

# WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

## WIPO GENERAL ASSEMBLY

Thirtieth (16<sup>th</sup> Ordinary) Session  
Geneva, September 22 to October 1, 2003

CONVENTION ON BIOLOGICAL DIVERSITY: DISCLOSURE REQUIREMENTS  
CONCERNING GENETIC RESOURCES AND TRADITIONAL KNOWLEDGE

*Document prepared by the Secretariat*

1. The Sixth Conference of Parties (COP) of the Convention on Biological Diversity (CBD)<sup>1</sup> invited the World Intellectual Property Organization to:

“prepare a technical study, and to report its findings to the Conference of the Parties at its seventh meeting, on methods consistent with obligations in treaties administered by the World Intellectual Property Organization for requiring the disclosure within patent applications of, *inter alia* :

- (a) Genetic resources utilized in the development of the claimed inventions;
- (b) The country of origin of genetic resources utilized in the claimed inventions;
- (c) Associated traditional knowledge, innovations and practices utilized in the development of the claimed inventions;
- (d) The source of associated traditional knowledge, innovations and practices; and,
- (e) Evidence of prior informed consent.”

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<sup>1</sup> Paragraph 4 of Section C of Decision VI/24 of the CBD Conference of Parties.

2. This invitation was transmitted to WIPO by the Executive Secretariat of the CBD (see document WIPO/GRTKF/IC/3/12). At its third session, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the Intergovernmental Committee) approved the preparation of a draft technical study. The Intergovernmental Committee agreed upon a work schedule (proposed in document WIPO/GRTKF/IC/3/12) that would permit a technical study to be prepared and consulted upon in time for it to be transmitted as a technical information document to the seventh COP. The work schedule comprised the following steps:

“1. *Intersessional Period between the third and fourth sessions of the Committee* (June to December 2002): A questionnaire could be sent to Committee members regarding the issues identified for study in the invitation contained in paragraph 4, Section C, of Decision VI/24.

“2. *Fourth session of the Committee* (December 2002): A draft technical study, including a compilation of responses received from Committee members and a draft analysis of those responses, could be presented to the Committee for its consideration and comments.

“3. *Intersessional Period between the fourth and fifth sessions of the Committee* (December 2002 to June 2003): Subject to the decisions of the Committee upon consideration of the draft technical study, the comments received from the Committee members could be incorporated into the draft study in order to produce the revised technical study.

“4. *Fifth session of the Committee* (June 2003): The revised technical study could be presented to the Committee for consideration and for transmission, if agreed, to the Twenty-Ninth Session of the WIPO General Assembly.

“5. *Twenty-Ninth Session of the WIPO General Assembly* (September 2003): The revised technical study, if so agreed by the Committee, could be presented to the General Assembly for its consideration. If so decided by the WIPO General Assembly, the final technical study could be transmitted as a technical information document to the seventh COP of the CBD, which will take place in Kuala Lumpur, Malaysia, in the first quarter of 2004.”<sup>2</sup>

3. To this schedule was added a process of consultation with Member States on the draft questionnaire, which was undertaken in July and August 2002. A final questionnaire was circulated as document WIPO/GRTKF/IC/Q.3. Based on responses to the questionnaire, an interim report (document WIPO/GRTKF/IC/4/11) was prepared by the Secretariat and considered at the fourth session of the Intergovernmental Committee. A “Draft Technical Study on Disclosure Requirements related to Genetic Resources and Traditional Knowledge,” (“the draft technical study”) based on this earlier material, was then prepared for the Intergovernmental Committee to consider at its fifth session (see Annex I to document WIPO/GRTKF/IC/5/10), with the following clarification of the possible status of the study:

“10. The attached draft technical study has been prepared to contribute to international discussion and analysis of this general issue, and to help clarify some of the legal and policy matters it raises. It has not been prepared to advocate any particular approach nor to expound a definitive interpretation of any treaty. It is therefore suggested that the

<sup>2</sup> Document WIPO/GRTKF/IC/3/12, paragraph 3.

appropriate status of this document is to be regarded as technical input to facilitate policy discussion and analysis in the CBD and in other fora, and it should not be considered a formal paper expressing a policy position on the part of WIPO, its Secretariat or its Member States.”

The draft technical study is set out in document WO/GA/30/7 Add.1, and is also Annex 1 of document WIPO/GRTKF/IC/5/10, which was considered by the Intergovernmental Committee at its fifth session (July 7 to 15, 2003).

4. The Intergovernmental Committee decided to transmit the draft technical study contained in document WO/GA/30/7 Add.1 to the General Assembly, as proposed in paragraph 12 of document WIPO/GRTKF/IC/5/11 (i.e. with the recommendation that it be transmitted as a technical referenced document to the Seventh Conference of Parties of the CBD).<sup>3</sup> The Secretariat of the Convention on Biological Diversity highlighted to the Intergovernmental Committee<sup>4</sup> the usefulness of the technical study not merely for the Conference of Parties meeting in the first quarter of 2004, but also for technical working groups of the CBD which were scheduled to meet in December 2003, and requested that this be taken into account in the possible transmission of the study to the CBD.

*5. The General Assembly is invited to take note of the draft technical study contained in document WO/GA/30/7 Add.1, and to approve its transmission to the Secretariat of the Convention on Biological Diversity as a technical referenced document, subject to the understandings set out in paragraphs 3 and 4 above, for reference by the Conference of Parties and relevant subsidiary working groups.*

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<sup>3</sup> WIPO/GRTKF/IC/5/15

<sup>4</sup> WIPO/GRTKF/IC/5/15