

Summary of the 26th Trilateral Conference
The Hague, The Netherlands
14 November 2008

The European Patent Office (EPO), the Japan Patent Office (JPO), and the United States Patent and Trademark Office (USPTO) met at the 26th Trilateral Conference in Rijswijk, The Netherlands, on 14 November 2008:

- Reconfirming their commitments to Trilateral co-operation based on common recognition of the role of industrial property as a basic system supporting the progress of industry, technology, and international economic growth,
- Identifying timely processing of increased workloads of patent applications and high quality examination processes as common objectives of the Trilateral Offices and its user communities,
- Recognising the benefits of promoting reduction of processing times and reducing or eliminating redundant work through a co-ordinated Trilateral approach,
- Recognising the benefits of promoting the improvement of the quality of incoming applications as a means to reduce Office workloads,
- Recognising the importance of the Five Offices Co-operation, its vision, its goals and its foundation projects,
- Understanding the benefits of harmonising patent law and procedures,
- Recognising the benefits of developing common infrastructure and compatible data for electronic business systems and search tools,
- Recognising the value of patent information as means for raising the quality of applications filed,

Highlight the following as major achievements of the common efforts of the three Offices this year:

- Agreed to proceed with Trilateral and Five Offices Co-operation in a mutually supportive way
- Agreed to explore a number of proposals to develop the PCT
- Implemented various work-sharing pilot or permanent arrangements, among them:

- SHARE (Strategic Handling of Applications for Rapid Examination) through a FOCUS approach, as appropriate
 - TRIWAY
 - PPH on a permanent basis between the JPO and the USPTO and the PPH-comparable pilot between the EPO and the USPTO
- Agreed to accept Common Application Format applications in 2009
- Agreed to extend electronic priority document exchange by supporting WIPO DAS (Digital Access Service) in 2009
- Established a matrix of all available e-learning modules across the Offices and agreed to have examiner-related modules available via the non-public part of the trilateral website in 2009. Further modules will also be considered
- Agreed to undertake a common approach in developing collaborative activities regarding technical assistance co-operation.

Furthermore, understand as follows:

Trilateral Co-operation supporting Five Offices Co-operation

The Trilateral Offices have agreed to proceed with their co-operation supportive of the Five Offices Co-operation and have organised their activities around work-sharing and the Foundation Projects.

The Trilateral Offices agreed to enlarge the Classification working group in order to include KIPO and SIPO. They also agreed to enlarge the Statistical working group in order to include KIPO and support SIPO's efforts to achieve full membership and to substitute the current Trilateral Statistical Report with a Four Office Statistical Report as from 2009, jointly published by the Trilateral Offices and KIPO.

The Trilateral Offices have agreed on a certain number of actions and technical meetings for the first quarter of 2009 to move forward with the following foundation projects:

- Common documentation database
- Common approach for hybrid classification
- Common approach to sharing and documenting search strategies
- Common search and examination support tools
- Common access to search and examination results

Work Sharing - Paris Route

Project WM1: Effective Access To and Use of Work Results

In the area of work-sharing several pilot projects have been implemented or will be implemented this year. These pilot projects will enable the Trilateral Offices to build confidence in utilising each other's work and identify further tools and processes which should be implemented to increase work-sharing efficiency:

Pilot projects:

- Using a FOCUS Approach, as appropriate, the SHARE pilot project was implemented in September in the technical fields A61B (diagnosis, surgery, identification) and B60R (vehicle, vehicle fittings or vehicle parts not otherwise provided for). The Trilateral Offices will monitor the progress thereof and gather data for metrics and evaluation and consider the extension to other technical areas.
- TRIWAY has been implemented in July. The Trilateral Offices will monitor the progress and gather data for metrics and evaluation.

Two other work-sharing schemes have been implemented on a bilateral level:

- The USPTO and the JPO commenced a New Route-analogous pilot project in January 2008. The pilot has been implemented for a period of one year. The two offices will evaluate the result of the pilot to determine next steps.
- Patent Prosecution Highway (PPH)-comparable pilot between the EPO and the USPTO

Furthermore, the EPO and the JPO agreed to continue discussions on the implementation of a PPH-comparable pilot project in 2009.

In addition, the JPO and the USPTO have expanded the Patent Prosecution Highway with patent offices outside the Trilateral framework. The USPTO supported convening a meeting of interested offices to discuss the Plurilateral PPH-Framework proposed by the JPO. The EPO would proceed to an internal consultation on this issue.

Work Sharing : PCT Route

The Trilateral Offices recognise that the PCT already deals with two important aspects of work-sharing, Timeliness and Quality, and have in this context committed to further discuss the various proposals that contribute to developing the PCT.

