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DATE: SEPTEMBER 23, 2016

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

Thirty-First Session
Geneva, September 19 to 23, 2016

DECISIONS OF THE THIRTY-FIRST SESSION OF THE COMMITTEE

Adopted by the Committee

DECISION ON AGENDA ITEM 2:

ADOPTION OF THE AGENDA

The Chair submitted the draft agenda circulated as WIPO/GRTKF/IC/31/1 Prov. 3 for adoption and it was adopted.

DECISION ON AGENDA ITEM 3:

ADOPTION OF THE REPORT OF THE THIRTIETH SESSION

The Chair submitted the revised draft report of the Thirtieth session of the Committee (WIPO/GRTKF/IC/30/10 Prov. 2) for adoption and it was adopted.

DECISION ON AGENDA ITEM 4:

ACCREDITATION OF CERTAIN ORGANIZATIONS

The Committee unanimously approved the accreditation of all the organizations listed in the Annex to document WIPO/GRTKF/IC/31/2 as *ad hoc* observers, namely: Alliance Nationale des Autorités Traditionnelles du Congo (ANATC); Jeunesse Sans Frontières Bénin (JSF Bénin); Juristes pour l'Environnement au Congo (JUREC conseil); Proyecto ETNOMAT, Departamento de Antropología Social, Universidad de Barcelona (España); Suivi des Couvents Vodoun et Conservation du Patrimoine Occulte (SUCOVEPO).

DECISION ON AGENDA ITEM 5:

PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

The Committee took note of documents WIPO/GRTKF/IC/31/3, WIPO/GRTKF/IC/31/INF/4 and WIPO/GRTKF/IC/31/INF/6.

The Committee strongly encouraged and called upon members of the Committee and all interested public or private entities to contribute to the WIPO Voluntary Fund for Accredited Indigenous and Local Communities.

The Chair proposed, and the Committee elected by acclamation, the following eight members of the Advisory Board to serve in an individual capacity: Mr. Babagana Abubakar, Representative, Kanuri Development Association, Nigeria; Mr. Parviz Emomov, Second Secretary, Permanent Mission of Tajikistan, Geneva; Ms. Ema Hao'uli, Policy Advisor, Labour and Commercial Environment, Ministry of Business, Innovation and Employment, New Zealand; Mrs. Lucia Fernanda Inacio Belfort Sales, Representative, Instituto Indígena Brasileiro para Propriedade Intelectual (INBRAPI), Brazil; Mr. Kumou Makonga, First Secretary, Permanent Mission of Côte d'Ivoire, Geneva; Mrs. Rosario Luque Gil, Representative, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos (CAPAJ), Peru; Ms. Ñusta Maldonado, Third Secretary, Permanent Mission of Ecuador, Geneva; and Ms. Priscilla Ann Yap, Second Secretary, Permanent Mission of Malaysia, Geneva.

The Chair of the Committee nominated Ambassador Robert Matheus Michael Tene, Vice-Chair of the Committee, to serve as Chair of the Advisory Board.

DECISION ON AGENDA ITEM 6:

TRADITIONAL KNOWLEDGE

The Committee developed, on the basis of document WIPO/GRTKF/IC/31/4, a further text, "The Protection of Traditional Knowledge: Draft Articles Rev. 2". The Committee decided that this text, as at the close of this agenda item on September 23, 2016, be transmitted to the

Thirty-Second session of the Committee, in accordance with the Committee's mandate for 2016-2017 and the work program for 2017, as contained in document WO/GA/47/19.

The Committee also decided to transmit to the next session of the Committee an "Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session", copy annexed.

The Committee took note of and held discussions on documents WIPO/GRTKF/IC/31/5, WIPO/GRTKF/IC/31/6, WIPO/GRTKF/IC/31/7, WIPO/GRTKF/IC/31/8, WIPO/GRTKF/IC/31/9, WIPO/GRTKF/IC/31/INF/7, WIPO/GRTKF/IC/31/INF/8 and WIPO/GRTKF/IC/31/INF/9.

DECISION ON AGENDA ITEM 7:

CONTRIBUTION OF THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC) TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

The Committee held a discussion on this item. The Committee decided that all statements made on this item would be recorded in the report of the Committee and that they would also be transmitted to the WIPO General Assembly taking place from October 3 to 11, 2016, in line with the decision taken by the 2010 WIPO General Assembly related to the Development Agenda Coordination Mechanism.

DECISION ON AGENDA ITEM 8:

ANY OTHER BUSINESS

There was no discussion under this item.

DECISION ON AGENDA ITEM 9:

CLOSING OF THE SESSION

The Committee adopted its decisions on agenda items 2, 3, 4, 5, 6 and 7 on September 23, 2016. It agreed that a draft written report, containing the agreed text of these decisions and all interventions made to the Committee, would be prepared and circulated by October 28, 2016. Committee participants would be invited to submit written corrections to their interventions as included in the draft report before a final version of the draft report is circulated to Committee participants for adoption at the next session of the Committee.

[Annex follows]

IGC 31**Indicative List of Outstanding/Pending Issues
to be Tackled/Solved at the Next Session****1. Use and meanings of certain terms and concepts**

References to “protection” and “protected” traditional knowledge and relationship with eligibility criteria / scope of protection.

References to “innovation” and “tradition-based creation and innovation”.

Terms to denote nature of the harm for which protection may be sought, such as “misappropriation”, “misuse”, “unauthorized use”, “unlawful appropriation” and “illicit appropriation”.

Terms describing or relevant to extent of diffusion of the traditional knowledge, such as “public domain”, “publicly available”, “secret”, “sacred”, “narrowly diffused” and “widely diffused”.

Terms relevant to beneficiaries, such as “[Indigenous [peoples]]”.

2. Subject matter

Where and how to include criteria for eligibility.

Whether to include examples or “fields” of traditional knowledge and, if so, which ones.

3. Beneficiaries

Whether to include “nations” and/or “States”.

Role and nature of a “competent authority” as a beneficiary, if any.

4. Scope of protection

“Rights-based” and/or “measures-based” approaches.

Whether a “tiered approach” is feasible, and, if so, how it would be formulated.

Economic and/or moral rights.

Roles, nature and design of “complementary measures”, including databases, if any.

Disclosure requirement, and possible link with text on genetic resources.

5. Exceptions and limitations¹**6. Sanctions, remedies and exercise of rights / application**

¹ Issues 5 to 13 were not discussed at IGC 31.

- 7. Administration of rights/interests**
- 8. Term of protection / rights**
- 9. Formalities**
- 10. Transitional measures**
- 11. Relationship with other international agreements**
- 12. National treatment**
- 13. Transboundary cooperation**

[End of Annex and of document]