PROTOCOL GOVERNING THE MEMBERSHIP, ROLE AND RESPONSIBILITIES OF AIPPI'S STANDING COMMITTEES

1. Background

1.1 Standing Committees may have Terms of Reference relating to a particular area of intellectual property (***IP***) law (e.g. patents, trademarks, copyright, designs), particular topics relevant to IP (e.g. green technology, commercialisation of IP), or emerging areas or new developments relevant to IP (e.g. free trade agreements, the unified European patent system).

1.2 Standing Committees allow AIPPI to deal promptly and effectively with such matters, and particularly those requiring action outside the regular cycle for Study Questions. This is important in view of consultations, meetings or other projects in which AIPPI wishes to or is invited to participate, and where it is necessary to formulate a position before the next meeting of the AIPPI ExCo takes place.

1.3 Accordingly, Standing Committees provide a pool of active members and observers willing to monitor, comment and advise AIPPI on matters relevant to their respective Terms of Reference. This includes representing AIPPI at the meetings of external organisations, for example, WIPO committees and other meetings of GOs and NGOs (***External Representation***) thereby increasing AIPPI's presence, visibility and influence.

1.4 Increasingly, the work of Standing Committees has precipitated or evolved into Study Questions or proposals for a Resolution. The output of a Study Question may also lend itself to ongoing work by an existing Standing Committee, or the Bureau may set up a new Standing Committee for this purpose.

1.5 The Bureau may appoint new Standing Committees or dissolve existing Standing Committees at any time.[1]

1.6 The Bureau **appoints** all members of Standing Committees, including any member as Chair or Vice Chair of a Standing Committee (together, ***SC Leadership***). The Bureau may also **appoint** any Governmental Observer of a Standing Committee as the liaison for the relevant governmental organisation (**Governmental Liaison**), and if so appointed the SC Leadership shall include such Governmental Liaisons. For example, a Governmental Observer from WIPO may be appointed by the Bureau as the "WIPO Governmental Liaison" for the committee.

[1] Article 9.8 Statutes of AIPPI (***Statutes***)

2. Purpose of this protocol

2.1 The purpose of this protocol is to describe how members of Standing Committees are nominated, appointed and removed, and the role and responsibilities of the SC Leadership and general members of Standing Committees.

2.2 This protocol also describes the relationship of Standing Committees with the Bureau and the General Secretariat. Any role of the Bureau as set out in this protocol may be delegated by the Bureau to the Reporter General Team (***RGT***) or a member of the RGT. The Bureau has delegated primary responsibility for Standing Committees to the RGT. Any role of the RGT, as set out in this protocol, is authorised by the Bureau.

2.3 This protocol will be published on AIPPI's website. It may be amended from time to time. Any amendments will take effect when published.

3. Appointment and removal of Standing Committee members

3.1 Only AIPPI members whose membership fees are not unpaid may be members of Standing Committees.[2]

3.2 The Bureau may invite **nominations** from National or Regional Groups (collectively, ***Groups***), and delegates of the Independent Members (collectively ***IM Delegates***) for membership of Standing Committees at any time. Groups and IM Delegates may also **nominate** candidates at any time. Nominations for a specific role (e.g. the Chair) shall be treated as a nomination for membership.

3.3 In addition to 3.2 above, each year after AIPPI's annual Congress (***Congress***), the RGT will invite the Groups and IM Delegates to **nominate** candidates to the extent there are available places in any Standing Committee. See further 3.5 and 3.6 below.

3.4 Any nomination must address the criteria for appointment as set from time to time. Nominees must have expertise or experience relevant to the work of the Standing Committee for which they are nominated, and must be able to commit to being an active member of that committee. The Bureau will exercise discretion where it is judged that a nominee can actively contribute to more than one committee, or the needs of a particular committee are best served by a nominee who is already a member of another committee.

3.5 Each Group and each group[3] of Independent Members may have a maximum of four members serving on any one Standing Committee at any time, provided that (i) at least one such member is either: a full-time academic teaching and/or conducting research in an IP-related field; a full time government official; or an

[2] If membership is by way of 'Company' or 'Firm' membership, only the designated contact person may be a member of a Standing Committee. If another member of the same company or firm wishes to join a Standing Committee, they will need to become a member of AIPPI in their personal capacity.

[3] For the purposes of this Protocol, a "group of Independent Members" means all Independent Members from a single country.

in-house counsel or otherwise from industry[4] ("Extra Member") and (ii) at least one member is a member aged 36 years or below ("Young Member"). Otherwise, the maximum is two members per Standing Committee (the "Regular Members"). A Standing Committee may have any number of observers, including Governmental Observers.

