

SCP/20: FUTURE WORK - SUGGESTED BY THE FACILITATOR

January 31, 2014
18h00

1. The non-exhaustive list of issues will remain open for further elaboration and discussion at the next session of the SCP.

2. Without prejudice to the mandate of the SCP, the Committee agreed that its work for the next session (SCP/21) be confined to fact-finding and not lead to harmonization at this stage, and would be carried out as follows:

(1) *Exceptions and Limitations to Patent Rights*

(i) The Secretariat will prepare a document, based on input received from Member States, on how the following exceptions and limitations are implemented in Member States, without evaluating the effectiveness of those exceptions and limitations: acts for obtaining regulatory approval from authorities; exhaustion of patent rights; compulsory licensing and/or government use; and exceptions and limitations relating to farmers' and/or breeders' use of patented inventions. The document should also cover practical challenges encountered by Member States in implementing them.

(ii) A 1/2 day seminar as proposed in document SCP/19/6 will be organized during SCP/21 on the above exceptions or limitations.

(2) *Quality of Patents, including Opposition Systems*

(i) The following two studies will be prepared by the Secretariat and submitted to SCP/22. They will be based on the information provided by Member States, and will be a collection of factual information without analysis or recommendation:

(a) a study on inventive step that contains the following elements: the definition of the person skilled in the art, methodologies employed for evaluating an inventive step and the level of the inventive step; and

(b) a study on sufficiency of disclosure that contains the following elements: the enabling disclosure requirement, support requirement and written description requirement.

(ii) The Committee will have an information sharing session during SCP/21 among Member States regarding experiences on international work sharing and collaboration. The Committee shared the understanding that discussions on work sharing and collaboration do not imply any automatic acceptance of work sharing products and do not prejudice the sovereign rights of Member States in processing patent applications and patents in accordance with the applicable law.

(iii) Document SCP/20/11 Rev. will be added to the working documents listed in the agenda of the next session of the SCP.

(iv) The Secretariat will improve the WIPO webpage (PCT-PPH) on work sharing initiatives.

(3) *Patents and Health*

(i) The Secretariat, in collaboration, to the extent possible, with the WHO and WTO, will carry out, for SCP/21, a feasibility study on the disclosure of International Nonproprietary Names (INNs) in patent applications and/or patents.

(ii) The Secretariat will prepare, for the next session of the SCP, a study on the role of patent systems in promoting innovative medicines, and in fostering the technology transfer necessary to make generic and patented medicines available in developing countries/least developed countries.

(iii) At SCP/21, the potential of a study on the implementation of flexibilities concerning different types of exhaustion of rights in Member States and its contents will be discussed.

(4) *Confidentiality of communications between clients and their patent advisors*

(i) The Secretariat will publish the information contained in document SCP/20/9 on the SCP electronic forum website in more accessible and user-friendly format, and update regularly.

(ii) The Committee will conduct, at the next session, a half-day seminar on the confidentiality of advice from patent advisors and practical experiences of clients as well as patent advisors.

(iii) Member States are invited to submit proposals on this topic.

(5) *Transfer of Technology*

(i) The Secretariat will collect further practical examples and experiences on patent-related incentives and impediments to transfer of technology from members and observers of the SCP, in particular from least developed countries, taking into account the dimension of absorptive capacity in technology transfer.

(ii) Member States are invited to submit proposals on this topic.

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