

PROTOCOL GOVERNING THE MEMBERSHIP, ROLE AND RESPONSIBILITIES OF AIPPI'S STANDING COMMITTEES

1. Background

- 1.1 Standing Committees may have Terms of Reference relating to a particular area of intellectual property (*IP*) law (eg patents, trademarks, copyright, designs), particular topics relevant to IP (eg green technology, commercialisation of IP), or emerging areas or new developments relevant to IP (eg free trade agreements, the unified European patent system).
- 1.2 Standing Committees allow AIPPI to deal promptly and effectively with such matters, and particularly those requiring action outside the regular cycle for Study Questions. This is important in view of consultations, meetings or other projects in which AIPPI wishes to or is invited to participate, and where it is necessary to formulate a position before the next meeting of the AIPPI ExCo takes place.
- 1.3 Accordingly, Standing Committees provide a pool of active members willing to monitor, comment and advise AIPPI on matters relevant to their respective Terms of Reference. This includes representing AIPPI at the meetings of external organisations, for example, WIPO committees and other meetings of GOs and NGOs (*External Representation*) thereby increasing AIPPI's presence, visibility and influence.
- 1.4 The work of a Standing Committee may precipitate or evolve into a Study Question. The output of a Study Question may also lend itself to ongoing work by an existing Standing Committee, or the Bureau may set up a new Standing Committee for this purpose.
- 1.5 The Bureau may appoint new Standing Committees or dissolve existing Standing Committees at any time.¹
- 1.6 The Bureau appoints all members of Standing Committees, including any member as Chair, Co-Chair or Secretary of a Standing Committee (collectively, *SC Leadership*).

2. Purpose of this protocol

- 2.1 The purpose of this protocol is to describe how members of Standing Committees are appointed and removed, and the role and responsibilities of the SC Leadership and general members of Standing Committees.

¹ Article 9.8 Statutes of AIPPI (*Statutes*)

- 2.2 This protocol also describes the relationship of Standing Committees with the Bureau and the General Secretariat. Any role of the Bureau as set out in this protocol may be delegated by the Bureau to the Reporter General Team (**RGT**) or a member of the RGT. The Bureau has delegated primary responsibility for Standing Committees to the RGT. Any role of the RGT, as set out in this protocol, is authorised by the Bureau.
- 2.3 This protocol will be published on AIPPI's website. It may be amended from time to time. Any amendments will not take effect until published.
- 3. Appointment and removal of Standing Committee members**
- 3.1 Only AIPPI members may be members of Standing Committees.²
- 3.2 The Bureau may invite nominations from National or Regional Groups (collectively, **Groups**), and delegates of the Independent Members (collectively **IM Delegates**) for membership of Standing Committees at any time. Groups and IM Delegates may also nominate candidates at any time.
- 3.3 In addition to 3.2 above, each year after AIPPI's annual Congress (**Congress**), the RGT will invite the Groups and IM Delegates to nominate candidates to the extent there are available places in any Standing Committee. See further 3.5 below.
- 3.4 Any nomination must address the criteria for appointment as set from time to time. Nominees must have expertise or experience relevant to the work of the Standing Committee for which they are nominated, and must be able to commit to being an active member of that committee. The Bureau will exercise discretion where it is judged that a nominee can actively contribute to more than one committee, or the needs of a particular committee are best served by a nominee who is already a member of another committee.
- 3.5 Each Group and each group of Independent Members may have a maximum of 3 members serving on any one Standing Committee at any time, provided that at least 1 such member is an in-house counsel or is otherwise from industry.³ Otherwise, the maximum is 2 members per Standing Committee.
- 3.6 There will be one effective appointment date for all new members of Standing Committees for each calendar year. A person appointed to a Standing Committee after a Congress, but in the same year as that Congress, is deemed to have been appointed effective 1 January of the following year. A person appointed in the year of but prior to the annual Congress is deemed to have been appointed effective 1 January of the year of that Congress.

² If membership is by way of 'Company' or 'Firm' membership, only the designated contact person may be a member of a Standing Committee. If another member of the same company or firm wishes to join a Standing Committee, they will need to become a member of AIPPI in their personal capacity.

³ Refers to any legal entity that holds IP, or employee of such legal entity, where the main activity of the legal entity is not the practice or academic study of IP law or the administration of IP or IP law. This excludes those in private practise (whether as a lawyer, attorney, patent or trade mark agent or the like), barristers or other advocates, members of the judiciary, and those working in academia or in other professional services areas.

