

Information Note¹

for IGC 34

DISCUSSIONS UNDER AGENDA ITEM 8 “TAKING STOCK OF PROGRESS AND MAKING A RECOMMENDATION TO THE GENERAL ASSEMBLY”

Prepared by Mr. Ian Goss, the IGC Chair

Introduction

At the conclusion of the Thirty-Fourth Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), the Committee will have completed its work program approved under the current IGC mandate for 2016/2017.

In accord with that mandate, the Committee is requested to submit to the 2017 WIPO General Assembly (GA): “the results of its work on an international legal instrument(s) relating to intellectual property which will ensure the balanced and effective protection of [genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs)]. The General Assembly in 2017 will take stock of progress made, and decide on whether to convene a diplomatic conference or continue negotiations. It will also consider the need for additional meetings, taking account of the budgetary process.”

In accord with the mandate, “the Committee may also consider the conversion of the Committee into a Standing Committee and, if so agreed, make a recommendation in this regard to the General Assembly in 2016 or 2017.”

The mandate also states (in the “Work Program” table that follows the narrative part of the mandate) that IGC 34 is to be a “Taking Stock of Progress and Making a Recommendation to the General Assembly”.

To assist Member States’ preparations for IGC 34, I have prepared this short information note, which includes:

- Key questions members may wish to consider relating to future work;
- A summary, including timelines and key decision points since IGC discussions commenced, including within related international fora;
- An overview/status of current negotiations since text-based negotiations commenced in 2010; and
- A discussion of options for stocktaking and making a recommendation.

This note is informal and has no status. **I emphasize that any views that may be expressed in this note are mine alone and are without prejudice to any Member States’ positions on the issues discussed.**

¹ Note from the WIPO Secretariat: The Chair of the IGC, Mr. Ian Goss, has prepared this information note to assist Member States in their preparations for IGC 34.

Key Questions – Future Work

In considering future work it may be useful to break up deliberations into specific questions members may wish to consider. These are reflected in the decisions to be considered by the GA.

I recall that the GA will **take stock of progress made and decide on:**

- ***Whether to convene a diplomatic conference; or***
- ***Continue negotiations; and,***
- ***Consider the need for additional meetings, taking account of the budgetary process.***

Underpinning any deliberation of these questions will be Member States' views regarding the maturity of the individual working documents in terms of: resolution of core issues; form of the instrument(s); and, current readiness for political decision-making such as at a diplomatic conference.

Additional implied questions which Member States may wish to consider, subject to their views on the above, include:

1. What are the priorities and key deliverables/outcomes for future work?
2. What enabling activities, if any, should be incorporated within future work, e.g. seminars, studies, workshops, working groups?
3. Should a defined timeline/road map be established for future work, including a date for a diplomatic conference? Should one be agreed or required?
4. Should a finite end date be established for the work of the Committee?
5. Does all subject matter need to be progressed in parallel within similar timeframes?
6. If an incremental approach is taken, how best to safeguard work continuing on all subject matter?
7. What governance arrangements should be established for future work, for example:
 - a. IGC with a finite mandate (1 year, 2 years, 3 years)
 - b. Standing Committee
 - c. IGC followed by the establishment of a Standing Committee post a successful conclusion of a diplomatic conference on one or more areas of subject matters
8. What level of resourcing should be allocated to future work, including number of sessions, including days? (Noting, however, that at this stage, the level of resourcing could be kept at current levels to allow the Program and Budget Committee to consider the draft Program and Budget for 2018/2019 without the need to deal with these intricate issues to be decided by the GA).
9. Is there a benefit in holding a workshop or meeting outside Geneva or regional meetings to more actively engage at a political/capital based level?