The Offices recognised the importance of continuing effort on PCT reform and agreed to convene one or more dedicated meetings to this end in 2009.

The Offices agreed in this context to explore a work-sharing scheme based on the work done by the ISA/IPEA. The EPO will draft a proposal by the end of the year.

Project LEG: Legal Issues

The Trilateral Offices will accept Common Application Format applications by the beginning of 2009. The Trilateral Offices proposed amendments to the PCT Administrative Instructions to reflect the progress made in the Common Application Format at the PCT WG meeting in May, 2008. In response to request from users, the Trilateral Offices are continuing to discuss relevant legal issues raised by users within the Trilateral Framework.

Project WM3: Examiner Exchange

The Trilateral Offices conducted two examiner exchanges since November. The FOCUS/comprehensive approach was implemented in the technical field of “automotive onboard-diagnostics” in B60R, which was one of the technical fields of the last examiner exchange. In 2009 the examiner exchange will continue to serve as a test bed for co-operation projects at the examiner level.

Project WM3; E-learning

The Trilateral Offices agreed to establish an e-learning plan in early 2009.

Machine Translation

Project WT1: Linguistic Tools

To improve machine translation systems in use by the Trilateral Offices (WT1), a proposal to exchange groupings of English language phrases by IPC has been discussed.

Common Approach to Hybrid Classification

Project WT2: Harmonisation of Classification

The Trilateral Offices agreed to enhance the dialogue among the IP5 Offices towards the development of a hybrid classification system that will be shared by the five Offices. The Trilateral Offices agreed to integrate SIPO and KIPO into the Harmony project selection process and the work on the current Harmony projects.

International Co-operation

The Trilateral Offices will undertake approaches in developing their collaborative activities regarding technical assistance cooperation. The primary objectives for these activities are:

- (1) to enhance patent related technical assistance provided to other national or regional intellectual property offices in order to facilitate the administration of patent rights and strengthen patent protection
- (2) to raise awareness of the benefits of strong intellectual property protection

- (3) to co-ordinate, as appropriate, IPR capacity building with IP officials in other nations and regions
- (4) to provide information on services and products available through the dissemination of patent information
- (5) to share information on enforcement-related issues.

Project PI1: Information Dissemination

Recognising the importance of information dissemination to our users and the benefits of such for improving the quality of incoming applications, the Trilateral Offices will evaluate the results of the Public Roundtables conducted in 2008 to determine steps that can be taken in the short term to align their data products to support user needs.

The Trilateral Offices will continue to support information dissemination fairs in their respective regions.

Common rules for Examination Practice and Quality Control

The Trilateral Offices have begun to look into a Quality Management System (QMS). Concrete proposals will be made by the end of this year.

Project LEG; Comparative Studies on Examination Practices

To facilitate the preparation of high-quality applications, the Trilateral Offices acknowledge the significance of the comparative study on disclosure and claims and the comparative study on the inventive step/non-obviousness. The Trilateral Offices disseminated the results of these studies by posting them on the Trilateral website. The Trilateral Offices will move forward with the comparative study on novelty and inventions of use.

Project WM4; Nanotechnology

The Nanotechnology Working Group concluded a comparative study and established a common classification scheme to be included in the IPC. The Trilateral Offices will continue sharing information on a periodic basis.

Common Access to Search and Examination Results

Project EB3: Trilateral Document Access

The Trilateral Document Access (EB3 and DTR3) system has been extended to support the WIPO DAS priority exchange and to enhance the current file wrapper access. The Trilateral Offices recognised the importance of future text (XML)-based document exchange.

Project DTR3: Priority Document Exchange

The JPO-EPO and the JPO-USPTO agreed to allow for the electronic transfer of priority documents issued by other offices that were filed with application in Trilateral Offices.

Project DR4: Non-Patent Literature

The JPO-EPO and the JPO-USPTO discontinued exchanging certain documents cited in the International Search Reports and each Office then began to basically acquire these documents through its own efforts in order to provide increased efficiencies and to save costs.

Project EB1-3: Electronic Business Systems

The Trilateral Offices uphold the fundamental principle of XML-based application. On the premise of its importance in the area of Electronic Business (EB1-3) the Trilateral Offices have agreed to propose a revision of the standard for online filing (Annex F) and agreed how to apply it to allow new types of web-browser filings.

Project IT3; TRINet

The Trilateral Offices have reviewed the architecture and security policy for Trinet (IT3) and have agreed to extend the centralised system to implement new encryption technology.