



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

# **Congress**

## **Gothenburg, Sweden**

**October 8 to 12, 2006**

Report  
Special Committee Q94

GATT/WTO

# Report Q94

## GATT/WTO

### Composition of the Committee

Chairman:	Ivan HJERTMAN (Sweden)
Co-Chairman:	Esmé DU PLESSIS (South Africa)
Secretary:	Sarah MATHESON (Australia)
Members:	Chiagozie HILARY-NWOKONKO (Nigeria) Konrad BECKER (Switzerland) Kim SUN-RYUNG (Korea) Gustavo LEONARDOS (Brazil) Sumihiro MAEDA (Japan) Thomas F SMEGAL (United States of America) Wen XIKAI (China) Manoj G MENDA (India)

In constituting Special Committee Q94, particular care has been taken to constitute a Committee with a balanced and representative membership, with members from developing and developed countries and from different continents. The Committee regards the representativity of its membership as an important factor in identifying issues in the area of TRIPS which need to be addressed and reported on by the Committee.

### 1) Mandate of the Committee

- To monitor and advise on the development of the GATT/WTO TRIPS Agreement and its implementation.
- To study and advise on proposed amendments of the TRIPS Agreement.
- To formulate and, with the approval of the Bureau, to submit and represent AIPPI's standpoint vis-à-vis GATT/WTO.
- In addition, to monitor developments of general interest in the field.

### 2) Report of Committee working and activities methods

#### 2.1) Working methods

Within the Committee:

- regular meetings to coincide with AIPPI Conferences and Congresses.
- exchange of information by email correspondence.
- monitoring activities, debates and work of WTO, TRIPS Council and TRIPS Directorate to identify new issues and developments and to inform AIPPI.
- collection of WTO/TRIPS documents for assessment of relevance to AIPPI.

With the TRIPS Directorate:

- regular meetings arranged to coincide with AIPPI Conferences and Congresses.

- intermediate meetings of Co-Chairs (and other Committee members as available) with WTO/TRIPS Directorate as required.
- exchange of information with TRIPS Directorate, eg Survey Reports, AIPPI Resolutions.

## **2.2) Activities**

### *i) 6th WTO Ministerial Conference: Hong Kong December 2005*

After a meeting between Q94 Committee members and the TRIPS Council Secretariat held at WTO on 17 February 2005, AIPPI was invited to send a representative as an observer to WTO Ministerial Meeting that took place in Hong Kong in December 2005. Q94 Co-Chair Esmé Du Plessis attended. A summary of the report on the proceedings as submitted to the Bureau follows.

- The Ministerial Declaration adopted at the conclusion of the meeting reaffirmed the importance that WTO attaches to the General Council Decision of 30 August 2003 on the implementation of Paragraph 6 of the Doha Declaration and welcomed the consequential amendment of TRIPS as agreed by the General Council on 6 December 2005.
- The Ministerial Declaration adopted the report of the Chairman of the Special Session of the TRIPS Council in November 2005 setting out progress in negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits as contemplated in Article 23.4 of TRIPS and Paragraph 18 of the Doha Declaration 2001, with negotiations aimed to be completed within the then foreseen overall timeframe for the conclusion of the Doha negotiations, that is by end 2006.
- The Ministerial Declaration took note of the work of the TRIPS Council pursuant to Paragraph 19 of the Doha Declaration, ie as part of the review of Article 27.3(b) on the patentability of animals and plants and processes for their production, to examine the relationship between TRIPS and the Convention on Biological Diversity (**CBD**), the protection of traditional knowledge and folklore and other developments raised by WTO Members as to warranting modification or amendment of TRIPS.
- The Ministerial Declaration reaffirmed that special and differential treatment provisions are an integral part of all WTO agreements, and should be reviewed with a view to strengthening and making them more effective.
- The Ministerial Declaration directed the TRIPS Council to continue to examine the scope and modalities for so-called non-violation complaints pursuant to Article XXIII of GATT, ie if any contracting party considers a benefit which accrues to it directly or indirectly as a result of a WTO agreement is being nullified, impaired or impeded.

On the basis of the Co-Chair's experience at the Hong Kong Ministerial Meeting, the Committee has submitted a number of recommendations to the Bureau (see section 5 below).

### *ii) Continued work of Special Committee Q94*

After considerable discussion and input from Committee members, the programme of work up to the Gothenberg Congress in October 2006 was agreed as follows:

- Proposed recommendations to the Bureau arising from the report referred to in 2.2 i) above – see further section 4 below.
- DONE

- Meeting with the TRIPS Secretariat – see iii) immediately below.  
DONE
  - Preparation of an explanatory note of the TRIPS amendment to implement Doha Paragraph 6 Decision, as confirmed in Hong Kong.  
STILL TO BE DONE
  - Preparation of an opinion/comments on the EU Regulation for the implementation of the Doha Paragraph 6 Decision, as agreed by the Committee and also pursuant to a request from the Reporter General Team.  
STILL TO BE DONE
  - Source disclosure: co-operation with Special Committee Q166 in providing comments on a draft Questionnaire to be sent by Q166 to the National Groups prior to the Gothenburg Congress.  
DONE
- iii) Contact meeting held 10 July 2006 with the TRIPS Council Secretariat
- AIPPI representatives in attendance: Special Committee Q94 Chair Ivan Hjertman, member Konrad Becker (also attending in his capacity as Chair of Special Committee Q166 Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore) and Thierry Calame, Responsible Reporter for Q94.
- Representing the TRIPS Council Secretariat were Adrian Otten, Director, Hannu Wager, Counsellor and Wolf Meier Ewert, Legal Affairs Officer, all of Intellectual Property Division, WTO. Matters covered included:
- General developments
  - National/Regional implementation of the Doha Paragraph 6 Decision
  - Amendment to the TRIPS agreement under the Doha Paragraph 6 Decision – procedure and current status
  - Impact of ongoing parallel initiatives in WIPO, eg in regard to the SPLT and the Development Agenda
  - CBD/TRIPS/Source disclosure/Article 27.3(b) – status and outlook
  - Geographical indications – status and outlook
  - Reports on implementation of TRIPS Article 66.2: Technical and Financial Cooperation
  - EU communication on IPR Enforcement – status and outlook
- The next contact meeting is set to take place on 8 October 2006 at the Gothenburg Congress.

### **3) Description of information gathered by the Committee**

See above 2.1

### **4) Current and future issues of particular relevance**

In addition to what is noted at 2.2 above, the Committee has agreed to put the following items for consideration on hold until after the Gothenburg Congress:

- liaison and/or co-operation with Special Committee Q185 Enforcement of IP Rights.
- WIPO Development Agenda.
- TRIPS Article 4: extension of Paris Convention priority rights to WTO member countries.

- effects of Free Trade Agreements, FTAs in creating so called "TRIPS plus" obligations.
- follow-up of the Q94 2004 Questionnaire on implementation of the Doha Paragraph 6 decision on cross-border compulsory licensing in the pharmaceutical area.

The Committee submitted to the Bureau on 3 July 2006 recommendations for possible future action by AIPPI.

- Recommendation 1 – In light of the global aspect/wider significance IP issues have assumed in the last decade, 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 – The Bureau 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 and particularly at the next WTO event.
- 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.

#### **5) Recommendation of any action**

See 4 above.

#### **6) Deadline for any action**

Other than in relation to Recommendation 4 above (next WTO event), no absolute deadlines.