- 3.7 The appointment of any member of a Standing Committee will be for a term of 3 years, as measured by reference to 3.6 above, after which the member is automatically released from service on that Standing Committee. The Bureau may extend the term of any member in order to maintain continuity of the work of a Standing Committee. In deciding whether to extend any term, the Bureau will consult with the relevant SC Leadership and take into account considerations including:
- (a) the member's length of service on the Standing Committee;
 - (b) the member's contribution to the work of the Standing Committee;
 - (c) succession planning and creating opportunities for the broader membership of AIPPI to serve on Standing Committees.
- 3.8 In appointing any member to an SC Leadership position, the Bureau will have regard to the matters in 3.7 above, as well as the geographic and gender diversity of the SC Leadership. In the interests of diversity, as a general rule, it will not be appropriate for the SC Leadership of a particular Standing Committee to include more than one member of the SC Leadership from the same Group, firm or employer. Collectively, these factors are referred to as the ***Diversity Criteria***.
- 3.9 The term of any SC Leadership position will also be 3 years, after which the member holding that SC Leadership position is automatically released. The Diversity Criteria also apply to any extension of any term of any SC Leadership position. Any person in an SC Leadership position may be asked by the Bureau to continue serving on the Standing Committee as an ordinary member of that committee after ceasing to be a member of the SC Leadership.
- 3.10 Notwithstanding the above, the Bureau may:
- 3.10.1 remove any member of a Standing Committee (including any member holding an SC Leadership position) at any time based on any of the following factors:
 - (a) the matters referred to in 3.4 above;
 - (b) inactivity or inability to fulfil relevant responsibilities as set out in this protocol;
 - (c) any appearance of or actual conflict of interest;
 - (d) illness;
 - (e) other roles within AIPPI; or
 - 3.10.2 ask any member holding an SC Leadership position to step down from their position at any time based on the factors referred to in 3.10.1 above or the Diversity Criteria.

- 3.11 The Bureau will consult with any member it proposes to remove from a Standing Committee or any member it proposes to ask to step down from an SC Leadership position but retains the discretion, acting reasonably, to remove a member from a Standing Committee or ask a member to step down from an SC Leadership position, as described above.
- 3.12 Any member of a Standing Committee may resign at any time for any reason by giving notice to the Reporter General.

4. Communications with the RGT and the General Secretariat

- 4.1 There is an RGT member designated as the primary RGT contact for each Standing Committee (***RGT Link***). The RGT Links are as set out in Annexure A to this protocol.
- 4.2 All communications relating to the substantive work of Standing Committees should be directed to the relevant RGT Link, with a copy to the General Secretariat (StandingCommittees@aippi.org) and the Reporter General (s.matheson@aippi.org).
- 4.3 All communications relating to the administrative work of Standing Committees should be directed to the General Secretariat (StandingCommittees@aippi.org) with a copy to the relevant RGT Link and the Reporter General (s.matheson@aippi.org).

5. Terms of Reference

- 5.1 The Terms of Reference for a Standing Committee set the scope of work for that committee. The Terms of Reference are set by the RGT.
- 5.2 The RGT will consult with the Chair in relation to any proposed amendments to the Terms of Reference of an existing Standing Committee. The Chair of a Standing Committee may also propose amendments to the Terms of Reference for that Standing Committee at any time.
- 5.3 The Terms of Reference for all Standing Committees will be published. Any amendments to any Terms of Reference will not take effect until published.

6. General role and responsibilities of all members of Standing Committees

- 6.1 Any appointment to a Standing Committee is a personal appointment.
- 6.2 In serving on a Standing Committee, members represent the interests of the committee and AIPPI as a whole, not the interests of their Group or group of Independent Members (as the case may be).
- 6.3 Members of Standing Committees must adhere to their committee's Terms of Reference.
- 6.4 All members of Standing Committees have a responsibility to be alert to developments of potential significance to their committee's work, to inform other members of such developments, to propose any work for that committee and to participate in the work of that committee as set out in this protocol or as requested by their SC Leadership or the RGT.