Lessons from the Current Mandate

In addition to the above questions, Member States may wish to consider the lessons from the work of the Committee under the current mandate. From my perspective, a key positive has been the ability to focus our work over the biennium without the requirement to renegotiate our work program or seek further guidance from the GA on an annual basis. This has contributed to a constructive momentum for our work and ensured we have not been distracted by process debates. The Committee's work has also been greatly assisted by the Seminars organized by the WIPO Secretariat on each subject matter and a number of informal workshops undertaken by Member States prior to IGC meetings. They have provided a less formal environment to discuss and gain a shared understanding of key issues and encouraged a narrowing of existing

gaps which are reflected in key areas within the texts, though these positions are yet to achieve greater convergence.

We could also consider if the mandate itself was sufficiently clear, in relation to the purpose and focus of our work. The current mandate includes two areas of focus (the underlining is mine):

- *[...] continue to expedite its work, with a focus on narrowing existing gaps, with open and full engagement, including text-based negotiations, with the objective of reaching an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property which will ensure the balanced and effective protection of [GRs, TK and TCEs].*
- *The Committee's work in the 2016/2017 biennium will build on the existing work carried out by the Committee with a primary focus on reaching a common understanding on core issues, including definition of misappropriation, beneficiaries, subject matter, objectives, and what TK/TCEs subject matter is entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.*

Members may wish to consider if a single aim or purpose should be articulated in the mandate without multiple areas of “focus”. Areas of focus could be articulated to support the objective or purpose but they would be subordinate.

In relation to our working methods, they have not significantly diverged from the previous mandate, based on plenary and informals with the output of these discussions a “consolidated” or “Rev. 2” document produced by facilitators, not agreed but noted by the Committee. To date, the Committee has not agreed on the use of working or expert groups or produced or commissioned studies to support the Committee. This may be something members may wish to consider in relation to addressing unresolved key issues, noting that the clear intent of such mechanisms or processes would be to advance and not to delay the negotiations.

One area that has diverged from previous mandates has been the issuing of a Chair’s Information Note prior to each session to assist members with their preparations. Members may wish to consider the utility of these notes.

Members may also wish to consider if it is timely to review and rationalize the consolidated working documents. These texts incorporate, in some areas, significant duplication and language which may no longer reflect the direction of the discussions. Shorter, simpler text(s) would facilitate the Committee’s negotiations. This work could be undertaken by a working group of experts or a Chair’s text(s) could be developed. Clearly any rationalized text(s) that may be developed would need to be reviewed by the IGC.

Summary of IGC Discussions/Negotiations

Attached, as Annex II, is a timeline summarizing developments related to the protection of GRs, TK and TCEs, including the work of the IGC since its commencement in 2001, as well as key regional and international instruments. This is aimed at providing context to our deliberations, noting the multilateral environment has changed significantly since the commencement of discussions, and later, negotiations, in the IGC.

In addition, it may be noted that approximately 130 countries and regional organizations have adopted legislation or other instruments that address, in one way or another, the protection of TK and/or TCEs, and/or which include a disclosure requirement related to GRs and/or

associated TK. Details of these laws and instruments are available on the web pages of the WIPO Traditional Knowledge Division at <http://www.wipo.int/tk/en/>.

Overview Status of Current Negotiations

Genetic Resources

The first consolidated document on GRs was produced at IGC 20 in February 2012. This document attempted to summarize proposals and positions within IGC working documents and Member State proposals. This initial document has since been significantly refined to incorporate two broad proposals to address the policy objectives detailed in the text, noting these are not agreed. Key policy elements included within these alternate positions comprise (my interpretation):

- *Enhance the transparency of the [IP] [patent] system relating to GRs and TK associated with GRs.*
- *Facilitate mutual supportiveness with international agreements relating to GRs and TK associated with GRs.*
- *Facilitate the possibility of ABS through the disclosure of country of origin or source of GRs in separate systems such as the CBD.*
- *Ensure that IP/patent offices have access to the appropriate information on GRs and TK associated with GRs to prevent the granting of erroneous IP/patent rights.*

The two broad approaches incorporated within the working document are:

