The Berlin Forum and ExCo are just around the corner and the Bureau of AIPPI as well as the General Secretariat are fully occupied with preparing and organising for the meetings. We look forward to a successful Forum in line with the two previous ones in Interlaken and Lyon. This Forum, however, is very special as it is the first one organised under the new format, immediately followed by an ExCo. We are convinced that you, our Members, will appreciate the possibility to participate once a year in an event of AIPPI and meet both friends and experts in IP matters on this occasion. The first two pages of this Newsletter edition are dedicated to get a short impression of the Programme of the Forum and ExCo.

While still deeply involved in preparations for Berlin, the Bureau of AIPPI and especially the Reporter General Team, are already busy with organising for the Congress in Gothenburg 2006. Four Working Questions have been agreed upon which will provide the National and Regional Groups and all involved Members with interesting and hot topics and discussions. Professor Straus, Chairman of the Programme Committee, gives an introduction and overview of the four Questions in this Newsletter edition.

This year’s spring and summer months have been very busy, many meetings have taken place so that we dedicate a good part of this Newsletter to Reports about meetings. We try thus to keep you updated on the most recent discussions and decisions in the relevant fields of IP.

We are happy to be able to mention that our National and Regional Groups are very active. In this Newsletter you will find Reports on seminars, meetings and social functions of the Groups. We would like to take this opportunity to encourage you to participate actively in the life of your National or Regional Group as it is you who are the vital part of our Organisation. We will assist you by publishing any event you are planning as well as provide you with the possibility to report about your activities in the Newsletter.

The Bureau of AIPPI looks forward to meeting many of you in a few weeks in Berlin.

As always we would be more than pleased to receive your feedback on our activities and our Newsletter.

Vincenzo M. Pedrazzini
Secretary General
Berlin Forum – At a Glance, September 23 to 25, 2005

Luis-Alfonso Durán
Reporter General

The importance of sports events in the international media and the income that it generates has an important impact on economic activities and creates conflicts with IP rights and unfair competition.

Another session will be dedicated to the implementation of the EEC Directive on the enforcement of IP rights. The Directive was adopted on April 29th, 2004 and needs to be introduced in the internal legislation of European Union (EU) Member States by April 29th, 2006 at the latest. The topic is of interest not only to Europeans but to trade mark owners and practitioners all over the world given the improvement that the Directive introduces in connection with the possibilities for plaintiffs to more effectively enforce their rights. The speakers will include Mr. Temmink from the European Commission (EC), and representatives from the German Ministry of Justice, the IP and Innovation Directorate from UK and the Office of the Committee for the European Integration of Poland.

There will be two Sessions, run in parallel, that will give the participants an update on recent European decisions on trade marks and on patents. In the field of trade marks, the analysis will be directed to the European Court of Justice decisions on Community Trade Marks that have a very important impact in the development and interpretation of Trade Mark Law in the EU. The speakers will include Mr. Alexander von Mühldahl, Vicepresident of the OHIM, Charles Gielen, a Dutch IP lawyer and Ms. Ilna Simon, research Scholar at Queen Mary IP Research Institute.

The session dedicated to decisions on patents will be directed to examine EPO Boards of appeal and enlarged Board of appeal decisions. The amount of European patent cases that have been filed over the years is very significant and this has led to a substantial amount of decisions that are constantly being taken by the Boards of appeal and by the enlarged Boards of appeal of the EPO. The speakers are Mr. Messerli, Vicepresident of the EPO and Chairman of the enlarged Board of appeal, together with Mr. Axel Casalonga, European patent attorney in Paris, and Past-president of the European Patent Practice Committee (EPPC) of the European Patent Institute.

Another Session is directed to analyse the policy of the EC in IP matters. As is known, the EU has been subjected to changes recently in different areas. The enlargement from 15 to 25 countries has had a tremendous impact. The changes in the economy that the globalization of markets and the increasing importance of new countries in the worldwide economy makes very important for the EU Member States to establish appropriate policies in IP matters. The speakers will be Ms. Mirjam Söderholm from the IP Unit in the EC and two AIPPI Members, Mr. Thomas Seuss, European patent attorney and Martin Sick Nielsen, lawyer in Denmark.

Finally, one of the Sessions will also be devoted to a very controversial issue: Does the EPO grant trivial patents? Should the level of inventive step be increased? Mr. Colin Philpott, Principal Director on Quality of the EPO will give participants the EPO perspective. Mr. Yoshio Kumakura, patent attorney, Japan, will give the Japanese and Mr. Erwin J. Basinski, US patent attorney, the perspective from the US. Two European patent attorneys, Mr. Heinz Bardehle from Germany and Richard Abnett from UK, will present the European perspective from the practitioners angle.

I look forward to see many AIPPI Members from all over the world in Berlin.

The AIPPI Forum in Berlin will be the 3rd Forum organised by AIPPI after the earlier Forums in Interlaken and Lyon, but the first one under the new format when the Forum takes place immediately before a meeting of the ExCo. This years meeting is organised in Berlin with a lot of enthusiasm and efficiency by the German National Group. The topics of the Forum have been selected to provide interesting and updated information in the different fields of Intellectual Property (IP).

