

# WIPO



PCIPD/2/7

ORIGINAL: English

DATE: January 25, 2001

**E**

**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

**PERMANENT COMMITTEE ON COOPERATION FOR  
DEVELOPMENT RELATED TO INTELLECTUAL PROPERTY**

**Second Session  
Geneva, February 5 to 8, 2001**

**PROTECTION OF TRADITIONAL KNOWLEDGE AND INTELLECTUAL PROPERTY  
IN DEVELOPING COUNTRIES: PROGRESS REPORT**

*Document prepared by the International Bureau*

## I. INTRODUCTION

1. With the emergence of modern biotechnologies, genetic resources have assumed increasing economic, scientific and commercial value to a wide range of stakeholders. Traditional knowledge associated with those resources has, in consequence, attracted widespread attention from an enlarged audience. Other tradition-based creations, such as expressions of folklore, have at the same time taken on new economic and cultural significance within a globalized information society.

2. The relationship between intellectual property and the conservation, management, sustainable utilization and benefit sharing in respect of genetic resources and associated traditional knowledge is assuming increasing importance, also for developing countries, which are particularly rich in genetic resources, traditional knowledge and folklore. As the specialized UN agency responsible for the promotion of intellectual property worldwide, WIPO has been requested by its Member States to undertake exploratory groundwork and facilitate discussions for a better understanding of the often inter-related intellectual property issues regarding genetic resources, traditional knowledge and folklore.

3. Section II of the present document reviews previous work and Member State discussions that have taken place at WIPO regarding these subjects, particularly since mid-1999. Section III reports on the establishment of a separate body within WIPO to facilitate the continuation of these discussions.

## II. BACKGROUND

4. Since the 1998-99 biennium, issues related to intellectual property and genetic resources have been addressed in regular activities under WIPO's exploratory Subprogram 11.2 on "Biological Diversity and Biotechnology." The activities on intellectual property and genetic resources began with a study on the role of intellectual property rights in the sharing of benefits arising from the use of biological resources and associated traditional knowledge. The study was commissioned to be prepared jointly with the United Nations Environment Programme (UNEP) and resulted in three case studies, which provide lessons as to how the effective protection of intellectual property rights can support the sharing of benefits arising from the use of genetic resources.

5. Issues related to intellectual property and genetic resources were also discussed by Member States at the third session of the Standing Committee on the Law of Patents (SCP), which took place in Geneva from September 6 to 14, 1999, and by the Working Group on Biotechnology, at its meeting on November 8 and 9, 1999.

6. In addition, WIPO organized a Meeting on Intellectual Property and Genetic Resources on April 17 and 18, 2000. The Meeting addressed issues that generally are raised in the context of access to, and *in situ* preservation of, genetic resources in their direct or indirect relationship with intellectual property. The Chairman's Conclusions from the Meeting state that the exchange of views that took place at the Meeting produced a clear consensus that:

“WIPO should facilitate the continuation of consultations among Member States in coordination with the other concerned international organizations, through the conduct of appropriate legal and technical studies, and through the setting up of an appropriate forum within WIPO for future work.”.

7. During the Diplomatic Conference for the Adoption of the Patent Law Treaty from May 11 to June 2, 2000, the Director General conducted consultations concerning formalities in relation to the question of genetic resources. As the outcome of the consultations, a statement was agreed upon among the groups and read out by the Director General, the relevant part of which is as follows:

“Member State discussions concerning genetic resources will continue at WIPO. The format of such discussions will be left to the Director General’s discretion, in consultation with WIPO Member States.”

8. Following the Diplomatic Conference, consultations with Member States took place regarding the format and content of such discussions. As a result of the consultations, it was proposed that a distinct body should be established within WIPO to facilitate such discussions and that, in addition to the issue of genetic resources, the discussions should also include the results of WIPO’s previous work on the related fields of traditional knowledge and expressions of folklore.

9. WIPO began its work on “traditional knowledge, innovations and creativity” (traditional knowledge) in the 1998-99 biennium. Two Roundtables were convened regarding the protection of traditional knowledge and a series of nine fact-finding missions on traditional knowledge, innovations and creativity (FFMs) were undertaken. In July 2000, a draft Report on all the fact-finding missions was published for public comment, until December 15, 2000, on the WIPO website (<[www.wipo.int/traditionalknowledge/report](http://www.wipo.int/traditionalknowledge/report)>) and in paper form. Comments received will be taken into account in producing a final report, which will be published in 2001. WIPO’s work on “expressions of folklore,” which are a subset of traditional knowledge, began as early as 1978 in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO). Most recently, in 1999, WIPO and UNESCO conducted four Regional Consultations on the Protection of Expressions of Folklore, each of which adopted resolutions or recommendations with proposals for future work.

10. In the 2000-2001 biennium, WIPO’s ongoing activities in relation to traditional knowledge and folklore, include:

- The development of information materials on options under the existing intellectual property system for the protection of traditional knowledge;
- Practical information and training workshops on the intellectual property system and the protection of traditional knowledge;
- Intellectual property information, training and standards for the documentation of traditional knowledge;
- Practical studies of actual examples in which traditional knowledge protection has been sought under the intellectual property system;

- Feasibility studies on the applicability of customary laws to traditional knowledge; and,
- A pilot project on collective acquisition, management and enforcement of intellectual property rights in traditional knowledge.

### III. THE ESTABLISHMENT OF A WIPO INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

11. At the Twenty-Sixth Session of the General Assembly of the Member States of WIPO, held in Geneva from September 25 to October 3, 2000, the Member States established an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore for the purpose of further discussions on these subjects. The Intergovernmental Committee will constitute a forum in which discussions can proceed among Member States on three primary themes, namely intellectual property issues that arise in the context of (i) access to genetic resources and benefit sharing; (ii) protection of traditional knowledge, whether or not associated with those resources; and (iii) the protection of expressions of folklore.

12. Each one of these themes cuts across the conventional branches of intellectual property law and does therefore not fit into existing WIPO bodies, such as the Standing Committee on the Law of Patents, the Standing Committee on Copyright and Related Rights, the Standing Committee on Trademarks, Industrial Designs and Geographical Indications, and the Standing Committee on Information Technologies. At the same time, the three themes are closely interrelated, and none can be addressed effectively without considering aspects of the others.

13. The Intergovernmental Committee will be open to all Member States of WIPO. As is usual in WIPO bodies, relevant intergovernmental organizations and accredited international and regional non-governmental organizations will be invited to participate in an observer capacity. The Committee would report any recommendations for action that it might formulate to the WIPO General Assembly. The Committee will hold its first session from April 30 to May 3, 2001.

14. Further information on the Committee is contained in the document prepared by the International Bureau for the General Assembly proposing the establishment of the Committee (WO/GA/26/6).

*15. The Permanent Committee is invited to note the information contained in this document and make any comment it may wish on the content thereof.*

[End of document]