- **Normative – Disclosure Requirement.** Inclusion of a disclosure requirement within an IP/patent application relating to the disclosure of information (for example, information about the country of origin or source of GRs and TK associated with GRs), where the subject matter/claimed invention includes utilization of/is directly based on GRs and TK associated with GRs. Within this approach, non-normative measures are considered complementary measures and not an alternative approach to addressing policy objectives.
- **Non-Normative.** The non-normative approach incorporates defensive measures such as databases, voluntary codes and guidelines for IP/patent offices, third party dispute mechanisms and due diligence regimes within patent offices under national laws to ensure compliance with relevant ABS regimes

In relation to disclosure, the approach has been significantly refined with inclusion of an administrative mechanism option focused on ensuring transparency within the IP/patent system rather than solely a regime based around a substantive patentability requirement.

In addition to the consolidated working document, three additional documents have been presented for consideration by the Committee:

- *Joint Recommendation on Genetic Resources and Associated Traditional Knowledge* submitted by the Delegations of Canada, Japan, the Republic of Korea and the United States of America;²
- *Joint Recommendation on the Use of Databases for the Defensive Protection of Genetic Resources and Traditional Knowledge Associated with Genetic Resources* submitted by the Delegations of Canada, Japan, the Republic of Korea and the United States of America;³

² Document WIPO/GRTKF/IC/34/9

³ Document WIPO/GRTKF/IC/34/10

- *Proposal for the Terms of Reference for the Study by the WIPO Secretariat on Measures Related to the Avoidance of the Erroneous Grant of Patents and Compliance with Existing Access and Benefit-Sharing Systems* submitted by the Delegations of Canada, Japan, Norway, the Republic of Korea, the Russian Federation and the United States of America.⁴

Whilst two of the documents expand on non-normative proposals detailed within the consolidated document, they may be considered as stand-alone recommendations for the Committee to consider. The third proposal recommends a study to assist members with their deliberations with a focus on learning from national experiences. In addition to these documents, at IGC 29 the EU referred again to its disclosure proposal which had first been tabled by the EU at IGC 8 in 2005 (see IGC 29 report paragraphs 177 to 197).⁵

Traditional Knowledge

The TK text originated from a draft “objectives and principles” document published by the IGC Secretariat in 2005 to support discussions within the Committee. This document was further refined through an intersessional working group conducted in 2011 in support of a revised mandate post 2010: “[...] *text-based negotiations with the objective of reaching agreement on a text(s) of an international legal instrument(s) which will ensure the effective protection of TK....*”

This working group developed a text, which formed the framework for the current TK working document, which captures the views and positions of Member States since text-based negotiations on TK commenced in 2010. Throughout this time discussions relating to TK have primarily focused on: policy objectives; subject matter, including eligibility criteria; beneficiaries; scope of protection; exceptions and limitations; sanctions and remedies; relationship with the public domain; and use of terms, in particular the definitions of TK, misappropriation, utilization and public domain.

The current working document incorporates a number of alternate positions reflecting the various views on the policy objectives of the instrument and approaches to implementing the policy objectives, such as “rights” and/or “measures”. These differences reflect in part the two ways the objectives are framed in the working document (refer below my interpretation of the alternate positions). The first set of objectives is from the perspective of indigenous peoples, local communities and others who might be regarded as TK holders, and the second is from a perspective of the broader innovation system with a focus on supporting innovation, the transfer and dissemination of knowledge, protecting the public domain and preventing the granting of erroneous patent/IP rights relating to TK.

Alt 1

This instrument should aim to:

1. Provide beneficiaries with the means to:

- a. prevent the [misappropriation/illegal appropriation, misuse, and unauthorized use], of their traditional knowledge;*
- b. [control ways in which their traditional knowledge is used beyond the traditional and customary context;]*

⁴ Document WIPO/GRTKF/IC/34/11

⁵ Document WIPO/GRTKF/IC/8/11 (Disclosure of Origin or Source of Genetic Resources and Associated Traditional Knowledge in Patent Applications).

