



A I P P I

**ASSOCIATION INTERNATIONALE
POUR LA PROTECTION DE LA PROPRIETE INTELLECTUELLE**

**INTERNATIONAL ASSOCIATION
FOR THE PROTECTION OF INTELLECTUAL PROPERTY**

**INTERNATIONALE VEREINIGUNG
FÜR DEN SCHUTZ DES GEISTIGEN EIGENTUMS**

ExCo

Hyderabad

October 13 to 19, 2011

**Report
Special Committee Q94**

WTO / TRIPS

Report Q94

WTO – TRIPS

Names and Functions of Committee Members

Chairman	Ivan Hjertman	(Sweden)
Co-Chairman	Gustavo Leonardos Manoj G. Menda	(Brazil) (India)
Secretary	Melanie Jose	(Australia)
Members	Konrad Becker Danming Jiang Sun Ryung Kim Takashi Ishida Thomas F. Smegal Russell A. Bagnall Luis C. Schmidt	(Switzerland) (China) (South Korea) (Japan) (United States of America) (South Africa) (Mexico)
Responsible Reporter	Kazuhiko Yoshida	(Japan)

1. Title

Annual report of Special Committee Q94 for the AIPPI Hyderabad Executive Committee meeting October 13-18, 2011

2. Summary:

2.1. Current and future issues:

The main tasks of the Committee, as listed in its Terms of Reference, are

- to monitor and advise the Bureau and AIPPI members on developments relating to the WTO/TRIPS Agreement and its implementation
- to study and advise the Bureau and AIPPI members on proposed amendments of or additions to the TRIPS Agreement
- to formulate and, with the approval of the Bureau, to submit and represent the standpoint of AIPPI vis-à-vis WTO/TRIPS
- to monitor international developments which impact on the WTO position/negotiations on TRIPS
- to monitor activities of other international and regional bodies (GOs and NGOs) in relation to WTO/TRIPS

The Committee also has the task to advise the Bureau on

- developments in the IP field rendering intervention of AIPPI desirable
- specific TRIPS-related issues meriting further study
- information and instruction to AIPPI representatives at GO meetings on TRIPS-related issues
- possibilities of cooperation with other NGOs and GOs in the IP field

The Committee has, in addition, the special instructions

- to coordinate its activities in regard to WTO/TRIPS-related aspects of Traditional Knowledge, Genetic Resources and Folklore with Special Committee Q166, and
- to inform, in addition to the Bureau, the Chair and the members of the Programme Committee and the Committee Officers and members of other AIPPI Committees of relevant Q94 activities and seek, if necessary, their advice and cooperation in formulating the views and reports of the Committee Q94.

2.2. Deadline for any action

November 4, 2011, midnight GMT: time limit for request for registration for the WTO eighth Ministerial Conference, Geneva December 15-17, 2011

2.3. Action recommended

Bureau approval for attendance of AIPPI as NGO at the WTO 8th Ministerial Conference, with Special Committee Q94 represented in the AIPPI delegation

3. Introduction

3.1 Working methods

Internally within Q94:

- regular internal meetings to coincide with AIPPI Executive Committee meetings and Congresses
- exchange of information by email correspondence
- monitoring activities, debates and work of WTO, the TRIPS Council and the WTO Intellectual Property Division, below named the TRIPS Council Secretariat, to identify new issues and developments and to inform AIPPI
- to collect WTO/TRIPS documents for assessment of relevance to AIPPI

With the TRIPS Council Secretariat:

- regular meetings, arranged to coincide with AIPPI Congresses and Executive Committee meetings, with the WTO/TRIPS Council representative attending such those meetings on invitation from the Bureau
- regular meetings, on an annual basis, of the Chair and other Committee members as available, at the WTO premises in Geneva with the TRIPS Council Secretariat
- exchange of information with the TRIPS Secretariat, e.g. survey reports, AIPPI resolutions.

4. Report of Committee's activities since the Report dated September 6, 2010, for the Paris Congress

4.1 Meetings with the TRIPS Council Secretariat

Two meetings have been held:

September 20, 2010: meeting at the WTO, Geneva, between AIPPI/Q94 and the TRIPS Council Secretariat

October 4, 2010: meeting jointly with Special Committee Q166 in the context of the Paris Congress with the TRIPS Council Secretariat representative attending the Congress

