

# WIPO



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*WORLD INTELLECTUAL PROPERTY ORGANIZATION*  
GENEVA

## **STANDING COMMITTEE ON THE LAW OF PATENTS**

**First Session**  
**Geneva, June 15 to 19, 1998**

### SUMMARY BY THE CHAIR

Agenda Item 1: Opening of the session

1. The session was opened by Mr. Albert Tramposch, Director, Industrial Property Law Division, who welcomed the participants.

Agenda Item 2: Election of a Chair and two Vice-Chairs

2. The Standing Committee unanimously elected Mr. Alan Troicuk (Canada) as Chair, and Mr. Rimvydas Naujokas (Lithuania) and Mrs. Wen Xikai (China) as Vice-Chairs. Mr. Albert Tramposch (WIPO) acted as Secretary to the Standing Committee.

Agenda Item 3: Adoption of the Revised Agenda

3. The Revised Agenda was adopted without modification, on the understanding that the Brief Summary by the Chair (Agenda item 10) would be presented to the Standing Committee in writing.

Agenda Item 4: Rules of Procedure

4. The Standing Committee discussed organizational and procedural matters, under Part II of document SCP/1/2.

5. As invited in paragraph 11 of document SCP/1/2, the Standing Committee adopted the special rules of procedure proposed in paragraph 5 of that document, and noted the working arrangements described in paragraphs 6 to 10 of that document with the following understandings:

6. The question of languages (paragraph 7 of document SCP/1/2) would be revisited at a future meeting of the Standing Committee in the light of any decision taken by the Assemblies of the Member States of WIPO on that issue.

7. The summary of the conclusions of the Standing Committee provided by the Chair at the conclusion of each session would be in writing, and presented prior to the end of the session.

8. In the process of circulating the draft report for comment following the sessions of the Standing Committee (paragraph 8 of document SCP/1/2), the International Bureau would, if possible, circulate the first draft within one week of the meeting, and would make arrangements for participants to have the opportunity to comment on proposed changes to the report. Until the Committee decides otherwise, the revised report would be submitted to the Standing Committee at the next meeting for adoption.

9. The question of languages and funding for participation of delegates at any future Working Group of the Standing Committee (paragraph 10 of document SCP/1/2) would follow any procedures decided by the Assemblies of the Member States of WIPO on those issues, and meetings of the Working Group would be scheduled, if possible, on dates adjoining the dates of a meeting of the Standing Committee.

Agenda Item 5: Issues to be considered by the Standing Committee

10. The Standing Committee discussed the issues to be considered by that Committee, under Part III of document SCP/1/2, as follows:

Patent formalities harmonization (draft Patent Law Treaty)

11. The Standing Committee discussed this issue (paragraphs 14 to 18 of document SCP/1/2) and agreed that this issue should be discussed with highest priority at its first meeting, and that it should be included on the agenda and discussed with highest priority at the next meeting. It was also agreed that the discussions concerning the PLT should be undertaken in close coordination with discussions concerning PCT reform, electronic filing and information technology in other relevant WIPO bodies, including in particular bodies under the Patent Cooperation Treaty (PCT), and the Standing Committee on Information Technology (SCIT), and that a recommendation to that effect should be made to the SCIT and to the Assemblies of the Member States of WIPO.

### Central recording of changes in patents and patent applications

12. The Standing Committee discussed this issue (paragraphs 19 to 23 of document SCP/1/2) and requested further information concerning this issue before deciding whether a second Consultative Meeting should be convened, as proposed by the International Bureau in paragraph 23 of document SCP/1/2. The Standing Committee agreed that this issue would be discussed at the next session, and that the question of whether a second Consultative Meeting should be convened and, if so, what its terms of reference, including the participation of Member States, should be, would be revisited at that time.

### Disclosure of technical information on the Internet and its impact on patentability

13. The Standing Committee discussed this issue (paragraphs 24 and 25 of document SCP/1/2), and decided that the International Bureau should collect information from the existing literature on this subject for presentation at the next session, and that this issue should be placed on the agenda for discussion at the next session, in particular with respect to whether the issue should be broadened to include related issues such as infringement of patents through use of the Internet. A non-paper on this issue by the Delegation of the United States of America was distributed.

