

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

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OVERVIEW OF PROVISIONS REGARDING TECHNICAL ASSISTANCE AND CAPACITY BUILDING IN TREATIES ADMINISTERED BY THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Document prepared by the Secretariat

INTRODUCTION

1. At the forty-first (21st Extraordinary) session of the World Intellectual Property Organization (WIPO) General Assembly, held in Geneva from October 1 to 9, 2012, the General Assembly adopted the following text:

“The WIPO General Assembly notes the Summary by the Chair of the 27th session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), and the progress made by the SCT on industrial design law and practice - draft Articles and Regulations.

“Recognizing the importance for all member States of a Design Law Treaty, the General Assembly urges the SCT to expedite in a committed manner work with a view to advance substantially the basic proposals for a Design Law Treaty (draft Articles and Regulations contained in revised Annexes of documents SCT/27/2 and SCT/27/3).

“In its work, consideration will be given to include appropriate provisions regarding technical assistance and capacity building for developing countries and LDCs in the implementation of the future Design Law Treaty.

“The General Assembly in 2013 will take stock of and consider the text, progress made, and decide on convening a diplomatic conference” (document WO/GA/41/18 Prov., paragraph 229).

2. The Secretariat has prepared the present document to assist the SCT in considering appropriate provisions regarding technical assistance and capacity building for developing countries and least developed countries (LDCs) in the implementation of the future Design Law Treaty.

3. The document provides an overview of provisions regarding technical assistance and capacity building for developing countries and/or LDCs contained in WIPO-administered treaties. The provisions identified can be classified in two different categories, namely assistance to facilitate the participation in meetings of the respective Assembly (I), and assistance with a view to facilitating the implementation of a given treaty (II).

I. FINANCIAL ASSISTANCE TO FACILITATE PARTICIPATION IN RELEVANT ASSEMBLIES

4. A number of WIPO-administered treaties contain a provision whereby the relevant Assembly of the treaty may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

5. The treaties that contain such provision are the following:

- (a) Beijing Treaty on Audiovisual Performances (BTAP), in Article 21(1)(c);
- (b) Washington Treaty on Intellectual Property in Respect of Integrated Circuits, in Article 9(1)(d);
- (c) WIPO Copyright Treaty (WCT), in Article 15(1)(c); and
- (d) WIPO Performances and Phonograms Treaty (WPPT), in Article 24(1)(c).

II. TECHNICAL ASSISTANCE FOR THE IMPLEMENTATION OF A TREATY

6. The following provisions regarding technical assistance with a view to facilitating the implementation of the treaty or a given provision of the treaty could be identified.

- (a) Patent Law Treaty (PLT)

7. Section 4 of the Agreed Statements by the Diplomatic Conference regarding the Patent Law Treaty and the Regulations under the Patent Law Treaty states the following:

“4. With a view to facilitating the implementation of Rule 8(1)(a) of this Treaty, the Diplomatic Conference requests the General Assembly of the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide the developing and least developed countries and countries in transition with additional technical assistance to meet their obligations under this Treaty, even before the entry into force of the Treaty.

“The Diplomatic Conference further urges industrialized market economy countries to provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least developed countries and countries in transition.

“The Diplomatic Conference requests the WIPO General Assembly, once the Treaty has entered into force, to monitor and evaluate the progress of that cooperation every ordinary session.”

(b) Singapore Treaty on the Law of Trademarks (STLT)

8. Sections 4 to 8 of the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks state the following:

“4. With a view to facilitating the implementation of the Treaty in Developing and Least Developed Countries (LDCs), the Diplomatic Conference requested the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide additional and adequate technical assistance comprising technological, legal and other forms of support to strengthen the institutional capacity of those countries to implement the Treaty and enable those countries to take full advantage of the provisions of the Treaty.

“5. Such assistance should take into account the level of technological and economic development of beneficiary countries. Technological support would help improve the information and communication technology infrastructure of those countries, thus contributing to narrowing the technological gap between Contracting Parties. The Diplomatic Conference noted that some countries underlined the importance of the Digital Solidarity Fund (DSF) as being relevant to narrowing the digital divide.

“6. Furthermore, upon entry into force of the Treaty, Contracting Parties will undertake to exchange and share, on a multilateral basis, information and experience on legal, technical and institutional aspects regarding the implementation of the Treaty and how to take full advantage of opportunities and benefits resulting therefrom.

“7. The Diplomatic Conference, acknowledging the special situation and needs of LDCs, agreed that LDCs shall be accorded special and differential treatment for the implementation of the Treaty, as follows:

(a) LDCs shall be the primary and main beneficiaries of technical assistance by the Contracting Parties and the World Intellectual Property Organization (WIPO);

(b) such technical assistance includes the following:

(i) assistance in establishing the legal framework for the implementation of the Treaty,

(ii) information, education and awareness raising as regards the impact of acceding to the Treaty,

(iii) assistance in revising administrative practices and procedures of national trademark registration authorities,

(iv) assistance in building up the necessary trained manpower and facilities of the IP Offices, including information and communication technology capacity to effectively implement the Treaty and its Regulations.

“8. The Diplomatic Conference requested the Assembly to monitor and evaluate, at every ordinary session, the progress of the assistance related to implementation efforts and the benefits resulting from such implementation.”

(c) Washington Treaty on Intellectual Property in Respect of Integrated Circuits

9. Article 10(1)(a)(ii) of the Washington Treaty on Intellectual Property in Respect of Integrated Circuits states the following:

“The International Bureau of the World Intellectual Property Organization shall: subject to the availability of funds, provide technical assistance, on request, to the Governments of Contracting Parties that are States and are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations.”

(d) Patent Cooperation Treaty (PCT)

10. Article 51 of the Patent Cooperation Treaty, entitled “Technical Assistance”, states:

“(1) The Assembly shall establish a Committee for Technical Assistance (referred to in this Article as “the Committee”).

“(2)(a) The members of the Committee shall be elected among the Contracting States, with due regard to the representation of developing countries.

“(b) The Director General shall, on his own initiative or at the request of the Committee, invite representatives of intergovernmental organizations concerned with technical assistance to developing countries to participate in the work of the Committee.

“(3)(a) The task of the Committee shall be to organize and supervise technical assistance for Contracting States which are developing countries in developing their patent systems individually or on a regional basis.

“(b) The technical assistance shall comprise, among other things, the training of specialists, the loaning of experts, and the supply of equipment both for demonstration and for operational purposes.

“(4) The International Bureau shall seek to enter into agreements, on the one hand, with international financing organizations and intergovernmental organizations, particularly the United Nations, the agencies of the United Nations, and the Specialized Agencies connected with the United Nations concerned with technical assistance, and, on the other hand, with the Governments of the States receiving the technical assistance, for the financing of projects pursuant to this Article.

“(5) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose.”

11. The SCT is invited to take note of the contents of this document and to consider appropriate provisions regarding technical assistance and capacity building for developing countries and LDCs in the implementation of the future Design Law Treaty.

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