that the local patent administration authorities have the right to determine whether an act is an infringement or not; if it is, the authorities have the power to order the infringer to stop the infringing acts immediately. If the parties concerned are not satisfied with the decision, they may institute legal proceedings in the People's Court under the Administrative Procedure Law. If such proceedings are not instituted within the time limit and if the order is not complied with, the authorities for patent affairs may apply to the People's Court for compulsory execution.

36. The administrative enforcement channel has been welcomed in China as it is procedurally simple and a quick and efficient way of settling disputes. Once the infringing act has been proved, the authorities can immediately order it to stop, thus providing the patentee with the most rapid and efficient protection. This procedure is governed by the Administrative Procedure Law. In the amended Law, it is also expressly provided that, for damages, mediation by the authorities concerned is available only at the request of the interested parties. If mediation does not succeed, the parties can institute legal proceedings in the People's Court.

37. Secondly, as multiple infringements and repeated infringements in China are a serious offense in China and increasingly complex and difficult to settle, the amended Articles 58 and 59 invest the local patent authorities with the power to maintain market and social order. Under Article 58, the patent administration authorities have the power to investigate and deal with acts of passing off patents, to order the offender to mend his ways, to announce the results of their action and to confiscate the offender's unlawful income and impose a fine on him, whereas under the present Patent Law, an offender who passes off another's patent is not liable to administrative sanctions; he is punished according to the provisions regarding patent infringement. If his act is so serious as to constitute a crime, he is prosecuted for his criminal liability. According to Article 59, the local patent authorities have the power to investigate

and deal with such acts as the passing off of patented products. The offender is ordered to correct the errors and pay a fine, among other things.

(vii) The Interest of the Public are Safeguarded and Abuses of Patent Rights Prevented

38. Under our Law, there is no substantive examination for utility model patents. To prevent the rightholder from abusing his right to sue, the amended Article 57 provides that where the infringement disputes relate to a utility model, the People's Court or the Administrative Authority for patent affairs may request the rightholder to furnish search reports made by the patent administration body under the State Council.

(viii) The Compulsory License Conforms Fully to the TRIPS Agreement

39. In 1992 we had already revised our provisions on compulsory licenses in line with the TRIPS Agreement. For example, we have compulsory licenses on reasonable terms, compulsory licenses in the public interest and compulsory licenses in the dependent patents. The difference between our Law and the TRIPS Agreement is only in the conditions governing compulsory licenses for dependent patents. Under our Patent Law, so long as the invention claimed in the later patent is technically more advanced than that claimed in the earlier one, a compulsory license could be granted.¹⁰ However, the condition for the grant of a dependent compulsory license under the TRIPS Agreement is that the invention claimed in the second patent must involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent.¹¹ As the TRIPS provision is more transparent and easy to work with, we brought our Law into line with it in this revision. Besides, the provisions on the grant of compulsory licenses, which are in the Implementing Regulations¹² under the present Patent Law, have been moved into the main body of the amended Law,¹³ including, for example, the one whereby decision of the patent administration body under the State Council to grant a compulsory license for exploitation shall limit its scope and duration; when the circumstances that led to such compulsory license cease to exist and are unlikely to recur, the patent administration body under the State Council may, at the request of the patentee, terminate the compulsory license after examination.

40. In conclusion, to ensure a better future for mankind in the 21st century, we have gone a long way in exploring how inventions and innovations can be stimulated and promoted to contribute to employment and wealth creation. We know that there is considerable room for improvement; we have come here with an open mind to hear the suggestions and learn of the experiences of all of our participants.

[End of document]

¹⁰ Current Chinese Patent Law, Article 53.

¹¹ TRIPS Article 31(1)1.

¹² Implementing Regulations of the Chinese Patent Law Rule 68.

¹³ Amended Chinese Patent Law, Article 52.