

Report Q184

BILATERAL, TRILATERAL AND OTHER FREE TRADE AGREEMENTS WORLDWIDE

PRELIMINARY REPORT TO THE QUESTION 184
by Peter Dirk SIEMSEN

Names and Functions of Committee Members

| | | |
|-------------|-------------------------|---------|
| Chairman | Peter Dirk SIEMSEN | Brazil |
| Co-Chairman | Bruce MORGAN | Canada |
| Secretary | Christian LEDERER | Germany |
| Members | South America | |
| | Maria DEL CARMEN ARANA | Peru |
| | Andrés MELOSSI | Chile |
| | North America | |
| | Alfredo RANGEL | Mexico |
| | Europe | |
| | Marianne LEVIN | Sweden |
| | Christian DURÁN | Spain |
| | Middle East | |
| | Samir HAMZA | Egypt |
| | Ahmed ABOU ALI | Egypt |
| | United States | open |
| | South Africa | open |
| | Asia | open |
| | South Eastern Asia | open |
| | Australia / New Zealand | open |
| | India | open |

Our Committee is a development of the Question 184 which originally dealt with bilateral, trilateral and other free trade agreements in the Americas.

Considering the developments which took place worldwide producing bilateral, trilateral and other free trade agreements, most of which contained references to intellectual property, it was decided to enlarge the activities of the Committee to cover "Bilateral, Trilateral and Other Free Trade Agreements Worldwide".

The first measure to be taken was to reorganize the Committee which has only been partly successful.

At the moment, the Committee is constituted by:

| | | |
|-------------|------------------------|---------|
| Chairman | Peter Dirk SIEMSEN | Brazil |
| Co-Chairman | Bruce MORGAN | Canada |
| Secretary | Christian LEDERER | Germany |
| Members | <u>South America</u> | |
| | Maria DEL CARMEN ARANA | Peru |

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|--|---------|
| Andrés MELOSSI | Chile |
| <u>North America</u> | |
| Alfredo RANGEL | Mexico- |
| -will not attend the Buenos Aires meeting. | |
| <u>Europe</u> | |
| Marianne LEVIN | Sweden |
| Christian DURÁN | Spain |
| -will not attend the Buenos Aires meeting. | |
| <u>Middle East</u> | |
| Samir HAMZA | Egypt |
| Ahmed ABOU ALI | Egypt |
| (Both will be represented, in Buenos Aires, by Hoda A. Serageldine, as both are unable to attend the meeting). | |

Missing to complete the Committee are representatives from the United States, South Africa, Asia (Japan, Korea and China), Southeastern Asia (Malaysia and Singapore), India and Australia/New Zealand.

Although the Committee received reports from Bruce Morgan, Christian Lederer, Maria del Carmen Arana, Andrés Melossi, Christian Durán, Marianne Levin, Samir Hamza and Ahmed Abou Ali, it was not possible, due to the short time, to prepare a uniform report covering the contents of the reports which have been sent.

Mainly, because the reports are quite variable and it will, therefore, be necessary, during the Committee meeting in Buenos Aires, to organize the future work of the Committee so that the Committee report can be prepared in time and submitted to the Reporter General.

The first thing which has to be done is to divide the Committee in task forces, each task force representing a region of the World. These task forces will then be in charge to collect information for each region and prepare a regional report to be submitted to the Committee. Based on the regional reports, the Committee will then prepare its final report for submission to the Reporter General.

This is the only viable way to finalize an objective report without overloading one or another member of the Committee.

I hope that during the meeting, in Buenos Aires, we shall be able to have the Committee work well organized.

