



Date: 5th September 2018

# REPORT

## Standing Committee on

### TRIPS

Chair: Catherine MATEU  
Responsible Reporter: Yusuke Inui

1)  
Report on the activities of your Standing Committee during the reporting period  
Please provide a general overview of the activities of your Standing Committee over the last 12 months, including at least:

a)  
internal meetings of the Standing Committee during the reporting period (whether by telephone, video conference or in person);

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During the reporting period (September 19, 2017 to September 3, 2018) the TRIPS SC had the following meetings:

During the Sydney World Congress i) meetings with the Pharma SC on October 14, 2017, with the GI SC on October 15, 2017; with FTA SC on October 16, 2017  
ii) internal meeting of the TRIPS SC on October 15, 2017;

During the rest of the reporting period: internal monthly telephone conferences of the TRIPS SC on October 5, 2017; November 7, 2017; December 5, 2017; February 6, 2018 - also attended by Antony Taubman and Wolf Meier-Ewert from the IP Division of the WTO; March 6, 2018; April 19, 2018 - also attended by Antony Taubman and Wolf Meier-Ewert from the IP Division of the WTO; May 15, 2018; May 29, 2018; June 5, 2018; July 3, 2018; August 7, 2018.

TRIPS SC representatives also had meetings with representatives of the Pharma SC on December 19, 2017.

b)  
were proposals for panel sessions and study questions submitted and/or did your Standing Committee further contribute in this respect (e.g. by providing input to the draft Study Guidelines)?

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The TRIPS SC prepared and submitted a number of proposals for a Panel Session at the coming Cancun World Congress this year, namely: *"From the WTO to businesses: the testimonial of a daily practice of TRIPS"*; *"TRIPS, intellectual property, labelling and packaging product regulations"*; *"The relation between the FTAs, regional agreements and TRIPS principles within Brexit"*; and jointly with the GRTK SC *"Traditional knowledge and international IP protection, together or apart?"*; but none of these has been accepted by the Organizing Committee.

Jointly with the Pharma and Biotech SC, the TRIPS SC prepared a proposal on *"Panel Discussion regarding the September 2016 Report on Access to Medicines by a High-Level Panel appointed by the United Nations Secretary General"* that was accepted.

The TRIPS SC also prepared and submitted a number of proposals for a Working Session or a Workshop at the coming WTO Public Forum this year, namely: *"Access to medicines"*, which has been submitted also for the WTO Workshop on Trade and Public Health to be held in Geneva this year just after the WTO Public Forum; *"Blockchain - An emerging technology poised to revolutionize intellectual property asset transactions"*; and *"Biological material disclosure(s)"*; but none of these has been accepted by the WTO Public Forum Organization (nor, as to *"Access to medicines"*, by the WTO Workshop on Trade and Public Health), due to the dramatic increase of the number of proposals submitted this year and to the need to give the floor to other organizations. Luca Rinaldi will nevertheless attend the whole WTO Public Forum 2018 as reporter of the TRIPS SC.

c)  
any external representation and participation in working groups on behalf of AIPPI by any member of your Standing Committee (e.g. at WIPO, EUIPO);

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Luca Rinaldi, currently TRIPS SC Vice-Chair, organized and moderated a working session on *"IP and other e-commerce-related legal frameworks' harmonization as a means of inclusive trade"* at the WTO public forum 2017 *"Trade: Behind the Headlines"*, held on September 28, 2017. With the assistance from other TRIPS SC members and the generous support of the Secretariat, he has selected, contacted and arranged for a number of very interesting topics to be discussed and a very impressive panel, composed of - besides him as moderator - Hosuk Lee-Makiyama, economist, Director of European Centre for International Political Economy; Ana Leyva Wong, Head of the Regional Office of Peru's Competition and Consumer Protection Bureau and Ricardo Lagreca, Legal and Governmental Relations Senior Director at MercadoLibre Inc. An AIPPI cocktail reception followed the event. The working session has been commented by various international observers (f.i. IP Watch, Digital Watch), published (audio recorded) and reported in writing by Mr. Rinaldi on the WTO website, and a link to the session and to the report has been included in the TRIPS SC website page.

Catherine Mateu, TRIPS SC Chair, and Ivan Hjertman, TRIPS SC member, made a presentation on TRIPS and on the TRIPS SC at the Booth of the Sydney World Congress on Sunday October 15.

Catherine Mateu also made a presentation of AIPPI and the TRIPS SC at the "Symposium for IP Judges" organized by the WTO in Geneva, on December 15, 2017. A report on the presentation has been prepared by Ms. Mateu, and included in the TRIPS SC website page.

Ivan Poli, TRIPS SC member, has attended the 11<sup>th</sup> WTO Ministerial Conference in Buenos Aires, from 10 to 13 December, 2017. A report on the Ministerial Conference has been prepared by Mr. Poli, and included in the TRIPS SC website page.

