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

Fifth Session

Geneva, July 7 to 15, 2003

UPDATE ON TECHNICAL COOPERATION ON THE LEGAL PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS

Document prepared by the Secretariat

I. OVERVIEW

1. At its fourth session in December 2002 the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore ("the Committee") reviewed document WIPO/GRTKF/IC/4/4 and adopted a proposal¹ to further update the Report on Technical Cooperation on the Legal Protection of Expressions of Folklore. This document is such an update. This document generally uses the term "traditional cultural expressions" (TCE) rather than the synonymous "expressions of folklore."

2. The Secretariat continues to provide a wide range of technical cooperation on this topic through workshops and meetings, expert and fact-finding missions, legislative drafting and advice, and education and training. This includes activities specifically focussed on the legal protection of expressions of folklore (including those dealing with the related area of traditional knowledge), and more general activities which address this issue along with other areas of intellectual property.

¹ "Further updates to the report on technical cooperation concerning legal protection of folklore, supplementing document WIPO/GRTKF/IC/4/4, would be provided to the Committee at its fifth session." (Document WIPO/GRTKF/IC/4/15, paragraph 91).

3. This document provides only those activities undertaken or proposed between December 2002 and June 2003. It is only an illustrative list and may not include every relevant activity undertaken by the Secretariat. It does show however demonstrate the continuing strong interest in practical and policy issues in relation to the protection of folklore and expressions of traditional culture, as a distinct set of needs and expectations, in the context of the increased attention recently paid to broader traditional knowledge and related genetic resources issues.

4. During the fourth session of the Committee in December 2002 and at the invitation of the Chair, the Secretariat introduced other related documents, namely "Preliminary Systematic Analysis of National Experiences with the Legal Protection of Expressions of Folklore" (document WIPO/GRTKF/IC/4/3). To provide additional background information on this agenda item and to supplement the information provided in the above document, an informal series of presentations of national and regional experience with the legal protection of folklore was organized in conjunction with the session of the Committee. Information was presented by the delegations of New Zealand, Nigeria, Panama, Tunisia, the Russian Federation and the representative of the Secretariat of the Pacific Community. This material is available in documents WIPO/GRTKF/IC/4/INF/2 to 5. Additional documents WIPO/GRTKF/STUDY/1 and WIPO/GRTKF/STUDY/2, contained case studies on the legal protection of expressions of folklore or traditional cultural expressions.

5. Many other activities on IP more generally, such as symposiums, seminars, conferences and advisory missions undertaken by the WIPO Secretariat included folklore and TK as a topic. These more general activities are not reported on in this document.

6. Technical cooperation activities are undertaken at the request of the Member States concerned. The WIPO Secretariat has received a number of requests for specific forms of legal-technical cooperation, directly relevant to the approved task, including in the normal course of WIPO's program of cooperation for development.

II. REPORT ON ACTIVITIES

7. The activities are listed under the following general categories:

(i) Specific Workshops and Meetings (these are workshops and meetings dealing specifically with folklore or having folklore as one of its principal themes);

(ii) Expert and Fact-finding Missions;

(iii) Legislative Drafting, Comments and Information;

(iv) Education and Training.

Specific Workshops and Meetings

8. WIPO continues to receive requests for workshops and meetings that take an integral approach in providing technical assistance, and undertaking consultations on the substantive issues considered by the Committee.

9. The main objectives of the workshops are to: (i) provide Member States, Indigenous and local communities, relevant organizations and other stakeholders with a forum where they can consider and reflect on the technical, legal and policy dimensions of the issues that arise in the context of the mandate of the Intergovernmental Committee and, (ii) ensure that States, Indigenous peoples and local communities, and other stakeholders have a clear idea of the work and mandate of the IGC, so that they may contribute to its deliberations in an effective way. WIPO has financed the participation of Government officials from developing countries and nominated representatives of Indigenous and local communities.

10. Since December 2002, and up to the date of this document, the following two workshops of this nature have been organized by the WIPO Secretariat:

- WIPO National Workshop on Intellectual Property for SMEs with Special Reference to the Craft Sector in Guatemala, Guatemala City, February 20 and 21, 2003;
- WIPO National Workshop on Intellectual Property for SMEs with Special Reference to the Craft Sector in Nicaragua, Managua, February 24 and 25, 2003;
- WIPO National Seminar on Indigenous Rights and Intellectual Property System, Buenos Aires, February 15 to 21, 2003;
- WIPO – OAPI Sub-Regional Meeting on Traditional Knowledge, Dakar, February 24 to 27, 2003;
- WIPO/AEPP International Symposium on Intellectual Property Protection in the 21st Century: Challenges and Opportunities for Developing Countries, Cairo, April 14 and 15, 2003.

11. A wider range of additional regional and sub-regional consultations, workshops and other forums addressing these issues are in various stages of planning and implementation. These may include diverse proposals for activities to be held in countries in each of the regional groups of WIPO Member States. Updated details will be provided in an addendum to this document.

12. Apart from these workshops, TCE has also been a primary or principal focus of other workshops, seminars, forums and meetings organized or participated in by WIPO, such as:

- UNESCO Second Session of the Intergovernmental Meeting of Experts on the Preliminary-Draft Convention for the Safeguarding of Intangible Cultural Heritage, Paris, February 24 to March 1, 2003. The next session will take place in Paris, from June 2 to 14, 2003;
- Permanent Forum on Indigenous Issues, New York, May 12 to 23, 2003.

Expert and Fact-finding Missions

13. A Fact-finding mission to China on the Legal Protection of National Folklore took place between November 28 and December 4, 2002. A striking feature of this mission was the extent to which minority nationalities still practice their cultural traditions and customs in their everyday life. The promotion of cultural heritage occupies a prominent position within the Province's economic, cultural, tourism and environmental strategies, underlining that cultural heritage and traditional cultural expressions are economic as well as cultural assets.

Legislative Drafting, Comments and Information

14. Within the context of the Secretariat's normal and ongoing Development Cooperation functions, the WIPO Secretariat has provided comments and information on the protection of expressions of folklore and traditional knowledge to many countries which have requested this as part of their drafting of IP laws or review of existing laws. The Copyright Law Section, Cooperation for Development (Intellectual Property Law) Department of WIPO has provided, as requested by three Member States, comments and information specifically on folklore in respect of their legislation. Requests for such assistance continue to be received by the Secretariat. They are also received from regional intergovernmental organizations.

Education and Training

15. The topics of traditional knowledge and TCE continue to be included, at the request of Member States, in many training workshops, seminars or briefings organized by WIPO, both within its program of cooperation for development (including the WIPO Worldwide Academy), and in its outreach programs dealing with industry and civil society. The numerous relevant activities are not listed in this document.

16. The Committee is invited to take note of the contents of this document.

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