

WIPO Assemblies
51th Series of Meetings, September 23th to October 2nd, 2013

- Opening Statement of the German Delegation to be included in the Report -

Thank you Mr. Chairman,

1. The German Government is pleased to see you chairing this important Assembly. We would like to express our appreciation for your dedication to the multifaceted activities of WIPO. The Federal Minister of Justice, Her Excellency Sabine Leutheusser-Schnarrenberger, considers access to and the effective protection of intellectual property to be of great significance. Since she cannot join us, she sends her best regards and wishes to the WIPO General Assembly. Germany is prepared to engage fully in a constructive and fruitful dialogue on the many items on the agenda with a view to achieving the best possible results. This is emphasized by the fact that Her Excellency Sabine Leutheusser-Schnarrenberger had the great honour of receiving the Director General of WIPO, Mr Gurry, in Berlin on the occasion of World Intellectual Property Day on April 26 of this year.

2. Furthermore, we would like to thank the International Bureau of WIPO for its structured and comprehensive preparation of the documentation for the present series of Assemblies. We would like to also thank the Director General for his guidance and dedication, as well as his team for its proficiency and commitment.

3. In particular we are very grateful for the thorough preparation of the new budget plan for the next biennium. We are certain that a solid budget is crucial in ensuring the continuation of WIPO's success for the benefit of all Member States. We are aware of the intensive work done and the progress made by the Program and Budget Committee over the last few weeks.

4. Germany supports the idea of a small, limited, strategically positioned and geographically representative network of WIPO external offices with true added value to the work of WIPO. We would have preferred to see a more transparent and inclusive procedure for the establishment of new offices. Nevertheless we will continue discussions on the establishment of five new offices, as foreseen in the budget for 2014/2015, with an open mind. At the same time, it is in the common interest of the Organization and its Member States to establish a clear set of criteria and procedural mechanisms for a possible future extension of this network. We are in favour of a transparent, inclusive and rule based decision making process. Any such extension of the network of external offices should be undertaken only after consultations with all regional groups and a decision of the competent WIPO bodies on the location of such offices.

5. The German Government considers intellectual property rights to be essential economic assets for enterprises. Intellectual property rights are a complex, passionately and globally discussed issue. Every single day, news stories contain a multitude of statements and discussions on these issues and reports on their development. WIPO faces the challenge of providing an adequate response to this and, furthermore, of fulfilling its mission to promote

intellectual property and to protect it effectively in order to create sustainable development and wealth.

6. One of the major as well as delicate tasks is and will be to refute the continuously uttered fear that WIPO favours certain groups, and to demonstrate repeatedly that WIPO's aim is to always find the optimal balance between rights holders and various segments of society, including in the context of health and the environment.

7. The German Government supports a robust and appropriate international IP framework which balances different interests and concerns, encourages innovation, and fosters the development and transfer of technology. Stakeholders, including IP offices, will benefit from a simpler and more harmonized international framework, including substantive provisions, inter alia, on copyright law, patent law and trademark law. WIPO, as the guardian of global legislation and harmonized practices, should keep such harmonization of legal concepts on its agenda.

8. As the deliberations within the Standing Committee on Copyright and Related Rights (SCCR) demonstrate, the international harmonization of legal concepts in this field is a complex task which requires time and dedication on all sides. But if Member States work together in a spirit of consensus and with the firm intention to strike a fair balance of all interests involved, WIPO will continue to provide the framework within which we can reach positive results. It is with pride and satisfaction that Germany takes note of the success of the Diplomatic Conference of Marrakesh in facilitating access to published works for persons who are blind, visually impaired or otherwise print disabled.

9. Inspired by this success, WIPO should keep other areas for the international harmonization of legal concepts on the agenda. Germany is committed to improving the protection of broadcasting organizations. Germany would like to emphasize once again its dedication to reaching a consensus on an international treaty. We need to update the protection offered, addressing present and emerging technological issues in this area just as urgently as authors and other rights holders already protected by international treaties. We will therefore actively support the work of the SCCR in order to advance text-based work on an international treaty for the protection of broadcasting organizations.