One of them deals with the protection of sports events by IP and unfair competition. This topic will be presented by legal representatives from FIFA and UEFA, as Germany will be organising the Soccer World Cup in 2006. Other speakers will be the Director for Trade Marks of the Portuguese Patent Office, Mr. Antonio Campinos, the country that organized the last European Soccer Championship and Alexander Liegl, attorney at law in Germany.
AIPPI’s Executive Committee (or ‘ExCo’), meeting annually and formed from a council of Delegates from the National Groups of the Association, is the primary decision-making body of our Association and is its governing body. The ExCo has the duties of deciding which legal/scientific questions should be studied, adopting appropriate Resolutions and Recommendations, and settling matters such as the locations of the various future meetings of the Association. In Berlin, from September 24 to 29 this year, the ExCo will have, amongst its other duties, that of selecting the venue for the 2009 ExCo meeting. The next time the ExCo will meet will be during our Congress in Gothenburg, Sweden from October 8 to 12, 2006.

The Delegates to the Executive Committee appointed by their respective National or Regional Groups and the Presidents and Members of Honour, the Members of the Bureau, the Presidents and Secretaries of the National and Regional Groups and the Chairmen of the Programme and Finance Advisory Committees can attend the ExCo meeting. In Berlin we expect to welcome more than 600 participants from all over the world over the course of the six day long combination of Forum and ExCo meeting.

The formal opening of the ExCo meeting is on the evening of Sunday, 25 September 2005 at a cocktail party at the Intercontinental Hotel. This is being held jointly with the formal closing of the Forum. In Berlin we expect to welcome more than 600 participants from all over the world over the course of the six day long combination of Forum and ExCo meeting.

For the first time, in Berlin, in accordance with the changes in procedure agreed at the Congress in Melbourne in 2001, we shall also be holding a Forum immediately before the ExCo meeting.

The three Committees

Q186 Conflicts between trademark protection and free speech
Q187 Limitations on exclusive IP Rights by competition law, and
Q188 Punitive damages as a contentious issue of IP Rights

will meet in parallel and prepare draft Resolutions to be put forward for discussion to the ExCo later during the meeting. Monday, 26 September starts with a short Administrative Session during which various Special Committees will report to the meeting and is followed by the first of the three ExCo Working Question sessions (Q186). At lunchtime the Bureau will hold a lunch for the representatives of invited GOs and NGOs. The Monday ends with a Concert at Berlin Cathedral.

The whole of Tuesday is devoted to the second (Q187) and third (Q188) Working Question sessions, followed on Wednesday by decision-making sessions on administrative and scientific matters, including the final approval of Resolutions on the Working Questions and from, at least, Special Committee

Q114 Biotechnology (including plant varieties).

The ExCo meeting will finish with a traditional dinner and dance at the Babelsberg film studio on the Wednesday evening. We hope to see full Delegations from the National and Regional Groups so that the Resolutions passed will be fully representative of our worldwide Membership.
Exports from those countries have increased since then dramatically, the same is true for Foreign Direct Investment (FDI), and multinational companies have moved into their territories not only production but also R&D activities.

Nonetheless the IP rights system and the World Intellectual Property Organization (WIPO), as its international administrator and promoter, since some time have been exposed to fierce criticism and attacks. The “Geneva Declaration on the Future of the WIPO” of November 2004, signed also by a large number of academics, among them Nobel laureates, blames WIPO inter alia that it had “embraced a culture of creating and expanding monopoly privileges, often without regard to consequences,” and demands a profound refashion of its agenda “toward development and new approaches to support innovation and creativity, instead to continue to primarily respond to the narrow concerns of publishers, pharmaceutical manufacturers, plant breeders and other commercial interests,” is but one example of such attacks. Apart from such criticism, which led already to a standstill of the substantive patent law harmonization process (blamed by some as “immoral and the last insult to developing countries”), patent system has also been exposed to critics on a more technical level, as being too expensive, producing too many patents for too trivial inventions, flooded by too many patent applications, etc. As a result, at present comprehensive changes and amendments of the US Patent Act are discussed in the US Congress.

The Programme Committee is closely monitoring these and other important developments in IP area and undertakes the necessary steps for having them discussed in AIPPI. AIPPI uses its Working Programme for investigating and analyzing topical issues of IP, the outcome of which eventually results in Resolutions based on broad consensus of its Membership. Ideally AIPPI Resolutions should form a solid basis for a continuous development of the IP system to the benefit of all involved, including the public at large. Workshops, on the other hand, serve as discussion and information fora, aimed at providing the Membership with a broader perspective on developments and problems surrounding their daily work.

For the preparation of the Working Programme of the Gothenburg Congress, the Programme Committee met three times during the Geneva Congress and again in February 2005 in Munich. Moreover, as in the past, it also invited Presidents of National and Regional Groups to submit suggestions for the Gothenburg Programme. As a result of the information collected and its deliberations, the Programme Committee submitted to the Bureau a number of questions addressing issues, which until now in many jurisdictions found no statutory solution. In the meantime, the Executive Committee by vote of correspondence approved the following:

Q189 Amendment of Patent Claims after Grant (in Court and Administrative proceedings, including re-examination proceedings requested by third parties)

Although the ability to amend patent claims after patent grant is of considerable importance to patentees in order to enable them to meet objections raised by competitors and other third parties at different stages of administrative and court proceedings, such as opposition, re-examination, revocation or infringement, the respective rules of national and regional patent laws vary on this key issue considerably, in part even fundamentally. At present, for instance, the introduction of an opposition proceedings is
under discussion in the USA. A thorough investigation of the respective national laws and a discussion of its results, eventually leading to an AIPPI Resolution with balanced and adequate proposals for a coherent system seems important and timely, and could give valuable guidance for pending or upcoming legislative endeavors.