In the meantime, we have received the following papers:

- I) From Maria del Carmen Arana:
 1. Comments on the Impact of the U.S. – Peru Free Trade Agreement. Changes in Patents and Marks and Observance.
 2. A report on Free Trade Agreements covering Peru-EFTA, Peru-Korea, EU-Andean Countries: Peru-Colombia-Ecuador Free Trade Agreements Negotiation, Biodiversity, Peru-China.
- II) From Andrés Melossi:

Report on Free Trade Agreements subscribed by Chile that address the subject of intellectual property.
- III) From Bruce Morgan:

Report on recent Free Trade Agreement negotiations in Canada covering Canada with

Peru, already in force, and European Free Trade Association (Norway, Lichtenstein, Switzerland and Iceland) already in force.

In addition, Canada has concluded a Free Trade Agreements with Panama, Jordan and Columbia, free trade agreements which are not yet in force.

Most of these agreements do not contain references to IP rights, except the one, that is the Peruvian Agreement, which expressly recognizes that TRIPS shall provide the legal means to protect geographical indications for wines and spirits.

IV) From Christian Lederer:

This report covers IP treaties/agreements joined, signed or implemented by Germany during the last years.

These treaties/agreements are mostly in relation to the European Community considering Germany as part of the European Community.

1. EU joins international designs treaty

The European Community accessed the Geneva Act of the Hague Agreement (industrial designs) establishing a link between the Geneva Act of the Hague Agreement system, which is administered by WIPO and the Community Design system, which is administered by the OHIM.

2. Patent Prosecution Highway Pilot Project

a) The Pilot Project "Patent Prosecution Highway" (PPH) signed by the German and Japanese patent offices, on March 25th, 2008, has the purpose to allow applicants to request accelerated examination with the German and Japanese patent authorities.

This project will initially run for two years with the option of extension.

b) On April 27th, 2009, the GPTO and the USPTO launched a similar project. This project expires in April 2011, but may be extended for up to one more year.

3. Anti-Counterfeiting Trade Agreement

The Anti-Counterfeiting Trade Agreement (ACTA) is a proposed multilateral trade agreement.

This agreement is being negotiated between Japan, the USA, the European Community, Switzerland, Australia, Mexico, Korea, Canada, Singapore, Morocco, Jordan and the United Arab Emirates. The negotiations are still underway.

4. German Implementation of the Enforcement Directive

The European Union Directive 2004/48/EC is a direct response to counterfeiting and piracy.

A new German Law, implementing the Enforcement Directive finally came into force on September 1st, 2008.

V) From Marianne Levin:

She provided a large number of comments and articles with the following titles:

- US Debates Continue on FTAs with Colombia, South Korea – Bridges Weekly

- Trade News Digest – September 16th, 2009;
- The Australia-Chile Free Trade Agreement 2008: Intellectual Property and Development;
- ICTSD – Intellectual Property Programme;
- Bilateral agreements imposing TRIPS-plus intellectual property rights on biodiversity in developing countries;
- World Library and Information Congress: 71st IFLA General Conference and Council, Norway 2005;
- Tightening TRIPS: The Intellectual Property Provisions of Recent US Free Trade Agreements – Trade Note, February 2005; and
- Intellectual Property provisions in Regional Trade Agreements and the TRIPS Agreements – WTO Seminar, November 2003.

VI) From Christian Durán:

He informed that the most of the free trade agreements that the Commission is negotiating contain a chapter on intellectual property covering copyrights, trademarks, designs, geographical indications, patents, provisions on enforcement of IP rights and provisions on co-operation.

Most of the free trade agreements are still under negotiations.

One agreement which contains extensive provisions on the intellectual property is the Economic Partnership Agreement concluded between the EU and CARIFORUM (Caribbean) countries, signed on October 15th, 2008.

VII) From the Egyptian Group:

The report was prepared by:

- Mr. Samir Hamza (Coordinator)
- Mr. Ahmed Abou Ali
- Dr. Hossam Loutfi

The Egyptian Group prepared an excellent report on the intellectual property chapter in free trade agreements.

The report is concise, very objective and easy to follow up. We may, eventually, use it as a base document for future reports.

This is what I have to report for the time being. I shall proceed with further comments after our meeting, in Buenos Aires, and I hope that in the very near future we can complete the members which are still missing in the Committee.