

WIPO



WO/GA/34/5

ORIGINAL: English

DATE: August 17, 2007

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

E

WIPO GENERAL ASSEMBLY

Thirty-Fourth (18th Ordinary) Session Geneva, September 24 to October 3, 2007

MATTERS CONCERNING THE ESTABLISHMENT OF A WORK PROGRAM FOR THE STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

Document prepared by the Secretariat

1. At its thirty-third (16th extraordinary) session from September 25 to October 3, 2006, the General Assembly of the World Intellectual Property Organization (WIPO) took note of the report on the progress of the Standing Committee on the Law of Patents (SCP) in respect of the draft Substantive Patent Law Treaty (SPLT), considered a new work plan for the SCP in 2007 and adopted the following statement:

“Following informal consultations conducted by the Chair, The General Assembly decided that:

(i) delegations may submit, by December 2006, proposals for the work program of the Standing Committee on the Law of Patents (SCP) including proposals on ways forward or approaches. Proposals will be circulated in consolidated form to all member States;

(ii) the Chair of the General Assembly will conduct informal consultations in the first half of 2007 for the purpose of discussing the proposals and recommending a work plan for the SCP to the General Assembly in September 2007. In this regard, the Chair will decide the form of the consultations, which shall be inclusive, and whether it is desirable to hold informal consultations in a meeting of all member States; and

(iii) the General Assembly in September 2007 will consider the results of the consultations with a view to establishing a work plan for the SCP for 2008 and 2009.”¹

2. Following the above decision, seven member States and the member States of one intergovernmental organization submitted proposals for the work program of the SCP, which were circulated to all member States. Subsequently, the Chair of the WIPO General Assembly convened a number of informal consultations in Geneva with all the regional groups and China as well as with the group coordinators during the month of May, 2007. These meetings were followed by informal consultations with all interested Member States of WIPO on June 22, 2007.

3. The above consultations were held in a positive spirit and Member States expressed their willingness to be flexible in addressing the future work program of the SCP. While it was not possible, in terms of the substantive contents of a work program for the SCP, to overcome all differences among the various positions, Member States considered various approaches for the continuation of the work of the SCP. Following Member States' guidance, the Chair of the WIPO General Assembly concluded the consultation process by formulating a recommendation concerning the future work program of the SCP to the General Assembly. This recommendation is contained in the Annex to this document.

4. *The General Assembly is invited:*

(i) *to take note of the information contained in this document; and*

(ii) *to adopt the recommendation by the Chair of the WIPO General Assembly contained in the Annex.*

[Annex follows]

¹ WIPO document WO/GA/33/10, paragraph 144

ANNEX

Recommendation by the Chair of the WIPO General Assembly Concerning the Establishment
of a Work Program for the Standing Committee on the Law of Patents (SCP)

With respect to the future work program of the Standing Committee on the Law of Patents (SCP), the Chair of the WIPO General Assembly recommends the establishment, by the WIPO Secretariat, of a report on issues relating to the international patent system covering the different needs and interests of all Member States, which would constitute the working document for a session of the SCP to be held in the first half of 2008.

The report will contextualize the existing situation of the international patent system, including references to the WIPO Development Agenda process, and will contain no conclusions.

An outline for such a report, on which Member States already had the opportunity to make comments, is contained in the Appendix.

The report itself will be made available to all members and observers of the SCP by the end of March 2008.

[Appendix follows]

APPENDIX

Report on International Patent System

Indicative draft outline (Rev.1)

- I. Introduction: Scope of the Document and Sources of Data
- II. The Current Multilateral Framework
 - a. Existing International Instruments
 - i. Paris Convention, Strasbourg Agreement (IPC), Patent Cooperation Treaty (PCT), Budapest Treaty, Patent Law Treaty (PLT), Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement)
 - b. Framework Principles
 - i. Paris Convention
 - ii. TRIPs Agreement
 - c. Substantive Norms and Flexibilities
 - i. Paris Convention
 - ii. TRIPs Agreement
 - d. Formalities
 - i. PLT (and PCT)
 - e. Administrative Cooperation
 - i. IPC and Budapest Treaty
 - f. International Filing and Processing System
 - i. PCT
- III. Economic Demand for Patents and Different Interests and Needs in the International Patent System
 - a. Use of the Patent System
 - b. Recent Discussions on Substantive Patent Law Harmonization
 - c. Developing Countries

- IV. Patent Systems and Existing Forms of Cooperation
 - a. The Application
 - b. Search and Examination
 - c. Opposition
 - d. Selected Issues under Discussion
 - i. Demand Management
 - ii. Prior Art
 - iii. Novelty
 - iv. Inventive Step (Obviousness)
 - v. Grace Period
 - vi. Sufficiency of Disclosure
 - vii. Subject-matter Coverage and Exclusions
 - viii. Exceptions (Including Research Exemption)
 - ix. Quality
 - x. Challenges in the Fields of Emerging Technologies
- V. Support Structures for the Patent System
 - a. Patent Attorneys
 - b. Professional Privilege
- VI. Technology Disclosure through the Patent System
 - a. Access to Patent Information and the Technology Disclosed in Patent Documentation
 - b. Linguistic Diversity of the Prior Art
- VII. Technology Diffusion and the Patent System
 - a. Licensing and the Transfer of Technology
 - i. Anticompetitive Patent Licensing Practices
 - ii. Patent Pools
 - b. Standards
 - c. Collaborative Research Projects

- VIII. The Innovation Incentive in the Context of Public Policy Objectives
 - a. Health
 - b. Biological Diversity
 - i. Patent System and Biological Diversity, Including Disclosure of Origin, Prior Informed Consent and Benefit Sharing Arrangements
 - c. Traditional Knowledge
 - i. Patent System and Traditional Knowledge, Including Disclosure of Origin, Prior Informed Consent and Benefit Sharing Arrangements
 - d. Ethics
- IX. Perceived Threats to the Effectiveness of Patents as Incentives to Innovation
 - a. Litigation
 - b. Cost
 - c. Patent Thickets

[End of Annex and of document]