Q190 Contracts Regarding Intellectual Property Rights (Assignments and Licenses) and Third Parties
Whereas it is beyond doubt that the economic importance of licensing and assignment agreements of IP rights is constantly increasing, most countries dispose of no statutory provisions dealing either in general or specifically with these types of contracts. To the understanding of the Programme Committee, it is high time for AIPPI to collect information on existing statutory provisions and case law and to elaborate adequate solutions for which it could stand at an international level, as well as nationally.

Q191 Relationship between Trademarks and Geographical Indications
Since the adoption of the TRIPS Agreement, Geographical Indications have been one of the most discussed issues internationally. In particular, some solutions adopted in the framework of the European Union have not only been controversially discussed, but, as for instance, the EU Council Regulation (EEC) No. 2081/92 of July 14, 1992, dealing with the relationship between trademarks and geographical indications, were brought before the WTO Dispute Settlement Body. In March of 2005, the Panel held that the respective EU Council Regulation, on the one hand, actually contradicts Article 16 (1) TRIPS, but is nonetheless covered by Article 17 TRIPS, which provides for exceptions to the rights conferred by a trademark. However, the Panel also explicitly indicated that if the Geographical Indication’s Registration would prevent the trademark owner from exercising its rights against these signs, combinations of signs or linguistic versions, which do not appear expressively in the Geographical Indication’s Registration, it would seriously expand the exception and undermine the limitations of its scope. In other words, the Panel left undecided the exact limits of the exceptions to the rights conferred by a trademark under Article 17 TRIPS. Thus, the entire complex situation resulting from that Panel decision will have to be carefully examined in order to give adequate guidance for the solution of this obvious problem.

Q192 Acquiescence (Tolerance) to Infringement of Intellectual Property Rights
The immaterial character of the subjects of Intellectual Property rights makes them particularly exposed to the danger of being used without knowledge and permission of their owners. Although in most instances owners of Intellectual Property rights acquire knowledge of such uses only some time after they have occurred for the first time, no harmonized and internationally accepted rules exist as regards the question of time limit and circumstances under which the right owner loses its ability to enforce the infringed right. Depending on the category of Intellectual Property right involved, and depending also on the circumstances under which such unauthorized use has taken place, an owner of an affected right, who does not react immediately after he/she has acquired knowledge of the respective use, or within certain time limits, or not in the required way, or who took note of such a use only after a certain period of time has lapsed, will be faced in different countries, with different consequences of his/her behavior. Collecting the information on the rules in force in different countries, and finding a consensus on adequate solutions seems to be a rewarding work for AIPPI, which could serve as a basis for internationally accepted standards.

The Programme Committee has also suggested a number of topics to be discussed in Gothenburg Workshops. Here, a clear focus is on internationally most debated and in part controversial issues, which deserve full attention of AIPPI’s Membership. These proposals are:
- Effective use of customs measures against importation of counterfeit goods;
- Open source and IP rights: 20 years of experience;
- The present state and prospects for harmonization of substantive patent law, with the understanding that in this context also the important policy issue of adequate duration of patent protection should be dealt with;
- The impact of the new economic order under the WTO (TRIPS, GATT, GATS, TRIMS, etc.) on economic development;
- Patents and medical treatment (patentability, including the issue of second medical use, limitations of effects, public impact, effect on production of patient specific drugs, etc.).

In addition to these Workshops, which no doubt should offer solid and rich basics for discussions, further Workshops are planned by the Swedish organizers, as joint events of the Center for Intellectual Property (CIP) of the Chalmers University in Gothenburg and AIPPI. These Workshops should have a very interdisciplinary and educational character and might address some economic aspects of IP, such as duration of protection, the issue of incremental inventions, etc.
This session was devoted almost entirely to finalize preparations for the Diplomatic Conference on the revision of the Trademark Law Treaty (TLT), which is scheduled to take place, from March 13 to 31, 2006. It also dealt briefly with the possible future work of the Standing Committee. The 15th Session of SCT is tentatively scheduled for November 28 to December 2, 2005.

The representative of Singapore announced that his Government would be making a formal invitation to the WIPO Assembly in September, in order that the Diplomatic Conference be held in Singapore.

Future Work
A brief discussion was held on the future work of the Standing Committee but no formal proposals were made nor detailed topics mentioned except in a very general manner.

Informal discussions mentioned topics like Industrial Designs and Geographical Indications although on the latter there is a certain awareness that the topic has been the subject of difficult discussions at WTO with no foreseeable result as to the final decision. In conclusion, SCT decided to invite representatives of member States as well as observers, to submit in writing to WIPO’s Secretariat, by July 1, 2005, concrete proposals for the future work of the Committee. This invitation should constitute a good opportunity for AIPPI to send concrete suggestions which can contribute to the further progress of harmonization of Trademark Law.