- 6.5 Members of Standing Committees are expected to participate, so far as practicable, in the meetings referred to at 7.1 and 7.5 below.
- 7. Additional responsibilities of Chairs**
- 7.1 The Chair must involve the Co-Chair and the Secretary in the leadership of the Standing Committee, and the other members of the Standing Committee in the work of the committee including by maintaining regular contact with members, and convening such meetings (via telecon, videolink etc) as are necessary or desirable to fulfil the Terms of Reference and the role and responsibilities set out in this protocol. As a minimum, the Standing Committee should meet (whether in person or via telecom, videolink, etc) 4 times per year, including the meeting referred to in 7.5 below.
- 7.2 The Chair must, in consultation with the other members of the Standing Committee, set the priorities for the work of the committee for each reporting period, including if the Chair considers that any developments call for action by AIPPI. In addition, the Chair must consider any requests by the RGT in this regard.
- 7.3 The Chair must, two months before a Congress or following a request by the RGT, submit a report on the Standing Committee's activities over the previous year, and proposed work plan and priorities for the following year (**Work Plan**). The report must be:
- (a) prepared in consultation with and approved by the members of the Standing Committee; and
 - (b) submitted in the form, and within any time, set by the RGT.
- The Chair is responsible for the Standing Committee's adherence to the Work Plan.
- 7.4 In addition, the Chair must promptly inform the RGT of all:
- (a) substantive activities of the Standing Committee, including providing relevant documentation;
 - (b) any substantive or new recommended course of action (having made all reasonable efforts to consult with the other members of the committee) but will not take such course of action without the consent of the RGT.
- 7.5 The Chair must convene a Standing Committee meeting during each Congress, during which the work plan and priorities of the Standing Committee for the following year is discussed and tasks allocated to members.
- 7.6 As requested by the RGT or the General Secretariat, or as the work of the Standing Committee warrants it, the Chair must arrange for the Standing Committee to prepare articles to be published in any AIPPI or other appropriate publication.

8. Additional responsibilities of Co-Chairs

- 8.1 The Co-Chair is the Deputy to the Chair and must support the Chair in their role and responsibilities as requested by the Chair or the RGT, or as otherwise described in this protocol, including substituting for the Chair (eg presenting on behalf of the Standing Committee at a Congress, External Representation).

9. Responsibilities of Secretaries

- 9.1 The Secretary is responsible for taking the minutes of any meeting of the Standing Committee and must support the Chair and Co-Chair in their responsibilities as requested by the Chair, the Co-Chair or the RGT, or as otherwise described in this protocol.
- 9.2 If the Chair or Co-Chair is not able to fulfil a responsibility as described in 8.1 above, the Secretary will, where requested, undertake that responsibility.

10. Additional substantive work of Standing Committees

Resolutions

- 10.1 Standing Committees will be invited to propose topics for Study Questions which will, in general, lead to a Resolution of AIPPI within the standard cycle for Study Questions.
- 10.2 In addition, Standing Committees may, in consultation with the RGT, propose Resolutions for adoption by AIPPI (***Standing Committee Resolution***). Prior to the Congress at which any Standing Committee Resolution will be proposed, the Chair must, in consultation with the RGT:
- (a) prepare any report relating to the proposed Standing Committee Resolution and, in the event that the proposed Standing Committee Resolution is prepared on the basis of any questionnaire sent to the Groups and IM Delegates, prepare a summary report which synthesizes the responses to the questionnaire and notes points for discussion;
 - (b) circulate the report to the Groups and IM Delegates by no later than two weeks prior to the Congress;
 - (c) appoint a drafting group to prepare a first draft of the proposed Standing Committee Resolution;
 - (d) circulate a first draft of the Standing Committee Resolution to the Groups and IM Delegates by no later than two weeks prior to the Congress;
 - (e) invite the Groups and IM Delegates to comment on the draft Standing Committee Resolution in writing within a specific period prior to the commencement of the Congress; and
 - (f) after receiving responses, and after such further correspondence or discussion as may be desirable, finalise the form of the draft Standing Committee Resolution for consideration at a plenary session at the Congress.

- 10.3 The Chair will chair the plenary session at which the draft Standing Committee Resolution is debated and subsequently, in consultation with the RGT, assist the drafting group to finalise the format the Standing Committee Resolution to be proposed to the Executive Committee for voting.