3.6 There is one effective appointment date for all new members of Standing Committees for each calendar year. A person appointed to a Standing Committee after a Congress, but in the same year as that Congress, is deemed to have been appointed effective 1 January of the following year. A person appointed in the year of but prior to the annual Congress is deemed to have been appointed effective 1 January of the year of that Congress.

3.7 The appointment of any member of a Standing Committee, including any member with an SC Leadership position, is in principle (subject to that stated below in 3.8) for a term of 3 years, as measured by reference to 3.7 above, after which the member is automatically released from service. A member of a Standing Committee whose 3-year term has expired may be re-nominated by their Group; the re-appointment of a re-nominated member shall be at the discretion of the Bureau. In considering re-appointment of a member, the Bureau will consult with the relevant SC Leadership and take into account considerations including:

(a) the member's length of service on the Standing Committee;

(b) the member's contribution to the work of the Standing Committee;

(c) succession planning and creating opportunities for the broader membership of AIPPI to serve on Standing Committees.

3.8 If one of the Standing Committee members of a Group or group of Independent Members is (a) an Extra Member and this member ceases to meet the criteria of article 3.5(i) or (b) a Young Member and reaches the age of 36 years (thus ceasing to be a Young Member), the following applies:

(a) if that Group or group has less than two Regular Members in the Standing Committee, that member automatically becomes a Regular Member (without change to the ongoing 3 year term);

(b) if that Group or group already has two Regular Members in the Standing Committee, the Extra Member or Young Member will automatically be released from service in the Standing Committee at the end of his or her 3-year term (and will then only be eligible for re-nomination if at that time the criteria of 3.5 are met).

3.9 In **appointing** any member to an SC Leadership position, the Bureau will have regard to the matters in 3.7 above, as well as the geographic and gender

[4] Refers to any legal entity that holds IP, or employee of such legal entity, where the main activity of the legal entity is not the practice or administration of IP law. This excludes those in private practice (whether as a lawyer, attorney, patent or trade mark agent or the like), barristers or other advocates, and those working in other professional services areas.

diversity of the SC Leadership. Also, in the interests of diversity, as a general rule, it will not be appropriate for the SC Leadership of a particular Standing Committee to include more than one member of the SC Leadership from the same Group, firm or employer. Collectively, the factors in this 3.9 are referred to as the ***Diversity Criteria*.**

3.10 The term of any SC Leadership position will be the remainder of that member's term on the Standing Committee. In the event a member who held an SC Leadership position is reappointed to the Standing Committee as set forth in 3.7, the Bureau may, at its discretion, also reappoint that member to an SC Leadership position.

3.11 Notwithstanding the above, the Bureau may at any time:

(a) remove any member or observer of a Standing Committee (including any member holding an SC Leadership position) at any time based on any of the following factors:

(i) the matters referred to in 3.4 above;

(ii) inactivity or inability to fulfil relevant responsibilities as set out in this protocol;

(iii) any appearance of or actual conflict of interest;

(iv) serious illness which makes him/her unable to serve in the Committee;

(v) other roles within AIPPI;

(vi) non-payment of membership fees; or

(b) ask any member in an SC Leadership position to step down from that position based on the factors referred to in (a) above or the Diversity Criteria.

3.12 The Bureau will consult with any member or observer it proposes to remove from a Standing Committee or any member it proposes to ask to step down from an SC Leadership position but retains the discretion, acting reasonably, to remove a member or an observer from a Standing Committee or ask a member to step down from an SC Leadership position, as described above.

3.13 Any member or observer of a Standing Committee may resign at any time for any reason by giving notice to the Reporter General.

4. Communications with the RGT and the General Secretariat

4.1 There is an RGT member designated as the primary RGT contact for each Standing Committee (***RGT Link***). The RGT Links are as set out in Annexure A to this protocol.

4.2 All communications relating to the substantive work of Standing Committees should be directed to the relevant RGT Link, with a copy to the General Secretariat (StandingCommittees@aippi.org) and the Reporter General.

4.3 All communications relating to the administrative work of Standing Committees should be directed to the General Secretariat (StandingCommittees@aippi.org) with a copy to the relevant RGT Link and the Reporter General.

5. Terms of Reference

5.1 The Terms of Reference for a Standing Committee set the scope of work for that committee. The Terms of Reference are set by the RGT.