10. Ever since the beginning of international IP cooperation and the founding of WIPO as international agency for IP, patent law has been of core importance not only theoretically but also practically. Users of the patent system around the world are asking for the further development and improvement of the patent system – a call to be heeded by WIPO and its responsible standing body, the Standing Committee on the Law of Patents (SCP). Germany recognizes with satisfaction the SCP's continuing work on important issues. However, the committee should remain true to the principle of a balanced agenda in order to properly reflect the various demands for discussions to be held.

We are particularly eager to continue work on issues of patent quality, including opposition systems and the confidentiality of communications. Further work in this area is beneficial for all countries irrespective of their level of development, since it would enhance the credibility, reliability and stability of the international IP system. The German delegation to the SCP has also been engaged with the topic of patents and health, and will continue to do so. We should however fully respect the efforts and activities that have been undertaken in this

context by other WIPO committees and Geneva based international organizations. At the same time we also recognize the importance attached to the issues of exceptions and limitations to patent rights. However, we believe that further work in this area should maintain an appropriate balance between the interests of rights holders and the general public. Finally, the future work of the SCP should avoid lengthy debates on agendas and procedural matters in order to concentrate on matters of substance.

11. The latest figures on the development of application numbers under the Patent Cooperation Treaty (PCT) show the core importance of the PCT system for the flourishing of innovation and wealth. The PCT still is the most important tool to multiply a functioning patent system in an ever more globalised world. As a highly patent-active state, both on the national and the international level, Germany is grateful for the functioning of the PCT system. In 2012 the German Patent and Trademark Office processed 4.491 international applications – an increase of more than 50% compared to the previous year – , out of which about 80 percent were filed by applicants from outside Germany. For this reason, Germany, as always, stands committed to all necessary further developments in the PCT system and encourages all WIPO Member states to take advantage of the PCT system. The recent PCT working group has, in the view of this delegation, made good progress in dealing with the necessary adjustments to the PCT rules. Germany is very pleased to see the constructive spirit in this working group, which gives way to fruitful, technical discussions. Germany also welcomes the recommendation to review the criteria and procedures for appointment of an Office as an International Searching and Preliminary Examining Authority under the PCT.

12. Referring to the 29th session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), the German Delegation appreciates the ongoing progress in drafting articles and regulations on industrial design law and practice, thus harmonising and simplifying design registration formalities and procedures. A multilateral agreement would consolidate the protection of designs for strengthening innovation and creativity and for contributing to market order worldwide. The Study on the Potential Impact of Work of the SCT on Industrial Design Law and Practice is to be considered sufficient and should not be kept open. Therefore the German Delegation supports the convening of a diplomatic conference in 2014. In the event that the SCT or this Assembly does not come to an agreement on this matter, the German Delegation would be in favour of postponing further meetings of the SCT. Prior to the up-coming discussions, Germany would already like to note that decisions which have to be made should not in any way be interlinked. Especially decisions concerning the future work of the SCT and IGC are to be made separately. Any link could bear the risk of slowing down or even postponing the discussions and negotiations.

13. The protection of designs is becoming more and more important for creative businesses in highly competitive markets. Especially for enterprises trading across borders in a time of globalization it is essential to achieve sufficient design protection for their products with easy and cost-effective registration of industrial designs under the Hague System. We are pleased to note the successful work of the Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs in making this system even simpler. We are looking forward to further efforts for the modernization of the Hague System, including with a discussion on ways for a future focus only on the Geneva Act of the Hague System with its up-to-date provisions.

14. Germany notes the broad consensus amongst Member States to continue work in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). Germany therefore supports the renewal of the mandate of the IGC and continuation of the work on text-based negotiations. A renewal of the mandate and work on the existing draft texts are necessary in order to continue with undertaking in this area, which are far from complete. To achieve the aim of reaching consensus on a sui generis, legally non-binding instrument that takes account of the vested interests of holders of traditional knowledge, genetic resources and traditional cultural expressions and, at the same time, does not harm the functioning of the international IP system, there may still be some way to go. In this connection, Germany calls on all WIPO members to commit to efficient and concentrated participation in future sessions, to cooperate in a constructive and transparent manner and to make use of the results of the facilitators' process.