Conclusion
The meeting concluded preparations for the Diplomatic Conference and was able to finalize a solid draft text from the legal and technical point of view which should serve as an excellent basis for the new treaty to be concluded by the Diplomatic Conference. This text will also contribute to the harmonization of Trademark Law in the sense that it has a certain resemblance to a Model Law and, if adopted by a large number of States, should become an interesting common basis for the treatment of trademark registration.
All of them presented in document SCP/11/2, as well as the Generic Pharmaceutical Association of the United States (GPhA) and the Mexican National Association of Pharmaceutical Manufacturers (ANAFAM), presented in document SCP/11/2 Add.

The major part of this session was dedicated to the work program for the SCP, with reference to documents SCP/11/3 and SCP/11/4; these documents represent the two opposite ways for continuing the SCP work: either limiting the number of issues to be discussed or debating on all the issues listed in the draft SPLT.

Document SCP/11/3 followed the informal consultations held in Casablanca on February 16, 2005. Such consultations were attended by delegates from a limited number of countries (selected by WIPO) and by Intergovernmental Organizations (ARIPO, OAPI, EPO and EAPO); no NGO was invited at this meeting which was chaired by Dr. R.A. Mashelkar from India. A statement was adopted at the end of this meeting, recommending that, in order to reach a Treaty aimed to improve the quality of granted patents and to reduce unnecessary duplication of work among patent offices, therefore reducing the cost of the patent system, the issues to be debated by SCP should be limited to prior art, grace period, novelty and inventive step, while the sufficiency of disclosure and genetic resources should be debated at the IGC.

On the other hand, Brazil, which attended the Casablanca meeting, filed a declaration annexed with a statement of the “Group of Friends of Development” (Argentina, Brazil, Bolivia, Cuba, Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania and Venezuela); this statement presented a completely different work program involving inclusive debate (all issues must be debated), transparency and safeguard of the interests of all the Member States (document SCP/11/4).

Not surprisingly, the 11th session resulted in a fight between those in favour of the Casablanca recommendations (Italy, speaking on behalf of Group B, Luxemburg, speaking on behalf of the European Community and its Member States, and also Morocco, Korea, Sudan, EPO, EAPO and some NGOs including AIPPI, FICPI, the Asian Patent Attorneys Association, the Japan Intellectual Property Association, BIO and GRUR), and those in favour of the statement from the “Friends of Development”, presented by Argentina and supported by Algeria, Chile, Colombia, India, Pakistan and the Philippines as well as by the Civil Society Coalition and Médecins sans frontières. It should be noted that many of such latter countries complained about the fact that they were not invited at the Casablanca meeting resulting, according to them, in a lack of transparency in the debate. Switzerland proposed a compromise consisting in studying in parallel all the six issues mentioned at the Casablanca meeting.

There was no consensus among the delegations, with the consequence that this matter will be referred to the WIPO General Assemblies of next September.

Eventually, it is amazing to notice that almost a full day (from a 2-day meeting) was dedicated to the adoption of the proposed summary from the Chair. The final report is accessible on the WIPO website, under SCP/11/5.

The SPLT discussions remain, so far, in a deadlock situation. ●
From May 25 to 31, 2005, the 7th Session of the Working Group on Reform of PCT was held in Geneva. Several non minor subjects have been discussed and agreed during this last session.

1) Missing elements and parts of the international application
The proposed changes shall allow applicants to incorporate by reference any part missing in the application without affecting the accorded filing date, much in the same way as foreseen in PLT.

2) Restoration of the right of priority
This change shall consist in the retention of the right of priority if a proper request is filed within two months after the end of the normal one year term. The relevant rule shall be amended to state that the request shall be addressed to the Receiving Office, which shall decide whether it is accepted or refused.

3) Rectification of obvious mistakes
The main problem in the previous session was the definition of “obvious mistake”. The definition given in the present proposal of International Bureau set forth in the new rule 91-1(c), reading “The competent authority shall authorize the rectification under this rule of a mistake if, and only if, it is obvious to the competent authority that, as at the applicable date under paragraph (f), something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification.” Thus an obvious mistake in the international application or another document (including also for instance an amendment under rule 19 or 34) submitted by the applicant may be corrected upon request of the applicant, provided that the correction is authorized by the competent authority. The latter shall be the Receiving Office in the case of a mistake in the request part of the international application or the ISA in the case of a mistake in the description, claims or drawings, unless a demand for international preliminary examination has been filed. In the latter case the competent authority shall be the international preliminary examination authority.

4) Improving the quality of international searches
The discussion has been directed to the possibility of requesting supplementary international searches, looking at prior art in languages not being part of the “normal” sources available for the international searching authority entrusted with the main search. The majority of delegations, besides being in principle favourable, shared the view of the Chair of the Working Group that any supplementary search should be requested when the international search report has been established, to avoid duplication of work and affording flexibility. Moreover the supplementary search should be directed to the same claims searched and dealt with in the international search report.

5) Addition of Arabic as a language of publication
This proposal has been agreed and means that the international publication upon request may also be published in Arabic language.

6) Addition to PCT minimum documentation of patent documents of Republic of Korea
Although still under scrutiny by a proper task force, the delegations were favourable to include patent documents of Korea among the minimum documentation to be searched by the international searching authorities.