- c. *achieve the fair and equitable sharing of benefits arising from the use of their traditional knowledge, with prior informed consent or approval and involvement and taking customary law into consideration as appropriate; and*
- d. *encourage and protect tradition-based creation and innovation, whether or not commercialized.*

Alternative

(d) encourage and protect creation and innovation, whether or not commercialized.

[2. Aid in the prevention of the grant of erroneous intellectual property/[patent rights] over [traditional knowledge and [[traditional knowledge] associated [with] genetic resources].]

Alt 4

The objectives of this instrument are to:

- (a) contribute toward the protection of innovation and to the transfer and dissemination of knowledge, to the mutual advantage of holders and users of protected traditional knowledge and in a manner conducive to social and economic welfare and to a balance of rights and obligations;*
- (b) recognize the value of a vibrant public domain, the body of knowledge that is available for all to use and which is essential for creativity and innovation, and the need to protect, preserve and enhance the public domain; and*
- (c) prevent the erroneous grant of intellectual property rights [over traditional knowledge and traditional knowledge associated with genetic resources][that are directly based on protected traditional knowledge obtained by unlawful appropriation].*

In addition to the working document, five additional documents have been presented for consideration by the Committee during TK discussions:

- *Joint Recommendation on Genetic Resources and Associated Traditional Knowledge* submitted by the Delegations of Canada, Japan, the Republic of Korea and the United States of America;⁶
- *Joint Recommendation on the Use of Databases for the Defensive Protection of Genetic Resources and Traditional Knowledge Associated with Genetic Resources* submitted by the Delegations of Canada, Japan, the Republic of Korea and the United States of America;⁷
- *Proposal for the Terms of Reference for the Study by the WIPO Secretariat on Measures Related to the Avoidance of the Erroneous Grant of Patents and Compliance with Existing Access and Benefit-Sharing Systems* submitted by the Delegations of Canada, Japan, Norway, the Republic of Korea, the Russian Federation and the United States of America;⁸
- *Proposal for the Terms of Reference for a Study* submitted by the Permanent Delegation of the European Union in Geneva, on behalf of the European Union and its Member States;⁹

⁶ Document WIPO/GRTKF/IC/34/9

⁷ Document WIPO/GRTKF/IC/34/10

⁸ Document WIPO/GRTKF/IC/34/11

⁹ Document WIPO/GRTKF/IC/32/9

- *Identifying Examples of Traditional Knowledge to Stimulate a Discussion of What Should be Protectable Subject Matter and What is not Intended to be Protected* submitted by the Delegation of the United States of America.¹⁰

The first three documents were also submitted to support GR discussions. The EU document was first submitted at IGC 30 and relates specifically to TK. The last document was submitted at IGC 32. As discussed under GRs, the first two documents may be considered as stand-alone proposals which Member States may wish to consider. The third and fourth documents recommend the conducting of studies to assist the work of the Committee particularly relating to obtaining lessons from national experiences.

Traditional Cultural Expressions

Whilst discussions on TCEs are still ongoing and will be further informed by IGC 34, it is worth considering the background and status of current negotiations in the context of future work. Similar to TK, the TCEs text originated from a draft “objectives and principles” document published by the IGC Secretariat in 2005 to support discussions within the Committee and which was subsequently revised at an intersessional working group conducted in 2010. This has formed the primary working text for subsequent text-based negotiations and captures the views and positions of Member States since text-based negotiations on TCEs commenced in 2010.

Throughout this time, similar to TK, discussions on TCEs have primarily focused on: policy objectives; subject matter, including eligibility criteria; beneficiaries; scope of protection; exceptions and limitations; sanctions and remedies; relationship with the public domain; and use of terms, in particular the definitions of TCEs and the public domain. This reflects that there are significant common policy issues across both subject matters, in particular, policy objectives, beneficiaries and scope and nature of protection. However, it should also be noted that there are clear differences in relation to the nature of the subject matter and resulting relationship with the extant IP systems and international agreements relating to intangible cultural heritage. This reflects that whilst TK discussions in the multi-lateral environment are relatively new, TCE (or, “expressions of folklore”) discussions have been ongoing for over 50 years in a number of different fora.