Position Papers

- 10.4 On the initiative of one or more Standing Committees and as approved by the RGT, or at the request of the RGT, Standing Committees may prepare reports or opinions (collectively, **Position Papers**) in circumstances where there is no AIPPI Resolution. Where, as determined by the Bureau, the matter is of sufficient importance or urgency to warrant a position on behalf of AIPPI, the relevant Standing Committee(s) should study the matter and seek to reach agreement on a position. The SC Leadership must advise the RGT which Standing Committee members agree or disagree with the proposed position.
- 10.5 The SC Leadership is responsible for the preparation of any Position Paper which will, upon approval by the Bureau, be published and sent to any relevant recipient (as agreed between the SC Leadership and the RGT) on behalf of AIPPI. Such Position Paper will state that, while AIPPI does not yet have an officially adopted position (ie a Resolution) on the matter, the Position Paper represents the views of the relevant Standing Committee(s), together with any other qualifications as required by the Bureau.

Submissions

- 10.6 On the initiative of one or more Standing Committees and as approved by the RGT, or at the request of the RGT, Standing Committees may prepare submissions or responses to consultations in relation to which AIPPI is invited to participate (**Submissions**). Any relevant AIPPI Resolutions should be cited in any Submissions. The relevant Standing Committee(s) should seek to reach agreement on all other matters included in any Submissions. The SC Leadership must advise the RGT which Standing Committee members agree or disagree with the proposed Submissions.
- 10.7 The SC Leadership is responsible for the preparation of any Submissions which will, upon approval of the Bureau, be submitted to the relevant organisation on behalf of AIPPI. The Submissions will state any qualifications required by the Bureau.

External Representation

- 10.8 Any External Representation must be authorised in advance by the Bureau. The Chair must consult with the RGT in relation to the nature, duration and expense associated with any such representation prior to:
- (a) responding to any invitation for External Representation; and
 - (b) seeking the availability of any member of their Standing Committee for such representation.

- 10.9 A member of the Standing Committee engaged in External Representation should promote AIPPI and its activities in the course of such representation but must at all times follow:
- (a) any direction by their SC Leadership or the RGT; and
 - (b) any protocol
- relating to the communicating of AIPPI views.
- 10.10 A member of a Standing Committee engaged in External Representation must follow any relevant protocol relating to External Representation including:
- (a) seeking advance approval of all expected expenses relating to any External Representation;
 - (b) copying all communications concerning any External Representation to the RGT;
 - (c) submitting a report on the External Representation in the form set by the RGT within one month of the External Representation; and
 - (d) submitting any invoices for reimbursement of approved costs associated with such External Representation to the General Secretariat within one month of such representation.
- 10.11 In addition to 10.10(b) above, any written communication by a member of a Standing Committee on behalf of their Standing Committee or on behalf of AIPPI must be copied to the RGT.

***Reporter General
May 2016***

ANNEXURE A

Standing Committee	RGT Link	Email address
Alternative Dispute Resolution	Ari Laakkonen	a.laakkonen@aippi.org
Client Attorney Privilege	Sarah Matheson	s.matheson@aippi.org
Commercialisation of IP	Ralph Nack	r.nack@aippi.org
Copyright	Anne Marie Verschuur	am.verschuur@aippi.org
Designs	Anne Marie Verschuur	am.verschuur@aippi.org
Development and IP	Ari Laakkonen	a.laakkonen@aippi.org
Enforcement	Ari Laakkonen	a.laakkonen@aippi.org
Free Trade Agreements	Yusuke Inui	y.inui@aippi.org
Geographical Indication	Anne Marie Verschuur	am.verschuur@aippi.org
IP and Green Technology	Ralph Nack	r.nack@aippi.org
IP and GRTK (Genetic Resources and Traditional Knowledge)	Yusuke Inui	y.inui@aippi.org
IT and Internet	John Osha	j.osha@aippi.org
Patents	John Osha	j.osha@aippi.org
PCT (Patent Cooperation Treaty)	John Osha	j.osha@aippi.org
Pharma and Biotechnology ⁴	Ralph Nack	r.nack@aippi.org
Piracy and Counterfeiting	Yusuke Inui	y.inui@aippi.org
Standards and Patents	John Osha	j.osha@aippi.org
Trademarks ⁵	Anne Marie Verschuur	am.verschuur@aippi.org
TRIPS	Yusuke Inui	y.inui@aippi.org
UP/UPC (Unitary Patent / Unified Patent Court)	Ari Laakkonen	a.laakkonen@aippi.org

⁴ Biotechnology and Plant Breeders Rights forms a subcommittee of the Standing Committee on Pharma and Biotechnology

⁵ Includes an ICANN subcommittee