7) International publication and PCT Gazette in electronic form
By having recourse to the electronic Gazette, to be made fully available on the website, more complete searches shall become possible, apart from substantial savings. The availability on the website shall be accompanied by the distribution of CDs or DVDs bearing the full content of the Gazette.
Therefore, on Thursday 19 May, the deputy Director General of the DTI welcomed some 140 participants to Cape Town and was followed in speaking by Martii Enajärvi, Director General of the National Board of Patents and Registration of Finland, who has been responsible in a major part for encouraging the holding of the series of three Forums which have so far taken place since 2000. Vladimir Yossifov from WIPO, responsible for organising the Forum on behalf of WIPO, spoke next in detail about the importance of the issues for the developing countries. Your reporter was asked to speak on behalf of AIPPI as we had been involved in proposing speakers to the various themes of the Forum.

The Forum was in six separate themes, each of them involving short presentations by a number of speakers from around the world, and the first of which was "Wealth creation through invention, innovation and creativity". This was followed by a session on "Inventors, innovators and creators – the intellectual capital of nations", with speakers from Argentina, Russia and Peru. The third and last theme of the first day was "Intellectual Property in a knowledge-based society" and we heard first from Macdonald Nethshitenzhe, Director of Commercial Law and Policy in the Department of Trade and Industry in South Africa, who spoke about the issue of traditional knowledge, incorporating within his definition both genetic and biological resources as well as what is more usually known as traditional knowledge. Following others, Wend Wendland, who is the head of the section of Traditional Creativity and Cultural Expressions at WIPO, spoke in detail about the work going on at WIPO over the last few years and provided brief details of the draft instruments which are now available for review and discussion on the WIPO website. AIPPI’s Special Committee Q166 is monitoring this subject. Finally, AIPPI’s own Esmé du Plessis spoke about the relationship between TRIPS and other IP laws. WIPO kindly invited the participants to an evening cocktail party at the conference centre.

On the second day we started with theme four – "Increasing awareness and understanding of Intellectual Property systems", with speakers from Kenya, Finland (Urho Ilimonen, Chair of the ICC Commission on IP), ARIPO, and South Africa providing a wide-ranging insight into some of the initiatives being taken in this area. Theme five – "Inventions and innovations – key elements in the struggle for competitive advantage", was addressed by a range of speakers from Kenya, Nigeria, Yemen, Switzerland and WIPO and several from South Africa, including Adi Paterson, COO of the Department of Science and Technology.

Later in the afternoon, we were invited and taken to a new winery a few miles outside Cape Town, where we enjoyed not only a very interesting visit of the operations, but also a wine-tasting and on return the DTI held a dinner for the attendees.

On the third and final day theme six dealt with "Conditions for successful economic and social use of invention and innovations" and speakers from South Africa, Romania, and Morocco talked about their particular experiences in setting up innovation centres and national IP Offices, as well as the economic importance of IP.

The Forum provided opportunities for wide ranging discussions on issues affecting the role of IP in developing countries in particular and an insight into the complex options available to national bodies in setting up operational units to deal with IP issues on a national basis.
The Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (GRTKF) met for the 8th session from June 6 to 10, 2005 (WIPO/GRTKF/IC/8/1 Prov. 2). In an ad hoc meeting on June 3, the invitation of the Conference of Parties of the Convention on Biological Diversity (CBD) was considered.

The IGC meeting adopted the report on the 7th session and granted accreditation to all Non-Governmental Organizations nominated for participation. Extensive amount of time was spent with the question of funding of delegations of indigenous and local communities, and no consensus was found. The General Assembly will have to take a decision. The WIPO secretariat had done a commendable job in preparing documents with proposals for provisions for policy objectives and core principles for the protection of traditional cultural expressions (TCEs)/Expressions of Folklore (EoF) on one hand, and for the protection of Traditional Knowledge (TK) on the other hand (WIPO/GRTKF/IC/8/4 and 5). However, many basic questions are still open, such as definitions of Folklore (TCEs/EoF) and of Traditional Knowledge, the relationship between a potential international instrument and regional or national titles, the question of registration, the protection of Folklore and Traditional Knowledge in other countries than the countries of origin, measures against misappropriation and misuse, and the right to exclude others or the right for compensation and benefit sharing for Folklore or Traditional Knowledge owners, just to name the most important ones. The IGC discussed the documents at length, noted the diverse views expressed, but did not reach consensus.

The draft guidelines on the recognition of Traditional Knowledge in the examination of patent applications provide a good summary of the actual problems encountered by patent authorities (WIPO/GRTKF/IC/8/8). However, the practical implementation of such guidelines meets with formidable difficulties, in particular caused by the question of availability of information on TK, which in many cases would be against the spirit of TK. The IGC did not move forward on aspects of Genetic Resources. The summary of the open questions, the past work of the IGC and corresponding committees in other fora (CBD, FAO), and the options for possible activities was noted and the work of the secretariat acknowledged (WIPO/GRTKF/IC/8/9).

The Committee agreed to recommend to the General Assembly that the mandate of the Committee be extended.
A full picture of IP was given on that occasion, with a great part dedicated to artistic and literary property; it should be reminded that Cameroon has its own law in this field, while the industrial property is governed by the OAPI (Organisation Africaine de Propriété Industrielle) whose laws are valid for the 16 member states forming OAPI.