Sarah Matheson, Reporter General, Ysuke Inui, Assistant Reporter General, Hao Ma, President, JohnBochnovic, Executive Director, and Catherine Mateu TRIPS Committee Chair met with the TRIPS Council Secretariat at the WTO premises in Geneva on March 27, 2018.

d)  
any contribution by your Standing Committee to any external consultations; and

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In collaboration with the IP Division of the WTO (Antony Tubman and Wolf Meier-Ewert), the TRIPS SC is working on a very important WTO project aimed at establishing, structuring and implementing the most comprehensive and reasoned data base on the national cases law applying, directly or by way of interpretation, a TRIPS provision. The project has been approved by the Bureau. The template for the implementation of the data base is currently being finalized; and, once completed, an acknowledgment of AIPPI and the TRIPS SC as one of the key contributors to this project will be made available by the WTO.

e)  
any studies or analyses undertaken or position papers prepared by your Standing Committee, with a brief summary of the outcome(s).

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Takeshi Komatani, other Vice-Chair of the TRIPS SC, and Luca Rinaldi wrote an Article reporting on the WTO Public Forum 2017 and the working session therein organized and moderated by Mr Rinaldi (see above), which has been published on AIPPI e-News No. 56 of February 22, 2018.

In collaboration with the Pharma and Biotechnology SC, the TRIPS SC worked on a paper commenting on the Report of the United Nation Secretary General's High Level Panel on Access to Medicines. The Report has been completed on February 19, 2018, and is now available on the AIPPI website.

<http://aippi.org/library/aippi-position-paper-on-unsghlp-report-on-access-to-medicines-february-19-2018/>

2)

Key issues/developments during the reporting period

Please include any significant case law, legislative or regulatory developments, or policy initiatives, including their relevance and/or any implications for the work of your Standing Committee or for AIPPI more generally.

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On 28 June 2018 the WTO circulated the panel report in the cases brought by Honduras, the Dominican Republic, Cuba and Indonesia in “Australia — Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging” (DS435, DS441, DS458 and DS467). This is an important decision on the topic of the Plain Packaging Tobacco under the TRIPS, on which an Article for the publication in AIPPI e-News is under preparation by Warwick Rothnie, due by mid-November 2018. A collaboration with the Trademarks SC on this issue is also been proposed.

3)

Any recommendations for AIPPI involvement/action for the next 12 months

This need not be limited to recommendations for your Standing Committee but can be recommendations for AIPPI more broadly. For example, please include:

In each case, please explain why such involvement/action is recommended, by whom it should be undertaken and any relevant time frames.

a)

any recommendations for involvement/action in relation to any upcoming or foreshadowed case law, legislative or regulatory developments, or policy initiatives;

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The TRIPS SC should continue to follow up the interaction between regional and bilateral agreements and TRIPS, considering the global context (Brexit, TPP), issues of TRIPS and Public Health, goods in transit as well as the trade policy reviews performed by the WTO and the WTO disputes involving TRIPS, such as the one on plain packaging regarding tobacco products.

b)

any other recommendations for AIPPI involvement/action;

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Setting TRIPS specific sessions within AIPPI events and in particular during the Congress as this source of the law is not used broadly by practitioners.

Supporting collaboration in WTO projects about TRIPS in both publications and events.

c)  
any recommendations for the work programme of your Standing Committee.

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To explore how the TRIPS SC can collaborate with other SCs and other organizations, such as WTO in particular, in joint projects and to include in the TRIPS SC young practitioners as well as practitioners from other countries of particular interest under the WTO.

4)  
Outline of the work programme of your Standing Committee for the next 12 months  
Please set out specific activities and priorities having regard to the matters in 1) - 3) above,  
including any relevant time frames.

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Closely following and reporting on developments on TRIPS and their implementation by countries and on cases law applying, directly or indirectly, TRIPS; raising awareness of TRIPS to the IP community and increasing awareness of TRIPS within AIPPI members. To continue collaboration with other SCs, and in particular with the Pharma SC, the GRTK SC, the GI SC and the FTA SC. To initiate collaboration with other SC such as the Trademarks SC.

To continue to uphold working relations with the TRIPS Council Secretariat, to attend the WTO Ministerial Conference in December 2018, to organize a TRIPS related workshop during the next AIPPI Congress, to organize a session at the 2019 WTO Public Forum as well as to participate in other WTO events, such as the WTO Workshop on Trade and Public Health or the Symposium for IP Judges.

## **Names and Functions of Committee Members**

Chair	Catherine MATEU	France
Vice Chair(s)	Takeshi KOMATANI	Japan
	Luca RINALDI	Italy
Members	Daniele DE ANGELIS	Italy
	Lorenza FERRARI HOFER	Switzerland
	Ivan T. HJERTMAN	Sweden
	Kelly HYNDMAN	United States of America
	Melanie JOSE	Australia
	Jussi KARTTUNEN	Finland
	Gustavo Starling LEONARDOS	Brazil
	Manoj MENDA	India
	Iván A. POLI	Argentina
	Warwick ROTHNIE	Australia
	Michael B. STEWART	United States of America
Justin WATTS	United Kingdom	
Shaohui YUAN	China	