

WIPO General Assembly

Fifty-Fourth (25th Ordinary) Session
Geneva, October 4 to 8, 2021

REPORT ON THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC)

prepared by the Secretariat

I. INTRODUCTION

1. The WIPO General Assembly, at its Fifty-First (24th Ordinary) Session in October 2019, agreed on the mandate for the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) for the 2020/2021 biennium.
2. The IGC's mandate for the 2020/2021 biennium, which was set out in document WO/GA/51/18, provides as follows:

“Bearing in mind the Development Agenda recommendations, reaffirming the importance of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Committee), noting the different nature of these issues and acknowledging the progress made, the WIPO General Assembly agrees that the mandate of the Committee be renewed, without prejudice to the work pursued in other fora, as follows:

“(a) The Committee will, during the next budgetary biennium 2020/2021, continue to expedite its work, with the objective of finalizing 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 genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).

“(b) The Committee’s work in the 2020/2021 biennium will build on the existing work carried out by the Committee, including text-based negotiations, with a primary focus on narrowing existing gaps and reaching a common understanding on core issues¹.

“(c) The Committee will follow, as set out in the table below, a work program based on open and inclusive working methods for the 2020/2021 biennium, including an evidence-based approach as set out in paragraph (d). This work program will make provision for 6 sessions of the Committee in 2020/2021, including thematic, cross-cutting and stocktaking sessions. The Committee may establish ad hoc expert group(s) to address a specific legal, policy or technical issue². The results of the work of such group(s) will be submitted to the Committee for consideration.

“(d) The Committee will use all WIPO working documents, including WIPO/GRTKF/IC/40/6, WIPO/GRTKF/IC/40/18 and WIPO/GRTKF/IC/40/19, and the Chair’s Text on the Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, as well as any other contributions of Member States, such as conducting/updating studies covering, inter alia, examples of national experiences, including domestic legislation, impact assessments, databases, and examples of protectable subject matter and subject matter that is not intended to be protected; and outputs of any expert group(s) established by the Committee and related activities conducted under Program 4. The Secretariat is requested to continue to update studies and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GRs and associated TK, with a view to identify any gaps, and continue to collect, compile and make available online information on national and regional sui generis regimes for the intellectual property protection of TK and TCEs. Studies or additional activities are not to delay progress or establish any preconditions for the negotiations.

“(e) In 2020, the Committee is requested to provide to the General Assembly a factual report along with the most recent texts available of its work up to that time with recommendations, and in 2021, submit to the General Assembly the results of its work in accordance with the objective reflected in paragraph (a). The General Assembly in 2021 will take stock of progress made, and based on the maturity of the texts, including levels of agreement on objectives, scope and nature of the instrument(s), decide on whether to convene a diplomatic conference and/or continue negotiations.

“(f) The General Assembly requests the Secretariat to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula for the IGC.

¹ Core issues include, as applicable, inter alia, definitions, beneficiaries, subject matter, objectives, scope of protection, and what TK/TCEs are entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.

² The expert group(s) will have a balanced regional representation and use an efficient working methodology. The expert group(s) will work during the weeks of the sessions of the IGC.

Work Program – 6 Sessions

Indicative Dates	Activity
February/March 2020	(IGC 41) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
May/June 2020	(IGC 42) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
September 2020	(IGC 43) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Possible recommendations as mentioned in paragraph (e) Duration 5 days.
October 2020	WIPO General Assembly Factual report and consider recommendations
November/December 2020	(IGC 44) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
March/April 2021	(IGC 45) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
June/July 2021	(IGC 46) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Stocktaking on GRs/TK/TCEs and making a recommendation Duration 5 days.
October 2021	WIPO General Assembly will take stock of the progress made, consider the text(s) and make the necessary decision(s).”

II. IGC SESSIONS SINCE THE 2019 GENERAL ASSEMBLY

3. Due to the Covid-19 pandemic, the IGC was not able to meet as indicated in the work program for 2020 and 2021. The IGC only met once for its Forty-First Session (IGC 41), on August 30 and 31, 2021.