The legal framework for artistic and literary property (December 2000 Law) was presented by Mr. Seuna from the Ministry of Culture, pointing out that the sanctions in case of infringement are high (5–10 years of imprisonment and 1000–15 000 fine), irrespective of the kind of infringement and of the intent, or lack of intent, to infringe.

During the debate, a participant "justified" infringement because of the very high price of the originals, such price being dissuasive for the majority of the population. It should be noted that the financial authors rights are paid to said authors mainly through four official entities, each of them dealing with a specific area (literature, music, sculpture/painting, photographs and audio-visual).

Interesting papers were presented by representatives of the Ministry of Industry and of the World Bank concerning Geographical Indications/Rural Development, Trade names and Ornamental creations, all matters which are governed by the Bangui Agreement which established the OAPI; the issue of plant varieties and R&D in agronomy was also debated.

AIPPI was more particularly involved in the topic of compulsory licences/public health. Before presenting this topic as such, I was asked to remind the audience what is a patent (its philosophy, its role both for the inventor and the society), what are the fields and criteria of patentability and what are the main granting procedures (national, regional, PCT). After this reminder, I presented the TRIPs Agreement (Art 31) dealing with compulsory licences, the Doha declaration (November 2001) and decision (August 2003), the implementation of said decision in Canada and Norway, the current discussions at the European level to introduce a Regulation dealing with this issue. Finally, a national legislation (the French one), was presented concerning the compulsory licence system. Among the other panellists, the representative of MSF (Médecins sans frontières) insisted on the free access for the medicines (without denying the importance of the patent system), while the representative of CPTech (Consumer Project on Technology) confirming the importance of patents and patent pools, strongly insisted on the key role of compulsory licences.

As a result of this Conference, it appears that Cameroon needs to be trained in the IP issues, such training taking into consideration the specificities of that country as such, but also in the context of OAPI and the Bangui Agreement. It has also to bear in mind that the financial resources are limited in Cameroon.

Eventually, and despite the lack of knowledge for average people, the presentations and the debates were of high quality, the assistance of AIPPI being particularly appreciated. Further Conferences are scheduled in the future, the format of which could be plenary sessions dealing with basic issues and more specialized workshops.
FICPI ExCo, Seoul, Korea, April 30 to May 3, 2005

The Fédération Internationale des Conseils en Propriété Industrielle (FICPI) is a sister organisation and friend to AIPPI. FICPI’s membership is reserved to patent attorneys in private practice. At the invitation of FICPI’s President, Mr Francis Ahner, I had the honour of representing AIPPI at the FICPI ExCo meeting held recently in Seoul. Also present as observers were representatives of WIPO, AIPLA and APAA.

FICPI undertakes scientific studies into harmonisation of patent law, and produces resolutions in a manner similar to AIPPI. Two of the Seoul resolutions (available from www.ficpi.org) are particularly interesting to my mind.

Within the ambit of the WIPO Standing Committee on Patents, FICPI addressed the issue of ‘unpublished prior art’. The resolution recognises that the US position (i.e. that the whole contents of an earlier application is prior art for novelty and obviousness purposes) is at odds with most other countries (i.e. prior art only for novelty purposes), and while this undoubtedly is an issue of contention, in practical terms the number of instances of ‘colliding’ applications is relatively small. That being so, the FICPI resolution recommends that countries should be free to choose either approach. The resolution observes that this position follows Article 13(a) of the Basic Proposal submitted by WIPO to the Diplomatic Conference on the Harmonisation of Patent Laws in 1991.

In terms of the Substantive Patent Law Treaty (SPLT) negotiations in particular, the second FICPI resolution urges the SCP to continue its efforts toward concluding a treaty on a reduced package of measures (i.e. first-to-file, a form of grace period, definition of prior art and clear definitions of novelty and inventive step). The resolution further supports the view that the so-called ‘development issues’ should be dealt with separately to the reduced package. In this regard the resolution urges the developing and least developed countries to appreciate that if progress is not made in the SPLT then the governments of the Tri-lateral Patent Offices may independently enact the reduced package, and that they may lose the opportunity to pursue their interests and express their concerns in the harmonisation process.

The FICPI ExCo closed with a gala dinner that featured a dynamic performance by a Korean women’s “poongmul” drumming and dance troupe. In a contrast between eastern and western styles, this was followed by soprano and tenor voices performing solo and in duet, accompanied by piano. Without doubt a fitting celebratory end to the days of hard work by the delegates.

Korean Group of AIPPI

I took the opportunity also to meet informally with Members of AIPPI Korea. Particularly, I had useful discussions with President Mr Yoon-Bae Kim, and Vice Presidents Mr Jang-Won Park and Dr Kwan-Ho Shinn. The Korean Group has in recent times been active in Vietnam meeting with local IP practitioners and offering training and education. I mention also that the Korean, Chinese and Japanese National Groups meet annually to discuss issues of mutual interest.