Nevertheless, the quality of a future sui generis, non-binding legal instrument, or non-binding legal instruments, is of far greater importance than the mere speed of its development. The issues at stake in the IGC are too important to ask for a quick outcome rather than a well thought-out solution. It is therefore obvious, from the perspective of this delegation, that the time for further steps has not yet come. Though it might be somewhat frustrating that the milestone of seriously considering the adoption of a legal instrument has not yet been reached, this is a clear fact that we all have to accept.

15. Germany remains fully committed to further progress in the field of development. We welcome the implementation of the 45 recommendations of the Development Agenda in a balanced and consensus-driven way. Over the last year we have seen progress and a positive evaluation of several projects led by the Committee on Development and Intellectual Property (CDIP). We look forward to the further preparations for the Conference on Intellectual Property and Development.

16. The German Patent and Trade Mark Office (DPMA) has continued its successful cooperation with other IP offices and IP-related organisations.

The DPMA is still running Patent Prosecution Highway (PPH) pilot programs with the following six IP offices: the Japan Patent Office (JPO), the United States Patent and Trademark Office (USPTO), the Korean Intellectual Property Office (KIPO), the Canadian Intellectual Property Office (CIPO), the Intellectual Property Office of the United Kingdom (UK-IPO) and the State Intellectual Property Office of the People's Republic of China (SIPO). The purpose of the PPH is to improve the efficiency of the patent examination procedure by sharing work results. This year, two of the PPH pilot programs have been extended for another two years. In addition, the DPMA has received further requests from other IP offices to initiate new PPH pilot programs. These requests are currently being evaluated.

The DPMA has kept up its tradition of patent examiner exchanges with its partner offices in Japan, South Korea, China, the USA, Russia, Brazil, Australia and the United Kingdom. Patent examiners from the DPMA visited the UK-IPO in April 2013. At the end of the year, the DPMA will host patent examiners from the JPO and possibly also from the SIPO and the KIPO. Our longstanding collaboration with the SIPO has remained fruitful. The DPMA and the SIPO have entered into a data exchange agreement to improve and enhance the search activities of the patent examiners of both offices and to allow the public to have access to IP information from both offices. The DPMA will soon gain a new cooperation partner, as it is

currently discussing the implementation of a cooperation agreement with the Intellectual Property Office of Singapore (IPOS).

Furthermore, the DPMA has run many seminars and training programs for foreign experts. More such events are envisaged for the rest of the year. For example, the DPMA will organise together with WIPO an advanced training course on patent search and examination in the field of biotechnology in Munich in October 2013. The DPMA will also host a roundtable on supplementary protection certificates to which representatives from other IP offices, regulatory authorities and the pharmaceutical industry as well as judges and lawyers have been invited.

17. Germany supports the approval of the Financial Statement 2012 as recommended by the Program and Budget Committee. The audit of the Financial Statements 2012 confirmed WIPO's sound financial position. The implementation of the Program and Budget 2012/13 shows that WIPO's high expectations with regard to revenues have more or less materialized, with a positive outlook for the rest of the biennium. We trust that the WIPO Secretariat will continue its prudent approach, including with regard to reserves. We welcome the productive interaction of the WIPO Secretariat with IOAC and Member States and the transparency of audit and evaluation reports. Germany is willing to pursue further discussions on governance and the definition of development expenditures with a view to achieving acceptable durable solutions. Germany welcomes the comprehensive Human Resources Report, as it further increases transparency on this important issue. Germany is confident that the WIPO Secretariat will take appropriate action regarding Member States' concerns over rising staff costs and their long-term effect on the financial sustainability of the organisation, as recommended by the Program and Budget Committee.

18. Mr. Chairman!

These are our preliminary remarks. We are ready to engage in a frank discussion and we trust that, under your guidance, we will achieve consensus on most if not all items on the agenda.