

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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

Twelfth Session
Geneva, February 25 to 29, 2008

THE PROTECTION OF TRADITIONAL KNOWLEDGE:

OVERVIEW

Document prepared by the Secretariat

I. CURRENT STATUS OF WORK

1. The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) is currently considering the protection of traditional knowledge (“TK”) through two related and complementary 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”).

2. At its eleventh session, the Committee reviewed the progress made on its substantive agenda items and agreed to work towards further convergence of views on the questions included in its previous mandates, in particular, within the areas of TCEs and TK, on the Lists of Issues agreed at its Tenth Session, with a view to making appropriate recommendations to the General Assembly. Concerning the documents on TK, the Committee agreed that:

“the Secretariat should prepare a factual extraction, with attribution, consolidating the view points and questions of Members and Observers on the List of Issues considered

during the Eleventh Session including their comments submitted in writing for the Eleventh Session, subject to review of Member States and observers and without prejudice to any position taken on these issues, and”

“as agreed at the Tenth session, document WIPO/GRTKF/IC/11/5 (c) remains on the table in its existing form and comments made in relation to it are noted.”

3. In line with these decisions, the working documents on protection of TK being prepared for the twelfth session of the Committee comprise:

(i) WIPO/GRTKF/IC/12/5(a): the present document, a brief overview of current work on TCEs/EoF;

(ii) WIPO/GRTKF/IC/12/5(b): the text of the required ‘factual extraction’, which will first be posted on the WIPO website at *www.wipo.int/tk* as a draft text for an initial review, in view of the requirement that this material be “subject to review of Member States and observers,” and will then be circulated as this working document for the twelfth session further to review;

(iii) WIPO/GRTKF/IC/12/5(c): the text of the draft Objectives and Principles, identical to the text that was circulated at the eighth, ninth, tenth and eleventh sessions, but provided for ease of reference in view of the decision that this document “remains on the table.”

4. The document series WIPO/GRTKF/IC/11/5(a), prepared for the eleventh Committee session, contains the original written comments upon which the factual extraction is partially based. This will also be made available for reference at the twelfth session.

II. THE FACTUAL EXTRACTION: REVIEW PROCESS

5. In view of the requirement that this material be “subject to review of Member States and observers,” a preliminary draft of the required ‘factual extraction’ will first be posted on the WIPO website at *www.wipo.int/tk* for an initial review. Comments on this preliminary draft can be passed to the WIPO Secretariat by January 31, 2008. A text of the factual extraction, with amendments and additions as required, will then be circulated as document WIPO/GRTKF/IC/12/5(b) for the further review of Member States and observers at the twelfth session of the Committee.

III. BACKGROUND

6. The Committee has extensively reviewed legal and policy options for the protection of TK. This work has built on extensive international, regional and national experience with the protection of TK. This review has covered comprehensive analyses of existing national and regional legal mechanisms, panel presentations on diverse national experiences, common elements of protection of TK, case studies, ongoing surveys of the international policy and legal environment as well as key principles and objectives of the protection of TK that received support in the Committee’s earlier sessions. This earlier foundational work is contained in the following documents:

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| Surveys, reports and comparative analysis of protection of TK at national, regional and international levels | WIPO/GRTKF/IC/3/7, WIPO/GRTKF/IC/3/8, WIPO/GRTKF/IC/3/9, WIPO/GRTKF/IC/4/7, WIPO/GRTKF/IC/4/8, WIPO/GRTKF/IC/5/7, WIPO/GRTKF/IC/5/8, WIPO/GRTKF/IC/6/4 . |
| First draft Objectives and Principles | WIPO/GRTKF/IC/7/5 |
| Second draft Objectives and Principles (<i>incorporating comments submitted</i>) | WIPO/GRTKF/IC/8/5, WIPO/GRTKF/IC/9/5, WIPO/GRTKF/IC/10/5, WIPO/GRTKF/IC/11/5(c) |
| Comments submitted on second draft of Objectives and Principles | WIPO/GRTKF/IC/10/INF/2, WIPO/GRTKF/IC/10/INF/2 Add., WIPO/GRTKF/IC/10/INF/2 Add.2, WIPO/GRTKF/IC/10/INF/2 Add.3, WIPO/GRTKF/IC/10/INF/3, <i>compiled as</i> WIPO/GRTKF/IC/11/5/(b) |
| Policy Options and Legal Mechanisms <i>implementing Objectives and Principles</i> | WIPO/GRTKF/IC/7/6 (first draft) WIPO/GRTKF/IC/9/INF/5 (second draft) |
| Comments on the List of Issues on the protection of TK | WIPO/GRTKF/IC/11/5(a) |
| Background documents on addressing the international dimension | WIPO/GRTKF/IC/6/6, WIPO/GRTKF/IC/8/6, WIPO/GRTKF/IC/9/6, WIPO/GRTKF/IC/10/6, WIPO/GRTKF/IC/11/6 |

7. *Member States and observers taking part in the Committee are invited to:*

(i) *review the draft factual extraction of comments on the issues concerning protection of TK posted on the WIPO website, and provide any comments to the Secretariat by January 31, 2008; and*

(i) *draw on this document as an overview of current work on the protection of TK.*

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