Seminar of the Australian Group with Alison Brimelow and Joseph Straus

The Australian National Group of AIPPI was very pleased to host a seminar at the end of May concerning some current world issues in IP. We had the pleasure of hosting Professor Joseph Straus who is well known...
to AIPPI as the Chair of its Programme Committee, and Alison Brimelow, the President-Elect of the European Patent Office, as our speakers. Our seminar was timed to coincide with our speakers’ visit to Melbourne to conduct an external review of the IP Research Institute of Australia (IPRIA). IPRIA is a national centre for multi-disciplinary research on the law, economics and management of IP. It is based at the University of Melbourne and is run jointly by the Faculty of Law, the Faculty of Economics and Commerce and the Melbourne Business School and is backed by funding from Australia’s government Intellectual Property office, IP Australia. For further information about IPRIA, see www.ipria.org. Following the delivery of their report to IPRIA, our speakers joined with some of the Committee of AIPPI Australia and an audience comprising Members of the Australian National Group together with practitioners drawn more broadly within the Australian IP community for a very interesting discussion of some current issues.

As many readers will know, Professor Straus is Managing Director of the Max-Planck-Institute for IP, Competition and Tax Law and a Professor of law at the University of Munich as well as being Chair of the Programme Committee of AIPPI. Professor Straus is also Chair of the IP Rights Committee of the Human Gene Organisation and a consultant to the OECD, WIPO, the World Bank and the European Patent Organisation. The focus of Professor Straus’ presentation was on IP and economic development and he adeptly demonstrated the role that GATT-TRIPS have played over the last several years as drivers of investment in IP and IP rights. His insightful analysis, drawing upon several statistics regarding the economic impact of GATT and TRIPS on China, a key developing economic power, was most enlightening. This was particularly the case given Australia’s current negotiations with China regarding a Free Trade Agreement.

Alison Brimelow is presently the President-Elect of the EPO and is due to take office in 2007. Formerly, she was the Chief Executive and Comptroller General of the UK Patent Office. Ms Brimelow spoke of some of the challenges facing patent practice at the moment. Amongst those difficulties are the sheer volume of patent applications required to be dealt with by national offices, creating delays as the offices struggle to satisfy the demand and possibly also leading to a decline in the quality of granted patents. This led to some discussion of a number of the consequences of this such as the practice of “patent trolling” which could perhaps be reduced with greater vigilance in the examination of patent applications. Ms Brimelow also pointed out some of the other key current issues creating a level of uncertainty for prospective patentees, particularly in Europe, including the debate concerning whether software patents should be patentable, the lack of a uniform practice in the biotechnology sphere and the continuing debate concerning the European Community patent. Ms Brimelow also raised for robust discussion some other important issues facing the IP community such as access to medicines, the patenting of life forms, the tension between the strength of patents and the decreasing useful life of an innovation in today’s world and so forth.

Both of our speakers engendered a number of very interesting comments and questions from the audience, including some very interesting policy perspectives from Dr Ian Heath, the Director General of IP Australia. The debate continued in smaller groups after the formal part of the evening was over as people enjoyed refreshments and the opportunity to engage with other practitioners concerning the thought-provoking comments made by our speakers.

The Australian Group hopes that this will be the first of a continuing series of seminars on key issues facing the IP community and extends its most sincere thanks to Ms Brimelow and Professor Straus for their support.
Review of the 3rd Int. IP Forum (FORPIQ), Mont Tremblant, February 3 and 4, 2005

The theme of the 3rd Forum was: “Conquering foreign markets and IP: lessons from here and abroad”. IP Rights encompass and protect the competitive edge as well as the corporate personality of an enterprise, that is through its trade-marks, know-how and innovations. These elements, which provide the competitive edge, are the basis for commercial success in domestic as well as in export markets. The FORPIQ 2005 speakers represented an impressive commonwealth of expertise in the strategic management of IP assets. Relying on fundamental principals and case studies, these experts offered practical solutions to help increase competitiveness in order to conquer desirable domestic and export markets, through a strategic management of these assets.

The event’s honorary President, Mr. Raymond Dutil of Groupe Procycle, kicked off the Forum by describing how Groupe Procycle’s success has been largely based on the company’s ability to negotiate profitable manufacturing licenses, to acquire key IP rights and to create renowned trade-marks as well as to adequately protect the knowledge developed under its R&D activities. Groupe Procycle is the most important manufacturer of bicycles and fitness equipment in Canada and it exports its products throughout Europe and North America. Then Mr. Pierre Bouchard, President of the Société des Technologies de l’Aluminium du Saguenay (STAS), proceeded to share STAS’ accomplishments in commercializing and industrializing numerous patents developed by other large companies such as Alcan, Alcoa, Hydro-Québec and Noranda. Mr. Raymond Sanders, Director of IBM Canada, and Ms. Pascale Chapdelaine, Vice-President of Bell Canada, subsequently described their respective organizations’ successful IP management strategies.

Since technology transfer from institutional research facilities to industry has gained such importance in the last few years, Mr. Jocelyn Bouliane from the Office for technology transfer at Sherbrooke University was invited to share this institution’s significant accomplishments in technology transfer, namely in patent licensing. Given the importance of the legal protection of IP when considering exploring foreign markets, Mr. Ron E. Myrick, Vice-President of AIPPI and Michael R. Cammarata, both from American firms, closed the morning session by giving participants an overview of the most important recent developments in IP law in the ever growing US and European markets.

During the lunch break, participants had the great privilege to attend a conference given by Mr. Raymond Chrétien, former ambassador of Canada to France, the United States, Belgium, Mexico and the Congo, who is now strategic counsel with a Canadian law firm. Mr. Chrétien shared his views on the strategic importance of IP in the world’s most predominant markets. To close this eventful day, Mr. Frank Trentadue, Regional Director of Export Development Canada (EDC), gave participants an overview of EDC’s export risk management and financing services.

