

WIPO



WO/GA/38/9

ORIGINAL: English

DATE: August 15, 2009

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

E

WIPO GENERAL ASSEMBLY

Thirty-Eighth (19th Ordinary) Session
Geneva, September 22 to October 1, 2009

MATTERS CONCERNING THE INTERGOVERNMENTAL COMMITTEE ON
INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL
KNOWLEDGE AND FOLKLORE

prepared by the Secretariat

1. At the Thirty-Fourth (18th Ordinary) Session of the WIPO General Assembly in 2007, under its agenda item concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), the Assembly:

“(a) noted the agreement of the IGC that progress had been made on its substantive work to date, and that the IGC had agreed to work towards further convergence;

(b) welcomed the successful launch of the WIPO Voluntary Fund, called for further contributions to the Fund and encouraged further initiatives to ensure the effective participation of representatives of local and indigenous communities in the work of the IGC;

(c) approved the renewal of the IGC’s mandate in the terms recommended by the IGC and set out in paragraph 9 of WO/GA/34/9, in particular:

- the Intergovernmental Committee will continue its work for the next budgetary biennium on questions included in its previous mandate;
- its new work will focus, in particular, on a consideration of the international dimension of those questions, without prejudice to the work pursued in other fora; and

- no outcome of its work is excluded, including the possible development of an international instrument or instruments.

(d) urged the IGC to accelerate its work and to present a progress report to the session of the General Assembly in September 2008; and

(e) requested the International Bureau to continue to assist the IGC by providing Member States with necessary expertise and documentation.”

2. At the Thirty-Sixth (18th Extraordinary) Session of the WIPO General Assembly in 2008, a progress report was provided to the Assembly as referred to in paragraph (d) of the Assembly’s decision cited above (document WO/GA/36/3 Rev.).

3. Since the Thirty-Sixth (18th Extraordinary) Session of the WIPO General Assembly in 2008, the IGC has met twice, for its thirteenth session (October 13 to 17, 2008) and fourteenth session (June 29 to July 3, 2009).

4. The main developments at these sessions were:

- The election as IGC Chair of Ambassador Rigoberto Gauto Vielman of Paraguay for the duration of the current IGC mandate for the biennium 2008-2009, the Deputy Chairs (Mr. Abdellah Ouadrhiri of Morocco and Mr. Lu Guoliang of China) having already been elected for the same period at the twelfth session of the IGC in February 2008;
- An initial review, at the thirteenth session, of “gap analyses” in relation to traditional knowledge (TK) and traditional cultural expressions (TCEs). These gap analyses had been commissioned at the twelfth session of the IGC in February 2008 and had been prepared through an open commentary process. The gap analyses (available as documents WIPO/GRTKF/IC/13/4(b) Rev. and WIPO/GRTKF/IC/13/5(b) Rev.) contrast the current international legal framework with specific examples of gaps in protection and practical considerations of how these gaps might best be addressed. Substantive discussions on TK and TCEs at the thirteenth session were also based on an African submission (WIPO/GRTKF/IC/13/9);
- Regarding genetic resources (GRs), discussions, which took place at the thirteenth session, were based on documents WIPO/GRTKF/IC/13/8(a), WIPO/GRTKF/IC/13/8(b), WIPO/GRTKF/IC/13/8(c) and WIPO/GRTKF/IC/13/9;
- Discussion of modalities and terms of reference for the establishment of intersessional mechanisms or processes, based in particular on a proposal from the African Group (contained in documents WIPO/GRTKF/IC/13/10 and WIPO/GRTKF/IC/14/10);
- The accreditation to the IGC of 26 new non-governmental organizations as observers, bringing to well over 200 the number of observers accredited to the IGC, the majority representing indigenous and local communities or other holders of TK, TCEs and GRs;

- The successful further implementation of the WIPO Voluntary Fund for Indigenous and Local Communities, which had sufficient funds to support the participation in both the thirteenth and fourteenth sessions of all community representatives that were recommended by independent panels which included indigenous representation;
- The Committee continued to strengthen mechanisms to ensure indigenous peoples and local communities have an effective voice. Meetings of an Indigenous Consultative Forum were facilitated, and throughout the sessions, indigenous delegations were provided with interpretation services and other logistical support, funded by WIPO, by DoCIP (the Indigenous Peoples' Centre for Documentation, Research and Information).

5. Concerning its future work, the IGC was unable to reach agreement on this matter at its thirteenth and fourteenth sessions. Following extensive informal consultations on the "Future Work" agenda item during the thirteenth session, the report of that session notes that "... no decisions were taken under this item" (paragraph 172, document WIPO/GRTKF/IC/13/11).

6. In the period between the thirteenth and fourteenth sessions of the IGC, the Chair conducted informal consultations with Committee participants (reported on in WIPO/GRTKF/IC/14/INF/6), and with representatives of indigenous and local communities. At the fourteenth session, on the basis of a proposal made by the African Group, the draft agenda was amended so that the agenda item "Future Work" was given priority and the session was largely devoted to this agenda item. Discussions under this agenda item at the fourteenth session concerned most directly the possible renewal of the IGC's mandate for the 2010-2011 biennium, as the mandate set by the General Assembly in 2007 was for the 2008-2009 biennium. These discussions were based mainly on a proposal of the African Group (document WIPO/GRTKF/IC/14/8 Rev.). During the session, the European Community and its Member States tabled a written proposal and requested that it be issued as a working document of the session. The proposal was accordingly issued as document WIPO/GRTKF/IC/14/11. Certain other proposals were made by several delegations. Following extensive discussions, the decision taken under this agenda item at the fourteenth session reads: "The Committee did not reach an agreement on this agenda item" (WIPO/GRTKF/IC/14/12 Prov.).

7. Regarding the report of the fourteenth session, the IGC agreed that a draft written report, containing the agreed text of these decisions and all interventions made, would be prepared and circulated. IGC participants would be invited to submit written corrections to their interventions as included in the draft report before a final version of the draft report would then be circulated to IGC participants for adoption at this session of the General Assembly. An initial draft of the report (WIPO/GRTKF/IC/14/12 Prov.) was made available on the WIPO website to enable participants to make corrections to their statements, and IGC participants were notified thereof by means of a circular dated July 29, 2009. A second draft of the report, incorporating any comments received on the initial draft, will be made available to the General Assembly for adoption, as decided by the IGC at its fourteenth session.

8. Pursuant to the current mandate of the IGC for the 2008-2009 biennium, established by the General Assembly in 2007 as quoted in paragraph 1 above, the Program and Budget adopted by the Member States for the 2008-2009 biennium foresees two full sessions of the IGC for 2009. Accordingly, and subject to any further directions provided by the General Assembly, a fifteenth session of the IGC has been provisionally scheduled for December 7 to 11, 2009.

9. The mandate of the IGC is established by the General Assembly. The mandate established for the IGC at the Thirty-Fourth (18th Ordinary) Session of the WIPO General Assembly in 2007 was for the 2008-2009 biennium. The current session of the General Assembly may wish, on the basis of the proposals referred to in paragraph 6 above and any other proposals Member States may wish to make, to consider an extension of the mandate for the 2010-2011 biennium and the terms of any such extension.

10. *The General Assembly is invited:*

- (a) to note the contents of this document;*
- (b) to adopt the report of the fourteenth session of the IGC as contained in WIPO/GRTKF/IC/14/12 Prov. 2;*
- (c) to consider the possible extension of the mandate of the IGC for the 2010-2011 biennium and the terms thereof, as indicated in paragraph 9.*

[End of document]