



IGC 30: Informal Information Session

Presentation by the Secretariat

May 18, 2016

Geneva

Welcome and Introduction

Mrs. Daphne Zografos Johnsson
Legal Officer, Traditional Knowledge Division

Mandate

- Mandate 2016-2017
 - Agreed on at GA 2015
- “[...] continue to expedite its work, with a focus on narrowing existing gaps [...] with the objective of reaching an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).”

Seminars

- “Taking note of the utility served by the 2015 WIPO seminars [...] provision shall be made for the Secretariat [...] to organize inter-sessional seminars and workshops to build regional and cross-regional knowledge and consensus on issues related to IP and GRs, TK and TCEs with a focus on unresolved issues”.
- Seminar on Intellectual Property and Genetic Resources
 - May 26 and 27, 2016

2016

2017

IGC
29
GRs

Sem.
GRs

IGC
30
GRs

IGC
31
TK

Sem.
TK

IGC
32
TK

IGC
33
TCEs

Sem.
TCEs

IGC
34
TCEs



Chairmanship

- IGC Chair

- Mr. Ian Goss



- IGC Vice-Chairs

- Mr. Jukka Liedes

- Ambassador Robert Matheus Michael Tene

IGC 29

- Methodology
 - Work in plenary
 - Discussion of core issues
- Facilitators
 - Ms. Margo Bagley (Mozambique)
 - Ms. Emilia Hernández (Mexico)
- Indicative list of outstanding/pending issues to be tackled/solved

Structure of the rest of the presentation

- Practical arrangements for IGC 30
 - Mrs. Fei Jiao, Associate Program Officer, Traditional Knowledge Division
- Genetic resources: issues for IGC 30
 - Mr. Claudio Chiarolla, Legal Officer, Traditional Knowledge Division
- Discussion and closing remarks
 - Mr. Minelik Alemu Getahun, Assistant Director General, Global Issues Sector

Practical arrangements for the Seminar and IGC 30

Mrs. Fei Jiao

**Associate Program Officer, Traditional Knowledge
Division**

2015 Seminars

Home Policy Traditional Knowledge TK News Archive

Seminar on IP and GRs/TK/TCEs (March 30 to April 1, 2015)

The WIPO Seminar on Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions: Regional, National and Local Experiences took place at WIPO Headquarters from March 30 to April 1, 2015.

The Seminar shared regional, national and local practices, experiences and case studies regarding intellectual property and genetic resources/traditional knowledge/traditional cultural expressions.

Key speeches

Opening Address: Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions



http://www.wipo.int/meetings/en/details.jsp?meeting_id=36502
http://www.wipo.int/meetings/en/details.jsp?meeting_id=35602

Seminar on Intellectual Property and Genetic Resources (May 26 and 27)

- Objectives
- Four roundtables:
 - RT 1: Intellectual Property and Genetic Resources: Relationship with Relevant International Instruments
 - RT 2: Policy Objectives relating to Intellectual Property and Genetic Resources
 - RT 3: Disclosure Requirements relating to Genetic Resources and Associated Traditional Knowledge
 - RT 4: Databases and other Defensive Measures relating to Genetic Resources and Associated Traditional Knowledge



Reporting on the Seminar

- Four rapporteurs
- IGC 30: Agenda Item 5

Working documents

- WIPO/GRTKF/IC/30/1 Prov. 2 (Draft Agenda)
- WIPO/GRTKF/IC/30/2 (Accreditation)
- WIPO/GRTKF/IC/30/3 (Voluntary Fund)
- WIPO/GRTKF/IC/30/4 (Consolidated document Relating to IP and GRs)
- WIPO/GRTKF/IC/30/5 (Indicative List of Outstanding/Pending Issues to be Tackled/Solved)
- WIPO/GRTKF/IC/30/6 (Joint Recommendation on GRs and Associated TK)
- WIPO/GRTKF/IC/30/7 (Joint Recommendation on the Use of Databases for the Defensive Protection of GRs and TK Associated with GRs)
- WIPO/GRTKF/IC/30/8 (Proposal for the Terms of Reference for the Study by the WIPO Secretariat on Measures Related to the Avoidance of the Erroneous Grant of Patents and Compliance with Existing Access and Benefit-Sharing Systems)