The 4th FORPIQ that will be held in February 2007 in Montreal is already under preparation and we invite you to mark this event in your agendas. It is a wonderful opportunity to participate in an international forum and take advantage of one of the most exciting cities in the world, Montreal. Montreal is known for its superb cuisine, vibrant nightlife, festivals, cultural diversity and that special joie de vivre (joy of life), that Montrealer’s are famous for. More information can be glanced at the Forpiq’s website: www.forpiq.com.
Three major Hungarian Associations (the Hungarian Group of AIPPI, the Hungarian Association for the Protection of Industrial Property and Copyright: MIE, and the Hungarian Copyright Forum: MSZJF) active in the field of the protection of Intellectual Property will jointly organize an international conference on the new trends and challenges in the enforcement of IP rights with the objective of providing an in-depth analysis and a platform for exchanging information and experience between speakers and attendees from the three major segments of IP: patents, trademarks and copyrights.

The present conference is the updated and improved continuation of the traditional series of AIPPI-MIE conferences, which have been organized regularly since 1970. The program has been drafted with focus on the following issues:

- The 2004 enlargement of the European Union has greatly affected the laws and practice also in the IP field and has brought a number of new challenges, including the adaptation of the new member countries to the EU rules, the major eastward shift of the common border and the impact of the forthcoming accession of further countries. In this period the Internet revolution has continued and provided an ever increasing platform both for legal and illegal users of IP rights requesting thereby a new approach concerning enforcement of IP rights.

- While previous conferences have focused on different non-related segments of IP law, the present conference should cover recent issues of enforcing IP laws in such a way to demonstrate the specific problems and approaches required for enforcing copyrights, patents and trademarks so that attendees will be given an overall view concerning all these fields, and at the same time the respective specific sessions will enable each attendee to obtain an in-depth view on his or her specific field of interest. There will be sufficient time for discussing problems defined on site and to exchange information.

The speakers and panellist of the conference will be the leading experts of the three specific areas selected. Detailed information can be found at www.mie.org.hu clicking on the conference icon.

Michael Lantos
Member of the Hungarian National Group and of the Organising Committee

Buda Castle by night
Report on the Homage to Prof. Dr. Alberto Bercovitz
Madrid, March 9, 2005

The Spanish AIPPI Group has the tradition of honouring its most illustrious Members, with the publication of a Homage Volume, which began in 1987, when it rendered a homage to its first President and Member of Honour, Manuel Díaz Velasco. The tradition was continued also offering to our Members of Honour Hermenegildo Baylos, Julio Delicado and Marcelino Curell Suñol, Homage Volumes, which gathered collections of articles written by eminent personalities.

The Spanish Group, continuing said tradition, has rendered a Homage to one of its more illustrious Members: Professor Alberto Bercovitz, whose merits are unanimously recognised, thanks to his remarkable labour in numerous aspects. In the first place, there is his labour for the AIPPI, as President of the Spanish Group during the period 1992-95, which made him worthy of being appointed Member of Honour of the Spanish Group and of receiving the Award of Merit of the AIPPI. Considering his prestige, he has been appointed Member of the Programme Committee of the AIPPI. In the second place, his multiple works placed him in the first line of the Spanish lawyers experts in commercial law. Numerous books, articles, etc. are the result of the activity of Alberto Bercovitz, always marked by scientific rigour, clarity and depth of reflection.

Not less important is his teaching labour as Professor of Commercial Law of the Universities of Salamanca and Murcia and the University of Distance Education of Madrid. Generations of students have benefited from the teachings of Professor Bercovitz, whose mastery has provided them with a sound education and opened them the door as university Professors and Law professionals.

The Volume dedicated to Alberto Bercovitz has 992 pages and begins with an impressive chapter devoted to Biographical Sketch and Activities and Publications by Alberto Bercovitz, followed by a collection of articles presented by 55 personalities on subjects of IP and Competition Law, among which there are novel subjects as those of patents and living beings, those of embryo stem cells and IP, together with subjects of ethical and humanitarian nature, such as the access of the developing countries to patented essential drugs.

A solemn Act of delivery of the Homage Volume took place in Madrid on March 9, 2005, with the attendance of 70 persons coming from Spain and abroad. The Act opened with a welcome address by the Spanish President, Marcelino Curell Aguilà, who emphasized the merits of Alberto Bercovitz, he gave him a special copy of the Homage Volume and expressed his confidence in that it has the level that his outstanding personality deserves. Addresses praising Alberto Bercovitz were also pronounced by the General Director of the SPTO, Ms. Mª Teresa Mogín, our Secretary General, Vincenzo Pedrazzini, and our Reporter General, Luis-Alfonso Durán. A number of personalities sent a message of support to the Homage: Mr. Wubbo de Boer, President of the OHIM, Mr. Joseph Straus, Managing Director of Max-Planck-Institut and Mr. William Cornish, Professor of Cambridge University.

Professor Bercovitz, deeply moved, expressed his gratitude to the Spanish Group for the Homage rendered to him and to the authors of the articles that form the Homage Volume. The Act ended with an address by the President of the Organising Committee, who expressed his thanks to all the members of the Organising Committee who have worked hard in the preparation of the Homage Volume and the organisation of the Act of Homage.