

**Third World Network Statement on Opposition System, 29 July 2015
WIPO Standing Committee on the Law of Treaties (22nd Session)**

Thank you Madam chair

The patent opposition system is an important mechanism to ensure grant of patents on genuine inventions. A robust pre-grant opposition can increase the effectiveness of patent examination and act as a deterrent against the filing of patents on trivial inventions.

It is an important flexibility available in the patent system.

As we know, patents effectively operate as a monopoly right and therefore utmost care should be taken before granting any monopoly, which may create critical public policy concerns.

Purely from an operational angle the opposition system provides a public scrutiny of the patent application and complement the scrutiny of patent applications, which often suffer from lack of financial or human resource or both, especially in developing countries.

For example, the experience of India during the last 10 years shows that generic versions of many life saving drugs were able to be introduced in the market through pre-grant opposition. It is also important to note that pre-grant opposition in a way triggered rejection of one of the patents on the hepatitis medicine Sofosbuvir in India.

Therefore the SCP should have a work program that looks to identify the opposition systems existing in various Member States.

We also take this opportunity to express our concern on the proposals on work sharing. The work sharing arrangements would bring functional harmonization of patent law and would compromise the flexibility related to patentability criteria. We therefore appeal to Member States not to proceed on work sharing.

As far as the current work sharing arrangements are concerned they are plurilateral and bilateral arrangements and they should not be discussed or mainstreamed in the multilateral forum like the SCP or WIPO. Even providing information on Patent Prosecution Highway in the WIPO website goes against the spirit of multilateralism. We agree with the view that the work sharing does not fall under the current agenda item.

Finally, we call up on Member States to engage in a discussion to reach consensus on the meaning of the word "quality" of patents. To date there is no clarity regarding the meaning of the word "quality". If the word quality means that granted patents fully satisfy the patentability criteria contained in domestic legislation then the proposals on work sharing are contrary to the idea of quality of patents. In the absence of a shared understanding on the word quality it would be extremely difficult to discuss issues under this agenda item on quality of patents.

Thank you