

# WIPO



WIPO/GRTKF/IC/11/INF/2

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

**Eleventh Session**  
**Geneva, July 3 to 12, 2007**

### BRIEF SUMMARY OF WORKING DOCUMENTS

*Document prepared by the Secretariat*

#### I. DOCUMENTS FOR THE ELEVENTH SESSION

1. The following is a brief summary of the documents prepared for or submitted to the eleventh session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the “Committee”) as at April 30, 2007.

WIPO/GRTKF/IC/11/1 Prov: Draft Agenda for the eleventh session

2. This document contains the proposed items to be dealt with by the Committee, and is submitted to the Committee for possible adoption when it convenes for its eleventh session.

WIPO/GRTKF/IC/11/2 Rev.: Accreditation of Certain Organizations.

3. This document sets out the names, contact details and aims and objectives of organizations which have applied to the Committee for accreditation as *ad hoc* observers to future sessions of the Committee. Accredited Organizations are invited to attend all meetings of the Committee, receive copies of all working documents, are entitled to make interventions on the issues under discussion following interventions by Member States, and can submit papers on issues being considered by the Committee for uploading on a special website reserved for Observers.

WIPO/GRTKF/IC/11/3: Participation of Indigenous and Local Communities: Voluntary Contribution Fund

4. The WIPO General Assembly, at its 32nd session held from September 26 to October 5, 2005, decided to establish a “WIPO Voluntary Contribution Fund for Accredited Indigenous and Local Communities”. The decision was taken on the basis of document WO/GA/32/6, which sets out the objectives and operation of the Fund. This document provides an update on the implementation of the Voluntary Fund and draws attention to specific questions before the Committee at its eleventh session, in particular the appointment of the Advisory Board. The required information note providing details of contributions received and beneficiaries is circulated in parallel as document WIPO/GRTKF/IC/11/INF/4.

WIPO/GRTKF/IC/11/4: The Protection of Traditional Cultural Expressions/Expressions of Folklore: Revised Objectives and Principles

5. The Committee is currently considering the protection of traditional cultural expressions (“TCEs”)/ expressions of folklore (“EoF”) through two processes:

(i) consideration of an agreed list of Issues concerning the protection of TCEs/EoF; and

(ii) consideration of a draft set of “Revised Objectives and Principles for the Protection of Traditional Cultural Expressions/Expressions of Folklore” (“Objectives and Principles”).

6. The working documents on protection of TCEs/EoF prepared for the eleventh session of the Committee, in line with the decisions taken at the tenth session, comprise:

(i) WIPO/GRTKF/IC/11/4(a): a collation of the written comments on the List of Issues which were submitted between the tenth and eleventh sessions, in line with a commentary process agreed by the Committee at its tenth session;

(ii) WIPO/GRTKF/IC/11/4(b): a compilation of comments on the draft Objectives and Principles, written comments provided between the ninth and tenth sessions, in line with a commentary process agreed by the Committee at its ninth session and a format agreed at the tenth session;

(iii) WIPO/GRTKF/IC/11/4(c): the text of the draft Objectives and Principles, identical to the text that was circulated at the eighth, ninth and tenth sessions, but provided for ease of reference to assist in the reading of the present set of comments.

WIPO/GRTKF/IC/11/5: The Protection of Traditional Knowledge: Revised Objectives and Principles

7. The Committee is currently considering the protection of traditional knowledge (“TK”) through two processes:

(i) consideration of an agreed list of Issues concerning the protection of TK; and

(ii) consideration of a draft set of “Revised Objectives and Principles for the Protection of Traditional Knowledge” (“Objectives and Principles”).

8. The working documents on protection of TK prepared for the eleventh session of the Committee, in line with the decisions taken at the tenth session, comprise:

(i) WIPO/GRTKF/IC/11/5(a): a collation of the written comments on the List of Issues which were submitted between the tenth and eleventh sessions, in line with a commentary process agreed by the Committee at its tenth session;

(ii) WIPO/GRTKF/IC/11/5(b): a compilation of comments on the draft Objectives and Principles, written comments provided between the ninth and tenth sessions, in line with a commentary process agreed by the Committee at its ninth session and a format agreed at the tenth session;

(iii) WIPO/GRTKF/IC/11/5(c): the text of the draft Objectives and Principles, identical to the text that was circulated at the eighth, ninth and tenth sessions, but provided for ease of reference to assist in the reading of the present set of comments.