### Biotechnological inventions

14. The Standing Committee discussed this issue (paragraphs 26 to 31 of document SCP/1/2) and agreed that the International Bureau would continue the studies referred to in paragraphs 29 and 30 of document SCP/1/2, and that it would bring this issue before the Standing Committee when appropriate. It was also agreed that the studies should be coordinated with any related work of other WIPO bodies, including the SCIT and PCT bodies.

### Other possible issues

15. The Standing Committee discussed this issue (paragraph 32 of document SCP/1/2), and agreed to revert to this discussion at the next session. Two issues which were mentioned by the Standing Committee were substantive harmonization issues and enforcement.

### Agenda Item 6: Proposal by the Delegation of Sudan presented at the fifth session of the Committee of Experts on the Patent Law Treaty

16. The Standing Committee discussed the Proposal by the Delegation of Sudan presented at the fifth session of the Committee of Experts on the Patent Law Treaty under Part IV of document SCP/1/2.

17. The Standing Committee agreed that this issue would properly be considered by the Assemblies of the Member States of WIPO, but that, prior to referring the issue to those Assemblies, the International Bureau would collect information on the current practices of

countries and regional organizations in this area of fee reductions, that it would consult with the World Trade Organization on the TRIPS-consistency of the Proposal, and that it would present that information to the next session.

#### Agenda Item 7: Establishment of a PLT Electronic Forum

18. The Standing Committee discussed establishment of a PLT Electronic Forum, under Part V of document SCP/1/2, and approved the proposal to establish an Electronic Forum as presented in paragraphs 44 to 50 of that document on the following understanding: (i) that the Forum would be broadened to include all of the work of the Standing Committee, and that therefore it would be referred to as the “SCP Electronic Forum”; (ii) that the Forum would be restricted for the time being to distribution of the draft report and draft working documents and receipt of comments on those documents; (iii) that the International Bureau would establish specific procedures for the Forum in consultation with other relevant committees and information technology experts within WIPO; (iv) that no decisions on substance would be taken; and (v) that documents would be distributed in English, French and Spanish, but that comments could be sent to the International Bureau in any of the six official WIPO languages.

#### Agenda Item 8: Draft Patent Law Treaty

19. The Standing Committee discussed the documents concerning the draft Patent Law Treaty and the accompanying Regulations (documents SCP/1/3 to 5).

20. The Committee agreed that a decision would be taken at this session on the text of each provision, as to whether that provision was adopted, adopted with modifications, deleted, reserved for further discussion or referred to the International Bureau for further study, with the understanding that provisions which have been adopted, adopted with modifications or deleted would be closed for further discussions, except at the express request of a Member of the Standing Committee, or to approve consequential modifications made by the International Bureau when redrafting other provisions.

21. Concerning the specific provisions of the draft PLT and Regulations (document SCP/1/3), the Standing Committee agreed as follows:

##### Draft Article 1

*Item (i).* Referred to the International Bureau for further study.

*Item (ii) to (v).* Adopted.

*Item (vi).* Adopted with modification.

*Item (vii).* Adopted.

*Item (viii).* Adopted with modification.

*Item (ix).* Adopted.

*Item (x).* Adopted with modification in the Spanish text.

*Item (xi).* Referred to the International Bureau for further study.

*Item (xii).* Adopted with modification.

*Item (xiii).* Adopted.

*Item (xiv).* Adopted.

*Item (xv).* Adopted with modification.

*Items (xvi) and (xvii).* Adopted.

*Item (xviii).* Reserved for further discussion.

*New Item on a definition of inventor.* Referred to the International Bureau for further study.

Draft Rule 1. Adopted.

Draft Article 2. Adopted with modifications.

Draft Article 3. Referred to the International Bureau for further study.

Draft Article 4

*Paragraph (1)(a).* Adopted.

*Paragraph (1)(b).* Adopted with modification.

*Paragraph (2)(a).* Adopted.

