

Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

Seventeenth Session

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SUBMISSION BY AUSTRALIA, CANADA, NEW ZEALAND, NORWAY AND THE UNITED STATES OF AMERICA

Document prepared by the Secretariat

1. On May 6, 2010, the Delegations of Australia, Canada, New Zealand, Norway and the United States of America submitted a working document, which was issued as WIPO/GRTKF/IC/16/7, in relation to agenda item 10 (“Genetic Resources”) for the sixteenth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”), held from May 3 to 7, 2010.
2. The Committee “requested the Secretariat [...] to issue document WIPO/GRTKF/IC/16/7 as a working document for the next session of the Committee”, and also “invited IGC participants to provide written comments on document WIPO/GRTKF/IC/16/7 before July 31, 2010 and requested the Secretariat to compile such comments in an information document [...]”.
3. Further to the decision above, the present document reissues the submission concerned, which is contained in the Annex.

4. Written comments on document WIPO/GRTKF/IC/16/7 received during the intersessional written commenting process have been compiled in document WIPO/GRTKF/IC/17/INF/10.

5. *The Committee is invited to review and draw on this document as appropriate in its discussions on agenda item 8 (“Genetic Resources”).*

[Annex follows]

ANNEX

DRAFT Genetic Resources Objectives and Principles

Objective 1:

- Ensure inventors using genetic resources and any associated traditional knowledge comply with any conditions for access, use and benefit sharing.

Principles:

- Sovereign states have the authority to determine access to genetic resources in their jurisdiction.
- Subject to national legislation, persons accessing traditional knowledge associated with genetic resources from the knowledge holder and applying that knowledge in the development of an invention should obtain the approval from the knowledge holder and seek their involvement.

Objective 2:

- Prevent patents being granted in error for inventions that are not novel or inventive in light of genetic resources and associated traditional knowledge.

Principles:

- Patent applicants should not receive a monopoly on inventions that are not new or inventive.
- The patent system should provide certainty of rights for legitimate users of genetic resources.

Objective 3:

- Ensure patent offices have available the information needed to make proper decisions on patent grant.

Principles:

- Patent offices must have regard to all relevant prior art when assessing the patentability of an invention.
- Patent applicants must indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention.
- There is a need to recognize that some holders of TK may not want their knowledge documented.

Objective 4:

- Relationship with relevant international agreements and processes.

Principles:

- Respect for and consistency with other international and regional instruments and processes.
- Promotion of cooperation with relevant international and regional instruments and processes.

Objective 5:

- Maintain the role of the IP system in promoting innovation.

Principles:

- Maintain the role of the IP system in promoting innovation.
- Promote certainty and clarity of IP rights.
- Protect creativity and reward investments made in developing a new invention.
- Promoting transparency and dissemination of information by publishing and disclosing technical information related to new inventions, so as to enrich the total body of technical knowledge accessible to the public.

[End of Annex and of document]