5.2 The RGT will consult with the Chair in relation to any proposed amendments to the Terms of Reference of an existing Standing Committee. The Chair of a Standing Committee may also propose amendments to the Terms of Reference for that Standing Committee at any time.

5.3 The Terms of Reference for all Standing Committees will be published. Any amendments to any Terms of Reference will take effect when published.

6. General role and responsibilities of all members of Standing Committees

6.1 Any appointment to a Standing Committee is a personal appointment.

6.2 In serving on a Standing Committee, members should strive to represent the interests of the committee and AIPPI as a whole while also speaking to and reflecting on the interests of their Group or group of Independent Members (as the case may be).

6.3 All members of Standing Committees must adhere to their committee's Terms of Reference.

6.4 All members of Standing Committees have a responsibility to be alert to developments of potential significance to their committee's work, to inform other members of such developments, to propose any work for that committee and to participate in the work of that committee as set out in this protocol or as requested by their SC Leadership or the RGT. By way of example only, such developments may include:

(a) questionnaires and calls for submissions or comment by GOs or NGOs;

(b) studies conducted by GOs and NGOs; and

(c) developments in national or regional law or policy.

6.5 All members of Standing Committees are expected to participate, so far as practicable, in the meetings referred to at 7.1 and 7.9 below.

7. Additional responsibilities of Chairs

7.1 The Chair must involve all other members of the Standing Committee in the work of the committee, including by maintaining regular contact with members, and convening such meetings (via video or telephone call) as are necessary or desirable to fulfil the Terms of Reference and the role and responsibilities set out in this protocol. As a minimum, the Standing Committee should meet (whether in person or via video or telephone call) four times per year, including the meetings referred to in 7.9 below.

7.2 As requested by the RGT or the General Secretariat, or as the work of the Standing Committee warrants, the Chair must arrange for the Standing Committee to prepare articles to be published in any AIPPI or other appropriate publication.

7.3 The Chair must, two months before a Congress or following a request by the RGT, submit a report to the RGT describing the Standing Committee's activities since the previous Congress, and the proposed work plan for the following year up to the next Congress (***Annual Report***).

7.4 The Annual Report must:

(a) be prepared in consultation with and approved by the members of the Standing Committee; and

(b) be submitted in the form, and within any time, set by the RGT.

7.5 The content of the Annual Report must include:

(a) the priorities for the work of the Standing Committee for the following year up to the next Congress, including any developments considered by the Standing Committee to warrant action by AIPPI; and

(b) after consultation with the RGT Link, any requests by the RGT for the work of the Standing Committee (***Annual Work Plan***).

7.6 The Chair is responsible for the Standing Committee's adherence to the Annual Work Plan.

7.7 During the period covered by any Annual Work Plan, the Chair must promptly inform the RGT of all:

(a) substantive activities of the Standing Committee, including providing relevant documentation;

(b) any substantive or new recommended course of action (having made all reasonable efforts to consult with the other members of the committee),

relevant to the Standing Committee's Terms of Reference or the Annual Work Plan.

7.8 The Standing Committee will not take any substantively different course of action outside the Annual Work Plan without the consent of the RGT.

7.9 The Chair must convene a Standing Committee meeting during each Congress, during which the Annual Work Plan will be discussed and tasks are allocated to members. In addition, the Chair may convene a Standing Committee meeting during a meeting (such as a Spring Meeting) organised between Congresses.

8. Collective role of SC Leadership

8.1 The SC Leadership is expected to operate as a leadership team, taking collective responsibility for leading the Standing Committee. While the Chair is ultimately responsible as set out in 7 above, the SC Leadership is expected to operate in a collegiate and consultative manner, delegating where appropriate

as between themselves and to other Standing Committee members. The SC Leadership must keep their RGT Link informed as to the activities of the Standing Committee.

8.2 All Vice Chairs are deputies to the Chair and between them must support the Chair in their collective leadership roles and responsibilities, including as requested by the Chair or the RGT, or as otherwise described in this protocol. This includes:

(a) substituting for the Chair (e.g. presenting on behalf of the Standing Committee at a Congress or any External Representation); and

(b) arranging and/or taking the minutes of any meeting of the Standing Committee.

9. Additional substantive work of Standing Committees

Resolutions

9.1 Standing Committees will be invited to propose topics for Study Questions which will, in general, lead to a Resolution of AIPPI within the standard cycle for Study Questions.

