

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

Thirty-Third Session
Geneva, February 27 to March 3, 2017

DECISIONS OF THE THIRTY-THIRD 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/33/1 Prov. 2 for adoption and it was adopted.

DECISION ON AGENDA ITEM 3:

ADOPTION OF THE REPORT OF THE THIRTY-SECOND SESSION

The Chair submitted the draft report of the Thirty-Second Session of the Committee (WIPO/GRTKF/IC/32/11 Prov. 2) for adoption and it was adopted.

DECISION ON AGENDA ITEM 4:

ACCREDITATION OF CERTAIN ORGANIZATIONS

The Committee unanimously approved the accreditation of the University of Lausanne referred to in the Annex to document WIPO/GRTKF/IC/33/2 as an *ad hoc* observer.

DECISION ON AGENDA ITEM 5:

PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

The Committee took note of documents WIPO/GRTKF/IC/33/3, WIPO/GRTKF/IC/33/INF/4 and WIPO/GRTKF/IC/33/INF/6.

The Committee welcomed the contribution by the Government of Australia to the WIPO Voluntary Fund for Accredited Indigenous and Local Communities, and strongly encouraged and called upon other 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. Tomas Alarcón, representative, *Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos* (CAPAJ), Peru; Ms. Eselealofa Apinelu, Attorney-General, Legal Service, Office of the Attorney-General, Tuvalu; Ms. Aideen Fitzgerald, Policy Officer, International Policy and Cooperation Section, IP Australia, Australia; Ms. Lucia Fernanda Inacio Belfort, representative, *Instituto Indígena Brasileiro da Propriedade Intelectual* (InBraPi), Brazil; Ms. Galina Mikheeva, Head, Multilateral Cooperation Division, International Cooperation Department, Federal Service for Intellectual Property (ROSPATENT), Russian Federation; Ms. Daniela Rodriguez Uribe, Advisor, Ministry of Culture, Colombia; Mrs. Jennifer Tauli Corpuz, representative, Tebtebba Foundation-Indigenous Peoples' International Centre for Policy Research and Education, the Philippines; and Mr. George Tebagana, Third Secretary, Permanent Mission of Uganda, 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 CULTURAL EXPRESSIONS

The Committee developed, on the basis of document WIPO/GRTKF/IC/33/4, a further text, "The Protection of Traditional Cultural Expressions: Draft Articles Rev. 2". The Committee decided that this text, as at the close of this agenda item on March 3, 2017, be transmitted to the Thirty-Fourth 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/33/5, WIPO/GRTKF/IC/33/6, WIPO/GRTKF/IC/33/INF/7, WIPO/GRTKF/IC/33/INF/8 and WIPO/GRTKF/IC/33/INF/9.

DECISION ON AGENDA ITEM 7:

ANY OTHER BUSINESS

There was no discussion under this item.

DECISION ON AGENDA ITEM 8:

CLOSING OF THE SESSION

The Committee adopted its decisions on agenda items 2, 3, 4, 5 and 6 on March 3, 2017. 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 April 21, 2017. 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 would then be circulated to Committee participants for adoption at the next session of the Committee.

[Annex follows]

IGC 33**Indicative List of Outstanding/Pending Issues
to be Tackled/Solved at the Next Session****1. Policy objectives**

The use of the terms “misappropriation” and/or “[misuse]/[unlawful appropriation]”.

The recognition of rights already acquired by third parties.

2. Subject matter

If and where to include criteria for eligibility.

The reference to a time period that the TCEs would need to have been used for in order to be protectable.

3. 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, as well as other rights.

4. Beneficiaries

Whether to include beneficiaries other than indigenous peoples and local communities.

5. Use and meanings of certain terms and concepts

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

Reference to “safeguarding” of traditional cultural expressions.

Terms to denote nature of the harm for which protection may be sought, such as “misappropriation”.

Terms describing or relevant to the quality or extent of diffusion of the traditional cultural expressions, such as “public domain”, “publicly available”, “secret” or “sacred”.

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

6. Administration of rights/interests

Role and nature of a “competent authority or authorities”.

7. Exceptions and limitations

Whether the determination of exceptions and limitations should be made at the national level, or whether to provide a set of general and/or specific exceptions.

8. Relationship with the public domain

9. Sanctions, remedies and exercise of rights/interests

10. Term of protection/safeguarding

11. Formalities

12. Transitional measures

13. Relationship with other international agreements

14. National treatment

15. Transboundary cooperation

16. Capacity building and awareness raising

17. Principles/preamble/introduction

[End of Annex and of document]