4. IGC 41 agreed to recommend to the 2021 WIPO General Assembly that the mandate of the Committee be renewed for the 2022-2023 biennium. The Committee further agreed to recommend to the 2021 General Assembly that the terms of the mandate and work program for 2022-2023 be as follows:

“Bearing in mind the Development Agenda recommendations, reaffirming the importance of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Committee), noting the different nature of these issues and acknowledging the progress made, the WIPO General Assembly agrees that the mandate of the Committee be renewed, without prejudice to the work pursued in other fora, as follows:

- (a) The Committee will, during the next budgetary biennium 2022/2023, continue to expedite its work, with the objective of finalizing 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 genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).
- (b) The Committee’s work in the 2022/2023 biennium will build on the existing work carried out by the Committee, including text-based negotiations, with a primary focus on narrowing existing gaps and reaching a common understanding on core issues³.
- (c) The Committee will follow, as set out in the table below, a work program based on open and inclusive working methods for the 2022/2023 biennium, including an evidence-based approach as set out in paragraph (d). This work program will make provision for 6 sessions of the Committee in 2022/2023, including thematic, cross-cutting, and stocktaking sessions. The Committee may establish *ad hoc* expert group(s) to address a specific legal, policy, or technical issue⁴. The results of the work of such group(s) will be submitted to the Committee for consideration.
- (d) The Committee will use all WIPO working documents, including WIPO/GRTKF/IC/40/6, WIPO/GRTKF/IC/40/18, WIPO/GRTKF/IC/40/19 and the Chair’s Text on a *Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources*, as well as any other contributions of Member States, such as conducting/updating studies covering, inter alia, examples of national experiences, including domestic legislation, impact assessments, databases, and examples of protectable subject matter and subject matter that is not intended to be protected; and outputs of any expert group(s) established by the Committee and related activities conducted under Program 4. The Secretariat is requested to continue to update studies and other materials relating to tools and

³ Core issues include, as applicable, inter alia, definitions, beneficiaries, subject matter, objectives, scope of protection, and what TK/TCEs are entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.

⁴ The expert group(s) will have a balanced regional representation and use an efficient working methodology. The expert group(s) will work during the weeks of the sessions of the IGC.

activities on databases and on existing disclosure regimes relating to GRs and associated TK, with a view to identifying any gaps and continuing to collect, compile and make available online information on national and regional *sui generis* regimes for the intellectual property protection of TK and TCEs. Studies or additional activities are not to delay progress or establish any preconditions for the negotiations.

- (e) In 2022, the Committee is requested to provide to the General Assembly a factual report along with the most recent texts available of its work up to that time with recommendations, and in 2023, submit to the General Assembly the results of its work in accordance with the objective reflected in paragraph (a). The General Assembly in 2023 will take stock of progress made, and based on the maturity of the texts, including levels of agreement on objectives, scope, and nature of the instrument(s), decide on whether to convene a diplomatic conference and/or continue negotiations.
- (f) The General Assembly requests the Secretariat to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula for the IGC.

WORK PROGRAM – 6 SESSIONS

Indicative Dates	Activity
February/March 2022	(IGC 42) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
May/June 2022	(IGC 43) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument. Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
September 2022	(IGC 44) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Possible recommendations as mentioned in paragraph (e) Duration 5 days.
October 2022	WIPO General Assembly Factual report and consider recommendations
November/December 2022	(IGC 45) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s). Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.

March/April 2023	(IGC 46) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
June/July 2023	(IGC 47) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s). Stocktaking on GRs/TK/TCEs and making a recommendation Duration 5 days.
October 2023	WIPO General Assembly will take stock of the progress made, consider the text(s) and make the necessary decision(s).”

5. Recalling the decisions of the 2019 WIPO General Assembly in this regard, IGC 41 also recommended that the 2021 WIPO General Assembly recognize the importance of the participation of indigenous peoples and local communities in the work of the Committee, note that the WIPO Voluntary Fund for Accredited Indigenous and Local Communities is depleted, encourage Member States to consider contributing to the Fund and invite Member States to consider other alternate funding arrangements.

III. INTERSESSIONAL ACTIVITIES

6. Though the IGC was not able to meet as planned, various activities were carried out to facilitate the work of the IGC, such as:

- Intersessional comment process, including providing comments on the Chair’s Text on a *Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources*; reviewing and providing comments, corrections or updates on the [online compilation of national and regional sui generis regimes for the IP protection of TK and TCEs](#); and providing updated information on the [online resources](#);
- A virtual [Seminar](#) on Intellectual Property and Genetic Resources, organized in January 2021; and
- A series of informal information sessions, organized in June and July 2021 for Member States (both Geneva-based and capital-based) and the Indigenous Caucus on the history and status of the IGC negotiations, and key issues across the three subject matters.

7. *The WIPO General Assembly is invited to:*

(i) *take note of the information contained in this document;*

(ii) *renew the mandate of the IGC for the biennium 2022/2023 on the terms and according to*

*the program set out in
paragraph 4 above; and*

*(iii) recognize the importance
of the participation of
indigenous peoples and local
communities in the work of the
Committee, note that the WIPO
Voluntary Fund for Accredited
Indigenous and Local
Communities is depleted,
encourage Member States to
consider contributing to the
Fund, and invite Member States
to consider other alternate
funding arrangements.*

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