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

First Session

Geneva, April 30 to May 3, 2001

DIRECTIVE 98/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
ON THE LEGAL PROTECTION OF BIOTECHNOLOGICAL INVENTIONS

EXPLANATORY NOTE ON RECITAL 27 OF THE ABOVE DIRECTIVE CONCERNING
THE INDICATION OF THE GEOGRAPHICAL ORIGIN OF BIOTECHNOLOGICAL
INVENTIONS

COMMUNICATION BY THE EUROPEAN UNION AND ITS MEMBER STATES ON
THE RELATIONSHIP BETWEEN THE CONVENTION ON BIOLOGICAL DIVERSITY
AND THE TRIPS AGREEMENT

PAPER ON THE RELATIONSHIP BETWEEN INTELLECTUAL PROPERTY RIGHTS
AND BIODIVERSITY

Documents submitted by the European Community and its Member States

1. In a letter dated April 19, 2001, and signed by the Ambassadors of the European Commission and of Sweden, the Permanent Delegation of the European Commission to the International Organizations in Geneva submitted four documents on behalf of the European Community and its Member States to the first session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

2. The documents are entitled “Directive 98/44/EC of the European Parliament and of the Council on the legal protection of biotechnological inventions,” “Explanatory note on recital 27 of the above Directive concerning the indication of the geographical origin of biotechnological inventions,” “Communication by the European Union and its Member States on the relationship between the CBD and the TRIPS Agreement” and “Paper on the relationship between IPRs and biodiversity.” The documents are reproduced in the form received and published as Annexes I through IV respectively to this document.

3. The above-mentioned letter included, in the name of the European Community and its Member States, the following paragraphs:

“The European Community and its Member States are sensitive to the concerns raised by developing countries with respect to genetic resources, traditional knowledge and expressions of folklore. For this very reason, we have repeatedly stressed in WIPO and other relevant international organizations our readiness to participate constructively and in a positive spirit in future discussions on those issues. Needless to say that we also believe that WIPO as the specialized UN agency is the right place to take up all intellectual property-related issues that have been raised in this context.

Without prejudice to our future position as regards substantial matters, the European Community and its Member States agreed to share a number of documents for information with participants at the newly established Intergovernmental Committee (IGC). As an initial contribution to the upcoming examination of issues related to genetic resources, traditional knowledge and folklore, the European Community and its Member States wish to submit the following documents to the IGC (see annexes):

- Directive 98/44/EC of the European Parliament and of the Council on the legal protection of biotechnological inventions;
- An explanatory note on recital 27 of the above Directive concerning the indication of the geographical origin of biotechnological inventions (animal and plant aspects); and
- A Communication by the European Communities and their Member States on the relationship between the CBD and the TRIPS Agreement, as submitted to the TRIPS Council (cf. WTO Document IP/C/W/254 of 3 April); and
- A paper on the relationship between IPRs and biodiversity, submitted by the EU to Mr. Zedhan of the CBD Secretariat on 5 February 2001 (in accordance with Decision 26 of the Fifth Conference of the Parties to the CBD).”

Furthermore, we would appreciate it if attention could be drawn to two studies commissioned by the European Commission. These studies do not necessarily reflect the views held by the EC and its Member States. The first one, commissioned by DG Trade, deals with “The Relationship Between the Agreement on TRIPS and Biodiversity Related Issues” and is available on DG Trade’s Website under the following address:

<http://europa.eu.int/comm/trade/miti/intell/ceas.htm>

The second one, commissioned by DGMarket, concerns “The International Protection of Expressions of Folklore under Intellectual Property Rights” and is available upon request from Mr. C. Felix (e-mail address: carlos.felix@cec.eu.int).

We would, of course, be pleased to make hard copies available on specific demand by delegations.”

4. The Intergovernmental Committee is invited to take note of this document and the Annexes to it.

[Annex I follows]