#### WIPO/GRTKF/IC/11/6: Practical Means of Giving Effect to the International Dimension of the Committee's Work

9. The Committee has decided to international dimension integrally with other substantive items on its agenda, notably the items on TK, TCEs/EoF, and genetic resources. This document supplements substantive documents, by providing technical background information on questions such as the interplay between the international dimension and national legal systems, the preferred manner of recognition of foreign right holders, and the appropriate relationship with other international instruments and processes.

10. A series of documents have considered the practical aspects of the Committee's work under the following three aspects:

(i) *what* should be the *content* of the outcome – the question of substance, or what subject matter, focus and level of detail should the outcome have (including the substantial element of its international dimension);

(ii) *what* should be the *nature, format or status* of the outcome – the question of what the format or nature of an outcome should have, and what legal or political status and legal, political or ethical implication should the outcome have, including any international legal implications;

(iii) *how* should the Committee work towards the outcome – the question of what procedures or processes, and what forms of consultation, would help lead to understanding on the content and status of any proposed outcome; and what timelines or interim steps should apply.

11. This document provides background information on technical or practical aspects of these questions, and may possibly be drawn on as appropriate as a background resource only in the Committee's work. It reviews the possible approaches concerning the format or status of an outcome as including: a binding international instrument or instruments; a non-binding statement or recommendation; guidelines or model provisions; authoritative or persuasive interpretations of existing legal instruments; and an international political

declaration espousing core principles and establishing the needs and expectations of TCE/TK holders as a political priority.

#### WIPO/GRTKF/IC/11/7: Recognition of Traditional Knowledge within the Patent System

12. At earlier sessions, the Committee approved an outline and structure for a set of recommendations for patent authorities on examination of TK related applications, and requested the Secretariat to prepare a full draft set of recommendations. This document contains a third revision of the draft recommendations for the Committee's consideration. It draws on past documents, especially WIPO/GRTKF/IC/5/6, WIPO/GRTKF/IC/6/8, WIPO/GRTKF/IC/7/8, WIPO/GRTKF/IC/8/8 and WIPO/GRTKF/IC/9/8, as well as the national positions and reports that led to this work and are addressed in those documents. It also draws on responses to a Questionnaire on Recognition of Traditional Knowledge and Genetic Resources in the Patent System (WIPO/GRTKF/IC/Q.5) that was circulated between the Committee's sixth and seventh sessions. (Responses to the questionnaire are contained in WIPO/GRTKF/IC/9/INF/6.)

#### WIPO/GRTKF/IC/11/8: Genetic Resources

13. At its tenth session, on the basis of its discussions regarding genetic resources, the proposals made by a number of delegations, document WIPO/GRTKF/IC/8/9, and within the specific mandate of the Committee established by the WIPO General Assembly, the Committee requested the Secretariat to prepare for its consideration at its eleventh session: (i) a document listing options for continuing or further work, including work in the areas of the disclosure requirement and alternative proposals for dealing with the relationship between intellectual property and genetic resources; the interface between the patent system and genetic resources; and the intellectual property aspects of access and benefit-sharing contracts; and (ii) a factual update of international developments relevant to the genetic resources agenda item.

14. This document provides the material so requested by the Committee. It describes the background of work on IP and genetic resources before the Committee was created, and provides an overview of the Committee's own work. It covers the three clusters of substantive questions which have been identified in the course of this work, namely technical matters concerning (a) defensive protection of genetic resources; (b) disclosure requirements in patent applications for information related to genetic resources used in the claimed invention; and (c) IP issues in mutually agreed terms for the fair and equitable sharing of benefits arising from the use of genetic resources. The document catalogues certain technical measures or activities, which have been identified by Committee participants at past sessions to partially address these issues. It also provides the required factual update of international developments relevant to genetic resources.

#### WIPO/GRTKF/IC/11/9: Overview of Activities and Outcomes of the Intergovernmental Committee

15. This document provides an update of earlier documents prepared for the Committee (WIPO/GRTKF/IC/5/12) and for the General Assembly (WO/GA/31/5, WO/GA/32/7 and WO/GA/33/7) to provide a synthesized overview of the main activities and outcomes of the Committee. It also describes the interaction between the various components of the Committee's work and related program activities of WIPO, to facilitate consideration of future work and to provide background on the work of the Committee. It also sets out some

of the key issues considered by the Committee, to assist in clarifying the basis for future work.