Information documents for the session

- WIPO/GRTKF/IC/30/INF/2 (Summary of Documents)
- WIPO/GRTKF/IC/30/INF/3 (Draft Program)
- WIPO/GRTKF/IC/30/INF/4 (Information notes on Voluntary Fund)
- WIPO/GRTKF/IC/30/INF/5 (Indigenous Panel)
- WIPO/GRTKF/IC/30/INF/7 (Glossary)
- WIPO/GRTKF/IC/30/INF/8 (Resources on the GRTKF Website)
- WIPO/GRTKF/IC/30/INF/9 (List of References for Relevant Resources submitted by Member States and Observers)
- WIPO/GRTKF/IC/30/INF/10 (Technical Review submitted by the UN Permanent Forum on Indigenous Issues)

Resources (1/2)



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Regional, National, Local and Community Experiences

This page includes resources available on WIPO's website on regional, national, local and community experiences regarding intellectual property and genetic resources, traditional knowledge and traditional cultural expressions.

Table of contents

1. Laws, legislative measures and protocols
2. Fact-finding missions, surveys, submissions by member states and observers
3. Case studies
4. Lectures and presentations
5. Other resources

1. Laws, legislative measures and protocols

- Laws, treaties and regulations relevant to traditional knowledge, traditional cultural expressions and genetic resources
- Disclosure requirements table [PDF](#)
- Codes, guidelines and practices relating to the recording, digitization and dissemination of TCEs

2. Fact-finding missions, surveys, submissions by member states and observers

Report on fact-finding missions

- Intellectual Property Needs and Expectations of Traditional Knowledge Holders (WIPO Report on Fact-Finding Missions) [PDF](#)

Resources (2/2)

- Disclosure Requirements Table
(http://www.wipo.int/export/sites/www/tk/en/documents/pdf/genetic_resources_disclosure.pdf)
- Background Brief on GRs
- The IGC Preparation Kit
 - A one-stop destination for preparatory information, substantive working documents and other materials most directly relevant to each IGC session.
 - Will be updated with relevant information relating to the 30th session (working documents, background briefs, this briefing, useful links etc.)
- Indigenous Portal
 - Part of the WIPO Secretariat's effort to provide tailored resources for indigenous peoples and promote easy access to information for and about indigenous peoples and local communities.

Indigenous Participation in IGC 30

■ Indigenous Consultative Forum

- Not a formal committee session or official WIPO meeting, but endorsed by the Committee and facilitated by the Secretariat
- Sunday, May 29, 2016, 14h00

■ Indigenous Panel (shortened)

- Monday, May 30, 2016, around 11h30, for 1 hour only
- Theme: “Intellectual Property, Genetic Resources and Associated Traditional Knowledge: Sharing Indigenous and Local Community Experiences and Perspectives”
- Keynote: Ms. Aroha Te Pareake Mead, member of the Ngati Awa and Ngati Porou Tribes, New Zealand; Chair of the Commission on Environmental, Economic and Social Policy of the International Union for Conservation of Nature (IUCN)
- Respondents: Mr. Willem Collin Louw (South Africa) and Mr. Alancay Morales Garro (Costa Rica)

To note...

- WIPO Voluntary Fund
 - No further funds
 - Nominations by Regional Groups to the Advisory Board to please be sent to grtkf@wipo.int

Event

Cultural Event by the Romanian Mission on May 30

Side Events (provisional schedule)

Tuesday, May 31, 2016

from 1pm to 3pm

IFPMA Side-event

Wednesday, June 1, 2016

from 1pm to 3pm

CBD Side-event

Reminder:

- Informal Consultation
- May 23 from 11h00 to 12h00

Sign up for our TK e-Updates!

