

WIPO



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

Sixth Session
Geneva, March 15 to 19, 2004

BRIEF SUMMARY OF WORKING DOCUMENTS

Document prepared by the Secretariat

I. DOCUMENTS FOR THE SIXTH SESSION

1. The following is a brief summary of the working documents prepared for or submitted to the sixth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the "Committee") up to December 15, 2003.

WIPO/GRTKF/IC/6/1 Prov.: Draft Agenda for the sixth session.

2. This document contains the proposed items to be dealt with by the Committee.

WIPO/GRTKF/IC/6/2: Accreditation of certain Non-Governmental Organizations.

3. These documents set out the names, contact details and aims and objectives of non-governmental organizations which have applied to the Committee for accreditation as *ad hoc* observers to future sessions of the Committee. Accredited Organizations receive an invitation to attend all meetings of the Committee, advance copies of all working documents, and the opportunity to make interventions on the issues under discussion following interventions by Member States and Intergovernmental Organizations.

WIPO/GRTKF/IC/6/3: Traditional Cultural Expressions/Expressions of Folklore: Policy and Legal Options.

4. This document provides a succinct overview of the policy and legal options for the protection of traditional cultural expressions (TCEs, also termed ‘expressions of folklore’). It summarizes and draws upon past reports, working documents, studies and presentations already considered by the Committee, with the aim of clarifying the core policy objectives for protection and the various specific mechanisms used to protect TCEs. This document therefore facilitates consideration of the issues raised by the composite study on TCE protection contained in document WIPO/GRTKF/IC/5/3, considered by the Committee at its fifth session.

WIPO/GRTKF/IC/6/4: Traditional Knowledge: Policy and Legal Options.

5. The document addresses the positive protection of traditional knowledge (TK) through both existing IPRs and *sui generis* measures. The document provides a succinct overview of policy and legal choices for protection, organized according to core principles and policy objectives, and the diverse legal and policy tools that have been used in national laws to achieve these objectives and apply these principles. This document accordingly facilitates further consideration of the composite study of TK protection earlier submitted to the Committee as document WIPO/GRTKF/IC/5/8, which was noted by the Committee at its fifth session and reserved for subsequent consideration.

WIPO/GRTKF/IC/6/5: Genetic Resources: Draft Intellectual Property Guidelines for Access and Benefit-Sharing Contracts.

6. Based on the earlier work of the Committee, and the empirical information gathered by the Secretariat in the WIPO Contracts Database, this document seeks to develop suggested IP guidelines for those involved in negotiating and developing contractual arrangements and benefit-sharing packages arising out of the use of genetic resources and related information, including, where relevant, associated TK.

WIPO/GRTKF/IC/6/6: Traditional Knowledge and Traditional Cultural Expressions: The International Dimension.

7. In the light of the addition of ‘the international dimension’ as a specific new element of the Committee’s mandate, this document reviews the international dimension of intellectual property (IP) in general, including the emergence and evolution of international legal instruments concerning the protection of IP. On this basis, it then considers some aspects of the international dimension that may be especially relevant to IP and genetic resources, TK and folklore/TCEs.

WIPO/GRTKF/IC/6/7: Update on Legal-Technical Assistance and Capacity-Building Activities.

8. This document provides information on legal and technical assistance and capacity building activities undertaken within WIPO’s program activities since the previous update which was considered by the Committee at its fifth session.. It is an illustrative list only, and may not include every relevant activity undertaken within the overall WIPO program. It illustrates the continuing strong interest in practical, technical and legal capacity building for

the protection of folklore/TCEs and TK, as a distinct set of needs and expectations, in the context of the increased policy attention recently paid to these issues.

WIPO/GRTKF/IC/6/8: Defensive Protection Measures relating to Intellectual Property, Genetic Resources and Traditional Knowledge.

9. This document provides a further update on the practical and legal defensive protections measures relating to intellectual property, genetic resource and traditional knowledge, to facilitate the consideration of an earlier document on this subject, WIPO/GRTKF/IC/5/6, which provided a full overview of defensive mechanisms and was reserved for further consideration by the Committee.

WIPO/GRTKF/IC/6/9: Genetic Resources and Patent Disclosure Requirements: Transmission of Technical Study to the Convention on Biological Diversity.

10. Following the conclusion of the technical study on patent disclosure requirements relevant to TK and genetic resources, this document reports on subsequent developments, including the decision by the WIPO General Assembly to transmit the study as a technical reference document to the Conference of Parties (COP) of the Conference on Biological Diversity (CBD). It also notes possible directions for future work, raised initially in document WIPO/GRTKF/IC/5/10, including the possibility of proposals emanating from other international fora.

WIPO/GRTKF/IC/6/10: Participation of Indigenous and Local Communities.

11. This document provides updated information on various steps under way to facilitate the participation of indigenous and local communities in the work of WIPO concerning intellectual property and genetic resources, traditional knowledge and traditional cultural expressions. It concentrates on enhanced involvement of these communities in the work of the Committee. It addresses the specific question of the possible provision of financial support for the participation of indigenous and local communities in sessions of the Committee, as a means to facilitate their involvement in WIPO's work on these issues.

II. INFORMATION DOCUMENTS SUPPLEMENTING THE ABOVE WORKING DOCUMENTS

WIPO/GRTKF/IC/6/INF/2: List of Non-governmental Organizations (NGO) Documents Posted on NGO Website

12. This document provides a list of documents submitted by accredited NGOs and that have been posted on the NGO website. This web page was created to enhance participation and to disseminate the views of NGOs on the issues before the Committee, and therefore makes available comments, technical papers, national experiences and similar documents submitted by accredited observers on issues being discussed by the Committee.