The current TCEs working document includes a number of different positions on core issues. Differences which can be linked to the framing of the alternative policy objectives in the text (refer below, my interpretation).

Alt 1

This instrument should aim to:

1. *Provide beneficiaries with the means to:*
 - (a) *prevent the misappropriation and misuse/offensive and derogatory use of their traditional cultural expressions;*
 - (b) *control ways in which their traditional cultural expressions are used beyond the traditional and customary context, as necessary;*
 - (c) *promote the equitable compensation/sharing of benefits arising from their use with free prior informed consent or approval and involvement/fair and equitable*

¹⁰ Document WIPO/GRTKF/IC/34/13

compensation, as necessary; and

(d) encourage and protect tradition-based creation and innovation.

Option

(d) encourage and protect creation and innovation.

2. *Aid in the prevention of the grant of erroneous intellectual property rights over traditional cultural expressions.*

Alt 2

This instrument should aim to:

- (a) [prevent the [misuse]/[unlawful appropriation] of protected traditional cultural expressions];*
- (b) encourage creation and innovation;*
- (c) promote/facilitate intellectual and artistic freedom, research [or other fair] practices and cultural exchange; and*
- (d) secure/recognize rights already acquired by third parties and secure/provide for legal certainty and a rich and accessible public domain.*

As with the TK text, one alternative is framed from the perspective of indigenous peoples, local communities and others who might be regarded as the custodians of TCEs and the second alternative focuses on balancing the interests of those beneficiaries with the protection of the public domain and artistic freedom.

In addition to the working document, two additional documents have been presented for consideration by the Committee concerning TCEs:

- *Traditional Cultural Expressions: A Discussion Paper* submitted by the Delegation of the United States of America.¹¹
- *EU Proposal for a Study* submitted by the Permanent Delegation of the European Union in Geneva, on behalf of the European Union and its Member States.¹²

The first document is a discussion paper only and includes no recommendations for consideration by the Committee. The second document recommends the conduct of studies relating to TCEs to assist the work of the Committee.

Noting that discussions on TCEs are still ongoing, it may be premature to consider options for future work in this area. However, it may be useful for members to consider the possible options under the TK discussion, reflecting the similarity in core issues being discussed.

Key Changes within Working Documents

Notwithstanding divergent positions within the working documents, significant shifts have occurred within these texts over the biennium, such as:

¹¹ Document WIPO/GRTKF/IC/34/12

¹² Document WIPO/GRTKF/IC/33/6

- Policy objectives, whilst still not agreed, have been revised to focus on the IP system.
- Recognition that the focus of GRs work is not on the provision of rights relating to GRs and TK associated with GRs, which are addressed within the Convention on Biological Diversity (CBD), but on how the IP system, through normative and/or non-normative measures, can improve the implementation of the patent/IP system (by, for example, enhancing the quality of granted patents) and mutually support international agreements relating to the protection of GRs and TK associated with GRs.
- Expectations in relation to the scope of protection relating to TK and TCEs have been narrowed, aided by the introduction of a possible tiered approach to attempt through practical examples to explore this central issue.
- There has been a shift towards framework documents which establish a set of standards (minimum/maximum) or mechanisms which provide flexibility for implementation at the domestic level.
- The texts have shifted from trying to merge different positions to providing clarity between the two different approaches.