One meeting is planned to be held: September 26, 2011, at the WTO in Geneva

4.1.1 Matters taken up at the meeting September 20, 2010, included

- outlook in regard to the Doha Round negotiations and the related TRIPS/CBD/GI issues
- the outcomes of the AIPPI Q94/Q166 Questionnaire 2010 on national legislative situations regarding special disclosure requirements for patent applications involving genetic resources
- requests from WTO members for technical assistance and capacity building, and possible AIPPI assistance
- “needs assessments” of LDCs to help with their TRIPS implementation, and possible AIPPI assistance
- making better use of the information and updates that continuously is provided to the WTO by notifications of national/regional IP law amendments
- climate change and IP
- IP and public health, access to medicines, and the TRIPS amendment on the Paragraph 6 system
- border measures, including the WTO disputes India/EU and Brazil/EU over customs seizures of goods in transit
- the issues concerning geographical indications
- cross-retaliation under TRIPS

4.1.2 Matters taken up at the meeting October 4, 2010, included

Much the same issues were taken up as at the September 20, 2010 meeting, especially

- the negotiations and discussions concerning geographical indications, GIs
- the status of the ongoing discussions at the WTO on the TRIPS/CBD issue, including the issue of special disclosure obligations for patent applications involving genetic resources and how present systems work

Also discussed was possible areas where AIPPI might provide input, including by undertaking studies. An increasing move to discussions on practicalities can be noted. This applies especially to LDCs. AIPPI could assist by providing practitioners’ views and experience. For example:

- in the GI area, a question is how trademark offices take into account GI registration in another jurisdiction.
- in regard to source disclosure, what does a disclosure system mean in practice? Many countries have the system. How have the systems worked?
- in regard to the matter of Most Favoured Nation, MFN, which is a complex issue involving not only TRIPS but also other WTO agreements, AIPPI could do research through a questionnaire to national groups concerning the process of notification and registration of bilateral agreements.

4.2 Internal Committee meeting October 4, 2010

In regard to the work program on issues in addition to the normal monitoring function of the Committee, items discussed included the following:

- a fact finding survey/questionnaire in relation to MFN issues
- to involve the Communications Committee how to disseminate the Q94/Q166 survey results
- Committee members to report internally in the Committee on goods in transit decisions/cases/issues/determinations in their countries
- to consider a fact finding questionnaire for the national groups with respect to data protection and unfair commercial use

4.2.1 Post meeting notes in regard to the internal meeting October 4, 2010

MFN remains as a topic to be taken up. It was agreed that this would as a first step be discussed with the TRIPS Council Secretariat. The committee's next meeting with the TRIPS Council Secretariat is scheduled for September 26, 2011.

It is intended to discuss at the Q94 Committee meeting in Hyderabad, whether some follow-up of the Q94/166 Questionnaire 2010 should be made. As it seems, now that the Nagoya Protocol is decided and the Doha Round seems not to lead to any agreement, the issue appears focussed on the WIPO IGC. It is intended to take up this development at the Committee meeting in Hyderabad. By then, it will also be known what was decided in regard to the WIPO IGC at the WIPO General Assemblies in September 2011. The type of information that AIPPI can obtain, especially in regard to experiences of existing legislation, is something that seems to be very little discussed, and yet is a significant element in the discussion.

With respect to reporting from our Committee membership on cases on goods in transit decisions/cases, no information on such cases has been distributed in our Committee, as at the date of this report.

The topic of data protection and unfair commercial use remains quite a hot one in several countries, as well as in various FTA negotiations. The Committee intends to discuss in Hyderabad to revive the topic.

5. Recommendations

Issues followed by Special Committee Q94 tend to become increasingly politicized. Considering this ongoing development, the Q94 Committee has in its Reports for the last several Executive Committee meetings and Congresses reiterated a number of general recommendations for possible future action by AIPPI. In the view of the Committee, these recommendations remain valid and are repeated below. Special Committee Q94 has been pleased to see part of these recommendations materialise in AIPPI work. However, as the Committee sees it, more needs to be done. Special Committee Q94 stands ready to assist in this work.

Recommendation 1: In light of the global aspect/wider significance that IP issues have assumed in the last decade, especially an increasing politicization of IP issues, AIPPI should resolve to confirm that its activity extends beyond strictly defined 'scientific work'.

Recommendation 2: AIPPI should play a more dynamic role as an NGO in international debates and developments affecting IP, including closer co-operation with other NGOs in the area of IP.

Recommendation 3: AIPPI should expand and intensify its collaboration and interaction with WTO and WIPO.

Recommendation 4: AIPPI should consider the possibility of preparing information documents addressing IP, particularly WTO-related IP, focussing on the role and value of IP and technology transfer in different economies for general dissemination.

Recommendation 5: AIPPI should expand its activities and exposure in developing countries and collaborate with bodies in those countries which are active in the area of IP.

September 5, 2011

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