*Paragraph (2)(b).* Adopted with modification.

*Paragraph (3).* Referred to the International Bureau for further study.

*Paragraph (4)(a).* Adopted.

*Paragraph (4)(b).* Adopted with modification.

*Paragraph (5).* Referred to the International Bureau for further study.

*Paragraph (6).* Referred to the International Bureau for further study.

*Paragraph (7).* Adopted with modification.

*Paragraph (8).* Referred to the International Bureau for further study.

Draft Rule 2

*Paragraph (1).* Referred to the International Bureau for further study.

*Paragraph (2).* Referred to the International Bureau for further study.

*Paragraph (3)(a).* Reserved for further discussion.

*Paragraph (3)(b) and (c).* Deleted.

*Paragraph (3)(d).* Adopted.

*Paragraph (3)(e).* Referred to the International Bureau for further study.

Draft Article 5

*Paragraph (1).* Adopted.

*Paragraph (2)(a).* Adopted with modification.

*Paragraph (2)(b).* Referred to the International Bureau for further study.

*Paragraph (3).* Reserved for further discussion.

*Paragraphs (4) to (10).* Discussion deferred.

Draft Article 13

*Paragraph (1).* Adopted.

*Paragraph (2)(a).* Adopted.

*Paragraph (2)(b), items (i) and (ii).* Adopted; referred to the International Bureau for further study of new item (iii).

*Paragraphs (3) and (4).* Discussion deferred.

*Paragraph (5).* Reserved for further discussion.

*Paragraph (6).* Adopted.

Draft Rule 13

*Paragraph (1).* Adopted.

*Paragraph (2).* Discussion deferred.

Draft Article 14

*Paragraphs (1), (2) and (9).* Referred to the International Bureau for further study.

*Paragraphs (3) to (8).* Discussion deferred.

Draft Rule 14

*Paragraph (1).* Referred to the International Bureau for further study.

*Paragraph (2).* Discussion deferred.

Draft Article 15

*Paragraphs (1), (2) and (9).* Referred to the International Bureau for further study.

*Paragraphs (3) to (8).* Discussion deferred.

Draft Rule 15

*Paragraph (1).* Referred to the International Bureau for further study.

*Paragraph (2).* Discussion deferred.

*Paragraphs (4) to (8).* Discussion deferred.

Draft Article 16

*Paragraph (1).* Adopted.

*Paragraph (2)(a).* Adopted with modification.

*Paragraph (2)(b).* Deleted.

*Paragraph (3).* Adopted with modification.

*Paragraphs (4) to (8).* Discussion deferred.

*Paragraph (9).* Referred to the International Bureau for further study.

Draft Rule 16

*Paragraph (1).* Adopted.

*New Paragraph (Ibis).* Adopted.

*Paragraph (2).* Adopted

*New Paragraph (2bis)*. Adopted.

*Paragraph (3)*. Discussion deferred.

22. Concerning the Model International Forms (document SCP/1/5), the Standing Committee agreed that the Forms would be discussed at the next meeting.

Agenda Item 9: Future work

23. The Standing Committee discussed its future work and decided the following:

24. The work of the first session of the Standing Committee would continue at an additional meeting, which would take place preferably in November 1998.

25. The International Bureau will report to the Assemblies of the Member States of WIPO on the progress made at its first meeting, and will notify those Assemblies that the Standing Committee, in undertaking preparations for a diplomatic conference at the preparatory meeting mentioned in Sub-program 09.1 of the WIPO Program and Budget for 1998-99, expects that it will, at one of its meetings in 1999, set dates for a diplomatic conference which could be held as early as 2000.

Agenda Item 10: Summary by the Chair

26. The Chair presented a draft Summary (document SCP/1/6 Prov.), orally proposed some additions to the draft Summary concerning Articles 5 and 16, Rule 16, and the Model International Forms of the draft Patent Law Treaty, and received comments from the participants.

Agenda Item 11: Closing of the session

27. The Chair adjourned the first session of the Standing Committee, with the understanding that the session would be reconvened, tentatively, in November 1998.

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