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

Thirty-Fifth Session
Geneva, March 19 to 23, 2018

DECISIONS OF THE THIRTY-FIFTH SESSION OF THE COMMITTEE

Adopted by the Committee

DECISION ON AGENDA ITEM 2:

ELECTION OF OFFICERS

Upon the proposal of the Delegation of Switzerland, on behalf of Group B, seconded by the Delegation of Indonesia, on behalf of the Asia-Pacific Group, and the Delegation of Ecuador, on behalf of the Group of Latin American and Caribbean Countries (GRULAC), the Committee elected as its Chair, Mr. Ian Goss of Australia, unanimously and by acclamation, for the 2018-2019 biennium. As Vice-Chairs for the same period, upon the proposal of the Delegation of Switzerland, on behalf of Group B, seconded by the Delegation of Indonesia, on behalf of the Asia-Pacific Group, and the Delegation of Ecuador, on behalf of GRULAC, the Committee elected Mr. Jukka Liedes of Finland, and upon the proposal of Indonesia, on behalf of the Asia-Pacific Group, seconded by the Delegation of Switzerland, on behalf of Group B, and the Delegation of Ecuador, on behalf of GRULAC, the Committee elected Mr. Faizal Chery Sidharta of Indonesia.

DECISION ON AGENDA ITEM 3:

ADOPTION OF THE AGENDA

The Chair submitted the draft agenda circulated as WIPO/GRTKF/IC/35/1 Prov. 2 for adoption and it was adopted.

DECISION ON AGENDA ITEM 4:

ADOPTION OF THE REPORT OF THE THIRTY-FOURTH SESSION

The Chair submitted the draft report of the Thirty-Fourth Session of the Committee (WIPO/GRTKF/IC/34/14 Prov. 3) for adoption and it was adopted.

DECISION ON AGENDA ITEM 5:

ACCREDITATION OF CERTAIN ORGANIZATIONS

Consideration of this item was deferred to the Thirty-Sixth Session.

DECISION ON AGENDA ITEM 6:

PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

The Committee took note of documents WIPO/GRTKF/IC/35/3, WIPO/GRTKF/IC/35/INF/4 and WIPO/GRTKF/IC/35/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: Mrs. Ali Aii Shatu, Member of the Mbororo Social Cultural Development Association (MBOSCUA), Cameroon; Mr. Nelson De Leon Kantule, representative, Association of Kunas for Mother Earth (KUNA), Panama; Ms. María del Pilar Escobar Bautista, Counselor, Permanent Mission of Mexico to the United Nations Office and other International Organizations in Geneva; Mr. Efren Jagdish Jogia, Senior Crown Counsel, Office of the Attorney-General, Office of the Prime Minister, Tuvalu; Mr. Gaziz Seitzhanov, Third Secretary, Permanent Mission of Kazakhstan; Ms. Grace Stripeikis, Assistant Director, International Intellectual Property Section, Department of Foreign Affairs and Trade, Australia; Ms. Polina Shulbaeva, Coordinator, Centre for Support of

Indigenous Peoples of the North/Russian Indigenous Training Centre (CSIPN/RITC), Russian Federation; and Mr. George Tebagana, Second Secretary, Permanent Mission of Uganda.

The Chair of the Committee nominated Mr. Faizal Chery Sidharta, Vice-Chair of the Committee, to serve as Chair of the Advisory Board.

DECISION ON AGENDA ITEM 7:

GENETIC RESOURCES

The Committee developed, on the basis of document WIPO/GRTKF/IC/35/4, a further text, "Consolidated Document on Intellectual Property and Genetic Resources Rev. 2". The Committee decided that this text, as at the close of this agenda item on March 23, 2018, be transmitted to the Thirty-Sixth Session of the Committee, in accordance with the Committee's mandate for 2018-2019 and the work program for 2018, as contained in document WO/GA/49/21.

The Committee took note of and held discussions on documents WIPO/GRTKF/IC/35/5, WIPO/GRTKF/IC/35/6, WIPO/GRTKF/IC/35/7, WIPO/GRTKF/IC/35/8, WIPO/GRTKF/IC/35/9, WIPO/GRTKF/IC/35/INF/7, WIPO/GRTKF/IC/35/INF/8 and WIPO/GRTKF/IC/35/INF/9.

DECISION ON AGENDA ITEM 8:

ESTABLISHMENT OF AN *AD HOC* EXPERT GROUP(S)

The mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC or Committee) for the biennium 2018/2019 provides that the IGC "may establish *ad hoc* expert group(s) to address a specific legal, policy or technical issue", and "the results of the work of such group(s) will be submitted to the IGC for consideration". The mandate also notes that the "expert group(s) will have a balanced regional representation and use an efficient working methodology", and "work during the weeks of the sessions of the IGC".