9.2 Standing Committees may also, in consultation with the RGT and subject to approval by the Reporter General, propose Resolutions for adoption by AIPPI (***SC Proposed Resolution***). Prior to the Congress at which any SC Proposed Resolution will be proposed, the Chair must, in consultation with the RGT:

(a) prepare any report relating to the SC Proposed Resolution and, in the event that the SC Proposed Resolution is prepared on the basis of any questionnaire sent to the Groups and IM Delegates, prepare a summary report which synthesizes the responses to the questionnaire and notes points for discussion;

(b) circulate the report or summary report referred to in 9.2(a) above to the Groups and IM Delegates by no later than four weeks prior to the Congress;

(c) appoint a drafting group to prepare a first draft of the SC Proposed Resolution;

(d) circulate a first draft of the SC Proposed Resolution to the Groups and IM Delegates by no later than two weeks prior to the Congress;

(e) invite the Groups and IM Delegates to comment on the first draft SC Proposed Resolution in writing within a specific period prior to the commencement of the Congress; and

(f) after receiving responses, and after such further correspondence or discussion as may be desirable, finalise the form of the draft SC Proposed Resolution for consideration at a plenary session at the Congress.

9.3 In general, for an SC Proposed Resolution based on a Position Paper, the same

process as at 9.2 above is adopted, although it is the Position Paper that will be circulated to the Groups and IM Delegates by no later than 4 weeks prior to the Congress (see 9.2(b) above). The Position Paper must be proximate in time to the SC Proposed Resolution in order to ensure that the SC Proposed Resolution has a sufficiently current basis. See further 9.5 to 9.7 below.

9.4 The Chair or their designate will chair the plenary session at which the draft SC Proposed Resolution is debated and subsequently, in consultation with the RGT, assist the drafting group to finalise the form of the draft SC Proposed Resolution to be presented to the Executive Committee for voting.

Position Papers

9.5 On the initiative of one or more Standing Committees and as approved by the RGT, or at the request of the RGT, Standing Committees may prepare reports or opinions (collectively, ***Position Papers***) on topics relevant to their Terms of Reference, including in circumstances where there is no AIPPI Resolution. Further, where, as determined by the Bureau, the matter is of sufficient importance or urgency to warrant a position on behalf of AIPPI, the relevant Standing Committee(s) should study the matter and seek to reach agreement on the content of a proposed Position Paper. The SC Leadership must advise the RGT which Standing Committee members agree or disagree with, or abstain from, the content of a proposed Position Paper. An abstention counts as a vote against the proposed Position Paper.

9.6 In consultation with the RGT Link, the SC Leadership is responsible for the preparation of any Position Paper. In circumstances where there is no AIPPI Resolution relating to all or part of the subject matter of the Position Paper, the Position Paper will state that, while AIPPI does not yet have an officially adopted position (i.e. a Resolution) on the matter, the Position Paper represents the views of the relevant Standing Committee(s), together with any other qualifications as required by the Bureau.

9.7 Position Papers will, upon approval by the Bureau, be published and sent to any relevant recipient (as agreed between the SC Leadership and the RGT) on behalf of AIPPI.

Submissions

9.8 On the initiative of one or more Standing Committees and as approved by the RGT, or at the request of the RGT, Standing Committees may prepare comments or submissions, or responses to questionnaires and consultations, in relation to which AIPPI is invited to or wishes to participate (***Submissions***). Any relevant AIPPI Resolutions should be cited in any Submissions. The relevant Standing Committee(s) should seek to reach agreement on all other matters included in any Submissions. The SC Leadership must advise the RGT which Standing Committee members agree or disagree with, or abstain from, the content of the proposed Submissions. An abstention counts as a vote against the proposed Submissions.

9.9 In consultation with the RGT Link, the SC Leadership is responsible for the preparation of any Submissions. Submissions will, upon approval of the Bureau, be submitted to the relevant organisation on behalf of AIPPI. The Submissions will state any qualifications required by the Bureau.

External Representation

9.10 One of the ways in which AIPPI pursues its objects is making representations to Governments and Intergovernmental bodies, as well as to national, regional and international organisations (***External Representation***). Any External Representation must be authorised in advance by the Bureau. The Chair must consult with the RGT in relation to the nature, duration and expense associated with any such representation prior to:

(a) responding to any invitation for External Representation; and

(b) seeking the availability of any member of their Standing Committee for such representation.

9.11 A member of the Standing Committee engaged in External Representation should promote AIPPI and its activities in the course of such representation but must at all times follow:

(a) any direction by their SC Leadership or the RGT; and

(b) any protocol,

relating to the communicating of AIPPI views.