IGC Options Future Work

Considering the status of the negotiations, broad options members may wish to consider in relation to future work, could include:

- **GRs:**
 - Continue negotiations around the working texts with the aim of reaching a consensus on a single approach, which could be brought to a conclusion at a diplomatic conference, if required. This work could be supported by a timeline for key decisions to ensure negotiations are not open-ended.
 - Development of a paper to consider non-normative measures, reflected in the Joint Recommendations and within the working document, and make recommendations on how to process this work in parallel with normative negotiations e.g. the establishment of an experts' working group to address non-normative measures.
 - Accept that positions are unlikely to change and focus on agreeing amongst the different proponents two clear positions which would require a subsequent political decision amongst Member States.
 - Consider the adoption of the Joint Recommendations as preliminary steps focused on non-normative activities, whilst negotiations continue on reaching an agreed position on disclosure.
- **TK/TCEs:**
 - Continue negotiations around the working texts with the aim of reaching a consensus on the core issues and the nature of the instrument. This option could be supported by:
 - A timeline for key decisions to ensure negotiations are not open-ended.
 - The establishment of working groups or experts groups to present proposals on core issues to support consensus building, noting that the clear intent of such mechanisms or processes would be to advance and not delay the negotiations.
 - Consider taking an incremental approach to the negotiations with an initial focus on gaining consensus on the less contentious issue of moral rights relating to recognition and attribution whilst negotiations continue on the scope of any economic rights. In parallel, work could also be undertaken on progressing complementary or non-normative measures such as databases.
 - Accept that positions are unlikely to change and focus on agreeing amongst the different proponents clear positions which would require a subsequent political decision

amongst Member States such as at a diplomatic conference, subject to the nature of the instrument.

The table in Annex I attempts to present some of the options available to aid Member States with their deliberations on this critical issue. **It is emphasized that the options outlined in the Annex are not necessarily exhaustive and they are presented as suggestions only and do not prejudge Member States' positions.**

As indicated earlier, in reviewing these options, members will need to consider the status of the current negotiations, including:

- The maturity of the individual working documents in terms of:
 - resolution of core issues;
 - level of agreement; and
 - number of outstanding issues still requiring resolution.
- The form of the instrument(s).
- The current readiness for political decision making such as at a diplomatic conference.

The questions I posed at the beginning of this note and discussions on the status of negotiations were used to develop the options which are presented as a small number of high level options, which are then further refined into more detailed options to reflect the number of variations within the high level option.

As noted already, the IGC may also consider the conversion of the IGC into a Standing Committee. This may have advantages and disadvantages from the viewpoint of different stakeholders. I have not included a Standing Committee as a specific stand-alone option noting that this is more of a governance issue. If the IGC were to be converted into a Standing Committee, Member States would still need to agree on its mandate, working methodology, work program and rules of procedure.

[Annexes follow]

Annex I

POSSIBLE OPTIONS FUTURE WORK

<i>Number</i>	<i>High Level Option</i>	<i>Alternates</i>	<i>Remarks</i>
1.a	Renew current mandate for a set time period.	Work Program continues to give equal weight and focus to each subject matter with similar working methods as currently in place.	Time period could be 2 or 3 years and include a timeline for key decisions to address concerns about the opened nature of the negotiations.
1.b		<p>Work Program continues to give equal weight and focus to each subject matter but with revised working methods to attempt to bridge gaps and achieve consensus. These revised methods could include:</p> <ul style="list-style-type: none"> • Working Groups • Experts Panels • Studies 	As above.

Number	High Level Option	Alternates	Remarks
2.a	Develop new mandate/Terms Of Reference with clear purpose and time limit.	<p>Mandate incorporates a single purpose/aim underpinned by:</p> <ul style="list-style-type: none"> • Subordinate objectives/priorities; • Decision points; and • Resource allocation in terms of meetings/days. <p>Work Program continues to give equal weight and focus to each subject matter with similar working methods as currently in place.</p>	Time period could be 2 or 3 years and include a timeline for key decisions to address concerns about the opened nature of the negotiations.
2.b		<p>Mandate incorporates a single purpose/aim underpinned by:</p> <ul style="list-style-type: none"> • Subordinate objectives/priorities; • Decision points; and • Resource allocation in terms of meetings/days. <p>Work Program continues to give equal weight and focus to each subject matter but with revised working methods to attempt to bridge gaps and achieve consensus. This revised methods could include:</p> <ul style="list-style-type: none"> • Working Groups • Experts Panels • Studies 	As above.
2.c		<p>Work Program revised to take an incremental approach to the work based on resolving issues in manageable packages based on the maturity of the text and opportunities for reaching consensus, whilst safeguarding the priorities and interest of Member States e.g. (Example Only):</p> <ul style="list-style-type: none"> • Development and issue of a declaratory statement by WIPO members reinforcing their commitment to work in this area across all subject matter in a balanced way which takes account of the interests of all stakeholders. 	<p>Such an approach would need to include safeguards to ensure:</p> <ul style="list-style-type: none"> • Outcomes in one area does not prejudice work continuing across all subject matters • An outcome on TK/TCEs moral rights does not prejudice possible consideration of