With this background, the Committee agreed that an *ad hoc* expert group on genetic resources be organized as follows:

Mandate

The IGC plenary is the negotiating and decision-making body. The *ad hoc* expert group is to support and facilitate the negotiations of the IGC.

The *ad hoc* expert group will provide advice and analysis on legal, policy or technical issues such as those in the indicative list of issues in the Annex. Member States, through the Regional Coordinators, will be invited to suggest the specific issues to be considered by the *ad hoc* expert group. The IGC Chair and Vice-Chairs will identify the list of specific issues from the suggestions made by Member States. The list should be balanced and as short and focused as possible. The draft list will be provided by the IGC Chair to the Regional Coordinators for comments and the experts in advance of the group's meeting.

The *ad hoc* expert group will report to the IGC plenary at IGC 36 on the outcomes of its work.

The agenda for IGC 36 will make provision for such a report by the *ad hoc* expert group, which will be presented by the Chair or co-Chairs of the *ad hoc* expert group and will be included in the report of IGC 36.

Composition

Each Regional Group will be represented by a maximum of four experts. The European Union (EU) and the Like-Minded Countries will be invited to nominate two experts, without additional funding requirements. The Indigenous Caucus will be invited to nominate two indigenous

experts to participate. The experts, who should preferably be subject-matter specialists, shall participate in their personal capacities.

The Regional Groups, the EU, the Like-Minded Countries, and Indigenous Caucus will be invited by the Secretariat to nominate their experts by a date to be advised, so that the necessary arrangements can be made.

The Secretariat is authorized to invite up to three experts from academia, civil society and industry, to assist in the *ad hoc* expert group, such as by making presentations and answering technical questions. They will also participate in their personal capacities.

The Chair and Vice-chairs of the IGC will be invited to attend the *ad hoc* expert group meeting.

Date and venue

The *ad hoc* expert group on genetic resources will meet on Sunday, June 24, 2018, at WIPO Headquarters in Geneva, in Room NB 0.107, from 09h00 to 17h00.

Funding

According to the agreed funding formula for the IGC process, one participant each from 36 countries (seven countries from each region and China) will be funded for the 36th session of the IGC. Regional Coordinators will be invited, as usual, to provide the names of the countries to be funded. Funded countries will then be invited to nominate the funded participants to the IGC.

For those experts from each Regional Group attending the *ad hoc* expert group who are the funded participants to the IGC, one more daily subsistence allowance at the usual IGC rate will be provided by WIPO. WIPO will not cover the expenses of other experts or any other additional expenses.

This funding arrangement for the *ad hoc* expert group does not constitute a precedent for other WIPO meetings.

If the indigenous experts to participate in the *ad hoc* expert group are funded by the Voluntary Fund as decided by the Advisory Board or are the panellists for the Indigenous Panel at the 36th session of the IGC, WIPO will provide one daily subsistence allowance at the usual IGC rate. WIPO will not cover the expenses of other indigenous experts or any other additional expenses.

Languages

The working languages of the *ad hoc* expert group will be English, French and Spanish.

Chair or co-Chairs of the ad hoc expert group

The Chair or co-Chairs will be identified by the Chair of the IGC from among the participating experts before the meeting of the *ad hoc* expert group so that they have adequate time to prepare.

Informality

The *ad hoc* expert group will not be webcasted, or reported on in the same manner as the IGC plenary.

All participants are requested to respect the informality of the *ad hoc* expert group, and not to communicate to the public, whether 'live' or at any future time, the content or nature of the discussions taking place in the *ad hoc* expert group, whether in general terms or by way of quoting specific experts. This includes restrictions on tweeting, blog posts, news stories and email list-serves.

Secretariat services

The WIPO Secretariat will facilitate the conduct of the meeting and provide secretariat services.

DECISION ON AGENDA ITEM 9:

ANY OTHER BUSINESS

There was no discussion under this item.

DECISION ON AGENDA ITEM 10:

CLOSING OF THE SESSION

The Committee adopted its decisions on agenda items 2, 3, 4, 5, 6, 7 and 8 on March 23, 2018. 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 May 18, 2018. 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]

ANNEX**Indicative List of Specific Issues**

1. List of terms relating to the operative text
 - a. Traditional knowledge associated with genetic resources
 - b. Country of origin
 - c. Providing country
 - d. Country providing genetic resources
 - e. Invention directly based on
 - f. Genetic resources/genetic materials/derivative
 - g. Source
 - h. Utilization
2. Subject matter
 - a. Should the instrument apply to:
 - i. Any intellectual property rights or only patent right
 - b. In addition to genetic resources:
 - i. Derivatives
 - ii. Traditional knowledge associated with genetic resources
3. Disclosure
 - a. Trigger
 - b. Content of disclosure
 - c. Exceptions and limitations
 - d. Consequence of non-compliance
4. Due diligence measures/Databases

[End of Annex and of document]