9.12 A member of a Standing Committee engaged in External Representation must follow any relevant protocol relating to External Representation including:

(a) seeking advance approval of all expected expenses relating to any External Representation;

(b) copying all communications concerning any External Representation to the RGT;

(c) submitting a report on the External Representation in the form set by the RGT within one month of the External Representation; and

(d) submitting any invoices for reimbursement of approved costs associated with such External Representation to the General Secretariat within one month of such representation.

9.13 Any written communication by a member of a Standing Committee on behalf of their Standing Committee or on behalf of AIPPI must be copied to the RGT Link and the General Secretariat (StandingCommittees@aippi.org).

10. Observers

10.1 Without prejudice to 10.6 below, any member of AIPPI may be an observer to a maximum of 3 Standing Committee (***Observer***) or cease to be an Observer at any time. At the end of a 3-year term, an Observer is automatically released from

service (while retaining the option to re-join as an Observer at any time).

10.2 There are no appointment criteria for an Observer. No nomination from a Group or IM Delegate is required. No approval from the Bureau is required to appoint an Observer.

10.3 The participation of an Observer in the work of the Standing Committee will be at the discretion of the SC Leadership. The SC Leadership must give Observers appropriate opportunities to observe and contribute to the activities of the Standing Committee, including by way of example only:

(a) participation in meetings; and

(b) participating in the preparation of Position Papers and Submissions.

10.4 Notwithstanding 10.3 above and subject to 10.6-10.8 below, an Observer has no right:

(a) to access the internal working documents of the Standing Committee;

(b) to vote in relation to the work of the Standing Committee; or

(c) to represent the Standing Committee in any External Representation.

10.5 Subject to 3.3 to 3.6 above, an Observer may be appointed as a voting member of a Standing Committee.

10.6 A full-time representative of an international or governmental organisation, such as WIPO, WTO, CPVO, UPOV, EUIPO, EPO, JPO or the USPTO who (i) is not a member of a Group or an Independent Member of AIPPI or (ii) is a member but does not wish to participate in the work of the committee on behalf of a Group, may - if approved by the Bureau - be appointed an Observer of a Standing Committee in their capacity as a full-time representative of an international or governmental organisation (**Governmental Observer**).

10.7 Any appointment by the Bureau as a Governmental Observer shall be confirmed in writing by the Bureau to the Governmental Observer.

10.8 There shall be a maximum of three Governmental Observers in each Standing Committee.

10.9 Sections 10.1-10.4 above shall apply to Governmental Observers, save that Governmental Observers:

(a) are not generally able to vote within their Standing Committee. However, Governmental Liaisons may take part in the internal decision making of the Committee insofar as that results only in a recommendation to the Bureau for a decision or position to be adopted by the Bureau.

(b) may be appointed by the Bureau as Governmental Liaisons in accordance with 1.6 above.

(c) may access the internal working documents of the Standing Committee.

ANNEXURE A

Standing Committee	RGT Link	Email address
Alternative Dispute Resolution (ADR)	Rafael Atab	r.atab@aippi.org
Amicus Briefs	Klaudia Blach-Morysinska	k.blach-morysinska@aippi.org
Client Attorney Privilege	Rafael Atab	r.atab@aippi.org
Commercialisation of Data and IP	Yanfeng Xiong	y.xiong@aippi.org
Copyright	Rafael Atab	r.atab@aippi.org
Designs	Sang Tae Jeong	st.jeong@aippi.org
Enforcement	Sang Tae Jeong	st.jeong@aippi.org
Geographical Indications	Mamta Jha	m.jha|@aippi.org
IP and trade	Johanna Flythström	j.flythstrom@aippi.org
IP and Sustainability	Mamta Jha	m.jha|@aippi.org
IP and GRTK	Mamta Jha	m.jha|@aippi.org
IP Office Practice and Procedures	Yanfeng Xiong	y.xiong@aippi.org
AI, IT and Internet	Rafael Atab	r.atab@aippi.org
Patents	Yanfeng Xiong	y.xiong@aippi.org
PCT (Patent Cooperation Treaty)	Sang Tae Jeong	st.jeong@aippi.org
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Standards and Patents	Mamta Jha	m.jha|@aippi.org
Trade Secrets	Yanfeng Xiong	y.xiong@aippi.org
Trade marks	Klaudia Blach Morysinska	k.blach-morysinska@aippi.org
TRIPs	Klaudia Blach Morysinska	k.blach-morysinska@aippi.org
UP/UPC	Johanna Flythström	j.flythstrom@aippi.org