

WIPO



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

Thirteenth Session
Geneva, October 13 to 17, 2008

BRIEF SUMMARY OF WORKING DOCUMENTS

Document prepared by the Secretariat

I. DOCUMENTS FOR THE THIRTEENTH SESSION

1. The following is a brief summary of the documents due to be prepared for the twelfth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the "Committee") as at October 12, 2008. Each of these documents, as well as any additional documents, will be posted as soon as they are finalized at www.wipo.int/tk.

WIPO/GRTKF/IC/13/1 Prov 2.: Draft Agenda for the twelfth session

2. This document contains the proposed items to be dealt with by the Committee, and is submitted to the Committee for possible adoption.

WIPO/GRTKF/IC/13/2: Accreditation of Certain Organizations.

WIPO/GRTKF/IC/13/2 Add: 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/13/3: Participation of Indigenous and Local Communities: Voluntary Contribution Fund

4. The WIPO General Assembly has established 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 current 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/13/INF/4.

WIPO/GRTKF/IC/13/4: The Protection of Traditional Cultural Expressions/Expressions of Folklore:

The Committee’s current work on the protection of traditional cultural expressions (“TCEs”)/expressions of folklore (“EoF”) comprises three related and complementary processes:

- (i) consideration of an agreed List of Issues concerning the protection of TCEs;
- (ii) consideration of a draft set of “Revised Objectives and Principles for the Protection of Traditional Cultural Expressions” (“Objectives and Principles”);
- (iii) a draft gap analysis on the protection of TCEs.

The working documents on protection of TCEs/EoF prepared for the thirteenth session of the Committee, in line with the decisions taken at the twelfth session, comprise:

- WIPO/GRTKF/IC/13/4(a): a brief overview of the Committee’s current work on TCEs/EoF;
- WIPO/GRTKF/IC/13/4(b): the revised version of the draft gap analysis on protection of TCEs that was commissioned by the Committee at its twelfth session, and then prepared and elaborated through an intersessional review and commentary process.

WIPO/GRTKF/IC/13/5: The Protection of Traditional Knowledge:

The Committee’s current work on the protection of traditional knowledge (TK) comprises three related and complementary processes:

- (i) consideration of an agreed List of Issues concerning the protection of TK;
- (ii) consideration of a draft set of “Revised Objectives and Principles for the Protection of Traditional Knowledge” (“Objectives and Principles”);

- (iii) a draft gap analysis on the protection of TK.

The working documents on protection of TK prepared for the thirteenth session of the Committee, in line with the decisions taken at the twelfth session, comprise:

- WIPO/GRTKF/IC/13/5(a): a brief overview of the Committee's current work on TK protection;
- WIPO/GRTKF/IC/13/5(b): the revised version of the draft gap analysis on protection of TCEs that was commissioned by the Committee at its twelfth session, and then prepared and elaborated through an intersessional review and commentary process.

WIPO/GRTKF/IC/13/6: Options for the International Dimension of the Committee's Work:

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.

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.

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/13/7: Recognition of Traditional Knowledge within the Patent System:

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/13/8: Genetic Resources:

The working documents on protection of genetic resources prepared for the thirteenth session of the Committee, in line with the decisions taken at the twelfth session, comprise:

- WIPO/GRTKF/IC/13/8(a), 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. This document exactly reproduces the text of the corresponding documents from recent sessions, WIPO/GRTKF/IC/11/8 (a) and WIPO/GRTKF/IC/12/8 (a), in line with the Committee's decisions on this item.
- WIPO/GRTKF/IC/13/8(b), a factual update of international developments relevant to the genetic resources agenda item. This document is the further update of WIPO/GRTKF/IC/11/8 (b) and WIPO/GRTKF/IC/12/8 (b) that was requested by the Committee.
- WIPO/GRTKF/IC/13/8(c), a compilation of comments received on these documents following the invitation of the Committee at its last session.

WIPO/GRTKF/IC/13/9: Submission of the African Group

This working document provides the text of a submission by the African Group concerning the three substantive items of the Committee's agenda, namely TCEs, TK and genetic resources.

WIPO/GRTKF/IC/13/10: Submission of the African Group

At its twelfth session, the Committee decided that it will consider taking a decision on proposed modalities and terms of reference for the establishment of intersessional mechanisms or processes, as well as other possibilities, to continue and to build on the progress achieved so far, in a structured and focused manner, the technical work of the Committee on the three substantive items between its sessions, on the basis of proposals

submitted by Committee participants to be circulated prior to the thirteenth session. This document contains a proposal submitted on behalf of the African Group following this invitation.

II. INFORMATION DOCUMENTS AND OTHER DOCUMENTS OF CONTINUING INTEREST

WIPO/GRTKF/IC/13/INF/1: List of Participants

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

WIPO/GRTKF/IC/13/INF/2: Brief Summary of Working Documents

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

WIPO/GRTKF/IC/13/INF/3 Rev: Program for the Committee Session: Revised Draft

7. In line with the Committee's request at its tenth session, this document sets out a suggested program, 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/13/INF/4: Voluntary Fund for Accredited Indigenous and Local Communities: Information Note on Contributions and Applications for Support

8. 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/13/INF/5: Information Note for the Panel of Indigenous and Local Communities

9. 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 previous four 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 twelfth session. This document sets out proposed practical arrangements for the panel.

*Selected documents from previous sessions*WIPO/GRTKF/IC/12/9: Overview of Activities and Outcomes of the Intergovernmental Committee

10. 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.

WIPO/GRTKF/IC/9/INF/4: The Protection of Traditional Cultural Expressions/Expressions of Folklore: Updated Draft Outline of Policy Options and Legal Mechanisms

11. 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

12. 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

13. 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

14. 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

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

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