Number	High Level Option	Alternates	Remarks
		<ul style="list-style-type: none"> • Conclude negotiations on GRs. • Conclude negotiations on TK/TCEs relating to moral rights. • Conclude negotiations on TK/TCEs relating to economic rights. <p>In parallel develop recommendations/proposals to progress non-normative measures.</p>	<p>economic rights</p> <p>It would also need to recognize in relation to TK and TCEs there are related cross cutting issues.</p>

Number	High Level Option	Alternates	Remarks
3.a	Split the work of the Committee into Non-Normative and Normative Work	The Committee to establish a working group to progress non-normative work with the support of the WIPO Secretariat. Work would be overseen by the Committee. Normative work to continue under the direction of the IGC plenary.	
3.b		The Committee to task non-normative work to the WIPO Secretariat to make progress based on agreed Terms of Reference with regular reports provided by the Secretariat to the Committee. Committee to focus its work on normative negotiations.	

[Annex II follows]

Annex II

	Developments	International Instruments	Regional Instruments
Before 1970	Start of discussions on TCEs / expressions of folklore	Berne Convention for the Protection of Literary and Artistic Works, Stockholm Act, Article 15(4) (1967)	
1970 – 1980		Tunis Model Law on Copyright for Developing Countries (1976)	Bangui Agreement OAPI (1977)
1980 – 1985	Start of discussions on TK and GRs	WIPO-UNESCO Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions (1982)	
1985 – 1990		UNESCO Recommendation on Safeguarding of Traditional Culture and Folklore (1989) ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries (1989)	
1990 – 1995		Convention on Biological Diversity (1992) Agreement on Trade-Related Aspects of Intellectual Property Rights (1994)	

	Developments	International Instruments	Regional Instruments
1995 – 2000	<p>Establishment of WIPO's Exploratory Main Program 11 on "Global Intellectual Property Issues" (1998 – 1999)</p> <p>WIPO fact-finding missions on intellectual property and traditional knowledge (1998 – 1999)</p> <p>WIPO-UNESCO regional consultations on the protection of expressions of folklore (1999)</p>	<p>WIPO Performances and Phonograms Treaty (1996)</p>	
2000 – 2005	<p>Establishment of the IGC (2000)</p> <p>First IGC Session (2001)</p>	<p>Cartagena Protocol on Biosafety (2000)</p> <p>International Treaty on Plant Genetic Resources for Food and Agriculture (2001)</p> <p>The Doha Round (start in 2001)</p> <p>International Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</p>	<p>Andean Community Decisions 391 (2000)</p> <p>Regional Framework for the Protection of Traditional Knowledge and Expressions of Culture Secretariat of the Pacific Community (2002)</p>
2005 – 2010		<p>UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</p> <p>UN Declaration on the Rights of Indigenous Peoples (2007)</p>	

	Developments	International Instruments	Regional Instruments
2010 – Present	Start of text-based negotiations in the IGC	Nagoya Protocol on Access and Benefit-sharing (2010) Beijing Treaty on Audiovisual Performances (2012)	Swakopmund Protocol ARIPO (2010) Framework Treaty on the Protection of Traditional Knowledge and Expressions of Culture Melanesian Spearhead Group (2011)

[End of Annex II and of document]