

## Report Q198

### IP and environmental technology / climate change (green technology)

by Bertram Huber, Chairman

#### Names and Functions of Committee Members

Chairman	Bertram Huber	(Germany)
Co-Chairman		
Secretary	Guillaume Henry	(France)
Members	Estelle Derclaye Cynthia Cannady Konstantinos Karachalios David Merrylees Esmé du Plessis Casey Kook-Chan AN Wen Cao	(United Kingdom) (United States of America) (Germany) (Brazil) (South Africa) (Korea) (China)
Responsible Reporter	Kazuhiko Yoshida	(Japan)

#### Report for EXCO Hyderabad, 2011.10

1. **Title**  
Annual Report of Special Committee Q198. – “IP and environmental technology/climate change (green technology)” by Bertram Huber.
2. **Summary:**
  - 2.1. The SC has just started its work by distributing certain tasks to the various SC members. The tasks are enumerated under Section 4. below. An SC meeting will be held at Hyderabad.
  - 2.2. Deadline for any action  
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  - 2.3. Action recommended  
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### 3. Introduction

It is generally known that in the context of the IP and green technology debate numerous suggestions for the IP field have been, and continue to be, made. The main task of the SC is to follow the development of IP issues in the context of the climate change debate (in particular in and around UNFCCC).

### 4. Report of Committee's activities

Since the SC until very recently was just in its infancy state, initial main focus was to bring on board more members from various countries, focusing in particular on representatives from both industrialized and emerging countries. Efforts to include members from developing countries have not been successful yet.

In order to start practical work, specific tasks have been assigned to individual committee members, comprising

1 - Status of the UNFCCC before COP-17 Durban/South Africa in December 2011.

2 - Basis laid by, and proposals for additional empirical work building upon, the UNEP/EPO/ICTSD report "Patents on clean energy: bridging the gap between evidence and policy", <http://www.epo.org/topics/issues/clean-energy/study.html>.

3 - Is the fact that intellectual property (to a significant extent) is being owned by parties based in industrialized countries a hindrance for technology transfer to developing countries at all? What actually are the bottlenecks for technology transfer from industrialized countries to developing countries – if any? How relevant are aspects like low IP awareness, limited IP infrastructure, difficulties with IP enforcement, low patent ownership and the like?

4 - Is there a need for improved patent information and/or setting up of additional databases? (In particular in view of the new EPO patent search possibilities developed in connection with the UNEP/EPO/ICTSD report, [http://worldwide.espacenet.com/eclarsh?locale=en\\_EP&classification=ecla](http://worldwide.espacenet.com/eclarsh?locale=en_EP&classification=ecla) .

5 - Should the creation of patent pools/patent commons/patent communities be favored? Advantages, disadvantages?

6 - Is there a need for compulsory licensing? If the answer is yes, is there a need to modify existing compulsory licensing provisions/regimes in the various jurisdictions (beyond the stipulations of Article 31 TRIPS)?

7 - Is WIPO Green (see attached, which is based on an earlier initiative of JIPA (Japan Intellectual Property Association), <http://www.jipa.or.jp/english/index.html> ) a viable alternative?

8 - What is the status of Technology Mechanisms mentioned in the COP-15 Copenhagen document and specifically referred to in COP-16 Cancun (in its decision 1, under the subheading "Technology development and transfer", it is stated that a Technology Mechanism shall be elaborated - <http://unfccc.int/documentation/decisions/items/3597.php?such=j&volltext=/CP.16#beg> )? Are such Technology Mechanisms likely to be a positive/necessary contribution?

9 - Do we need some fundamental "greening of patent laws" for the climate change field? If so, what specifically? (Additional requirements for patent grants, acceleration of examination, lowering requirements for inventive activity, extension of protection period (in developed countries only? for how long?) in return for granting of cheap or free licenses to licensees in developing countries, etc.)

The SC will hold a meeting in Hyderabad on 17 October 2011, 14:00 - 17:30.  
A telephone conference is tentatively envisaged for September.

**5. Recommendations**

At this point in time, there are no specific recommendations.