III. OTHER DOCUMENTS OF CURRENT INTEREST

13. The discussions of the Committee may also concern the following additional documents.

Background studies

WIPO/GRTKF/STUDY/1: A Study on the Protection of Expressions of Folklore. *Written by Mrs P.V. Valsala G. Kutty for the World Intellectual Property Organization (WIPO).*

WIPO/GRTKF/STUDY/2: Minding Culture: Case Studies on Intellectual Property and Traditional Cultural Expressions. *Prepared by Ms. Terri Janke, Terri Janke and Company for the World Intellectual Property Organization (WIPO).*

Questionnaires

14. Five questionnaires have been circulated and continue to form the basis of several documents prepared for the sessions of the Committee. Subject to decisions of the Committee, further responses to these questionnaires would be relevant for the the continuing work program of the Committee. The questionnaires are:

- WIPO/GRKTF/IC/Q.1: Revised Questionnaire for the Survey on Existing Forms of Intellectual Property Protection for Traditional Knowledge.
- WIPO/GRKTF/IC/Q.2: Questionnaire on Contractual Practices and Clauses relating to Intellectual Property, Access to Genetic Resources and Benefit-Sharing.
- WIPO/GRKTF/IC/Q.3: Questionnaire on various requirements for Disclosure relating to Genetic Resources and Traditional Knowledge in Patent Applications.
- WIPO/GRKTF/IC/Q.4: Questionnaire on Databases and Registries Related to Traditional Knowledge and Genetic Resources.
- WIPO/GRTKF/IC/2/7: Questionnaire on National Experiences with the Legal Protection of Folklore.

Compilations of the responses to WIPO/GRKTF/IC/Q.1, WIPO/GRKTF/IC/Q.3 and WIPO/GRTKF/IC/2/7 are available separately. Responses to WIPO/GRKTF/IC/Q.2 are incorporated in the on-line database available at:

<http://www.wipo.int/tk/en/questionnaires/ic-q2/index.html>.

A selection of earlier documents of potential continuing interest

WIPO/GRTKF/IC/5/3: Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions.

WIPO/GRTKF/IC/5/4: Update on Technical Cooperation on the Legal Protection of Traditional Cultural Expressions.

WIPO/GRTKF/IC/5/5: Draft Toolkit on Intellectual Property Management

WIPO/GRTKF/IC/5/7: Consolidated Survey of Intellectual Property Protection of Traditional Knowledge.

WIPO/GRTKF/IC/5/8: Composite Study on the Protection of Traditional Knowledge.

WIPO/GRTKF/IC/5/9: Contractual Practices and Clauses relating to Intellectual Property, Access to Genetic Resources and Benefit-Sharing

WIPO/GRTKF/IC/5/10: Draft Technical Study on Disclosure Requirements Related to Genetic Resources and Traditional Knowledge.

WIPO/GRTKF/IC/5/11: Participation of Indigenous and Local Communities.

WIPO/GRTKF/IC/5/12: Overview of Activities and Outcomes of the Intergovernmental Committee.

WIPO/GRTKF/IC/5/13: Patent Referring to *Lepidium meyenii* (Maca): Responses of Peru. *Document submitted by the Delegation of Peru.*

WIPO/GRTKF/IC/5/14: Isfahan Declaration. *Document submitted by the Delegation of the Islamic Republic of Iran.*

WIPO/GRTKF/IC/5/15: Report.

WIPO/GRTKF/IC/5/INF/2: Information on National Experiences with the Intellectual Property Protection of Traditional Knowledge.

WIPO/GRTKF/IC/5/INF/3: Comparative Summary of *Sui Generis* Legislation for the Protection of Traditional Cultural Expressions.

WIPO/GRTKF/IC/5/INF/4: Comparative Summary of Existing National *Sui Generis* Measures and Laws for the Protection of Traditional Knowledge

PCT/R/WG/4/130: Proposals by Switzerland regarding the Declaration of the Source of Genetic Resources and Traditional Knowledge in Patent Applications

WIPO/GRTKF/IC/4/13: Access to Genetic Resources Regime of the United States National Parks. *Document submitted by the Delegation of United States.*

WIPO/GRTKF/IC/4/14: Technical Proposals On Databases and Registries of Traditional Knowledge and Biological/Genetic Resources. *Document submitted by the Asian Group.*

WIPO/GRTKF/IC/4/15: Report. *Adopted by the Committee.*

WIPO/GRTKF/IC/3/5: Inventory of Traditional Knowledge-related Periodicals.

WIPO/GRTKF/IC/3/6: Inventory of Existing Online Databases containing Traditional Knowledge Documentation Data.

WIPO/GRTKF/IC/3/7: Review of Existing Intellectual Property Protection of Traditional Knowledge.

WIPO/GRTKF/IC/3/9: Traditional Knowledge - Operational Terms and Definitions.

WIPO/GRTKF/IC/3/10: Final Report on National Experiences with the Legal Protection of Expressions of Folklore.

WIPO/GRTKF/IC/3/12: Certain Decisions of the Sixth Conference of the Parties to The Convention on Biological Diversity. *Document submitted by the Secretariat of the Convention on Biological Diversity.*

WIPO/GRTKF/IC/2/INF.2: International Treaty on Plant Genetic Resources for Food and Agriculture.

WIPO/GRKTF/IC/2/10: Position Paper of the Asian Group and China. *Document submitted by the Asian Group and China.*

WIPO/GRTKF/IC/1/3: Matters concerning Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore – an Overview.

WIPO/GRKTF/IC/1/8:

- 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.

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