## II. INFORMATION DOCUMENTS AND OTHER DOCUMENTS OF CONTINUING INTEREST

### WIPO/GRTKF/IC/11/INF/1: List of Participants

16. A draft list of participants will be circulated at the eleventh session.

### WIPO/GRTKF/IC/11/INF/2: Brief Summary of working documents

17. The present document, prepared as an informal guide to the Committee's documentation.

### WIPO/GRTKF/IC/11/INF/3: Draft program

18. At its tenth session, the Committee requested a draft program to be prepared for its eleventh session. This document sets out a suggested program in compliance with this request, identifying possible timing for each agenda item. This draft program is indicative only, and the actual organization of work of the Committee would be determined by the Chair and its members in line with the rules of procedure.

### WIPO/GRTKF/IC/11/INF/4: Voluntary Fund for Accredited Indigenous and Local Communities: Information Note on Contributions and Applications for Support

19. This document sets out information required to be reported to the Committee on the operation of the Voluntary Fund for Accredited Indigenous and Local Communities. The rules are set out in the Annex to document WO/GA/32/6, which was approved by the General Assembly at its 32nd session. In particular, it gives information of contributions received or pledged, and actual support provided to representatives of accredited indigenous and local communities.

### WIPO/GRTKF/IC/11/INF/5: Information Note for the Panel of Indigenous and Local Communities

20. Following a decision of the Committee at its seventh session, each session of the Committee now commences with a panel chaired by a member of an Indigenous community. The panel was held at the commencement of the eighth, ninth and tenth sessions of the Committee. On each occasion, seven representatives of indigenous and local communities gave presentations on their communities' experiences and concerns in relation to TCEs, TK and related genetic resources. Similar arrangements have been made for the panel to commence the eleventh session. This document sets out proposed practical arrangements for the panel.

*Selected documents from previous sessions*WIPO/GRTKF/IC/9/INF/4: The Protection of Traditional Cultural Expressions/Expressions of Folklore: Updated Draft Outline of Policy Options and Legal Mechanisms

21. The Committee has commissioned the development and updating of an outline of policy options and legal mechanisms for the protection of traditional cultural expressions (TCEs). This document is a revised draft requested by the Committee. The document provides updated information on the policy options and legal mechanisms that national and regional legal systems have employed to give effect to the kind of draft objectives and principles developed in WIPO/GRTKF/IC/9/4. An outline of policy options and legal mechanisms may serve as an information resource to assist in the choice of appropriate mechanisms to achieve policy objectives and to implement principles such as those set out for consideration in WIPO/GRTKF/IC/9/4. This document is an information resource only, and no specific decisions in respect of this document are suggested.

WIPO/GRTKF/IC/9/INF/5: The Protection of Traditional Knowledge: Updated Draft Outline of Policy Options and Legal Mechanisms

22. The Committee has commissioned the development and updating of an outline of policy options and legal mechanisms for the protection of traditional knowledge (TK). This document is a revised draft requested by the Committee. The document provides updated information on the policy options and legal mechanisms that national and regional legal systems have employed to give effect to the kind of draft objectives and principles developed in WIPO/GRTKF/IC/9/5. An outline of policy options and legal mechanisms may serve as an information resource to assist in the choice of appropriate mechanisms to achieve policy objectives and to implement principles such as those set out for consideration in WIPO/GRTKF/IC/9/5. This document is an information resource only, and no specific decisions in respect of this document are suggested.

WIPO/GRTKF/IC/8/11: Disclosure of Origin or Source of Genetic Resources and Associated Traditional Knowledge in Patent Applications: document submitted by the European Community and its Member States

23. This document provides the text of a proposal submitted on behalf of the European Community and its Member States.

WIPO/GRTKF/IC/8/12: Patent System and the Fight Against Biopiracy - The Peruvian Experience

24. This document provides the text of a submission by the Permanent Mission of Peru.

WIPO/GRTKF/IC/8/13: Ministry of Agriculture, Rural Development and Fisheries, Decree-Law No. 118/2002: document submitted by Portugal

25. This document provides information on and the text of this Portuguese law concerning protection of traditional knowledge.

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