Copies of this presentation will be made available on the
“IGC Preparation Kit”

Genetic Resources: Issues for IGC 30

**Mr. Claudio Chiarolla, Legal Officer, Traditional
Knowledge Division**

Structure of the Consolidated Document 30/4

- List of terms
- [Preamble]
- **Policy objective[s]**
- [Article 1] Subject matter of instrument
- **[Article 2] [Disclosure requirement]**
- **[Article 3] [Exceptions and limitations]**
- **[Article 4] [Relationship with [PCT] and [PLT]]**
- **[Article 5] Sanctions and remedies**
- **[Article 6] [No new disclosure requirement]**
- **[Defensive measures]**
- **[Article 7] [Due diligence]**
- **[Article 8] [Prevention of the erroneous grant of patents and voluntary codes of conduct]**
- **[Article 9] Relationship with international agreements**
- **[Article 10] International cooperation**
- **[Article 11] Transboundary cooperation**
- **[Article 12] Technical assistance, cooperation and capacity building**

Indicative List of Outstanding/Pending Issues (OI) to be Tackled/Solved (30/5)

1. List of terms
2. Preamble
3. Policy objectives
4. Subject matter
5. Disclosure requirement
6. Defensive measures/No Disclosure
7. Databases
8. Relationship with International Agreements, including PCT and PLT
9. Transboundary Cooperation
10. Technical Assistance, Cooperation & Capacity-Building

List of terms

- Which terms need to be defined?
- Consistency with terminology used in other international instruments

Preamble

- Which principles/aspirations/concerns should be included in the preamble?

Policy objective[s]

[Contribute to the prevention of] [prevent] the [misappropriation] of GRs by:

[OI: *Whether misappropriation should be retained in the text (and if so, how it should be defined)*]

- Ensuring access to the appropriate information
[OI: *Prevention/minimization of “erroneous” patents (what is appropriate term)*]
- Enhancing transparency [and efficacy]
- Complementarity, mutual supportiveness with international agreements

Subject matter

- Should the instrument apply to:
 - Any IP rights or only patent rights (and patent applications)
- In addition to GRs, should the instrument also apply to:
 - Derivatives
 - Associated TK/TK associated with GRs

Key normative issue: (mandatory?) disclosure requirements

Some of the questions to be considered

■ What should be the **content** of disclosure?

[OI: origin/source, proof of legal access, PIC and benefit-sharing?]

■ What should **trigger** disclosure? (link between GRs and claimed invention)

[OI:

- *Claimed invention directly based on subject matter*
- *Utilization of subject matter*
- *Need for physical access or access to non-tangible subject matter]*

■ Should there be exceptions and limitations?

[OI: - *list of exceptions* (specific and/or time-bound) or
- *Public interest exceptions only*]

■ IP/patent subject matter eligibility for GRs and/or derivative as found in nature or isolated therefrom

(e.g. preamble vs. operative text)

■ What should be the consequence of non-compliance?

[OI: - *Minimum and/or maximum standard agreement*
- *Measures/sanctions within and/or outside patent system*
- *Permissible conditions for revocation*]

■ Should liability be strict?

■ Who would have standing to assert a claim or initiate action for non-compliance with the disclosure requirement?

- How would the requirement be implemented, verified and monitored?

[OI: Relationship with ABS regimes: Role of the IP/patent office in relation to notification of disclosure-related information to the CHM of the CBD/NP/ITPGRFA]

- Relationship with PCT and PLT? (OI: should they be amended?)

No new disclosure requirement

- Applicants may only be required to state where a GR was obtained from **if that is necessary for person skilled in the art to carry out invention.**
- No disclosure requirement imposed for reasons other than those related to novelty, inventive step, industrial application or enablement.

Defensive measures

to be used in complement of / instead of a disclosure requirement

■ Due diligence

[OI: Consideration of the need for additional due diligence measures/systems]

■ Prevention of erroneous patents

- Databases

[OI: (stand-alone) defensive measures or supplementary measures to a disclosure requirement?]

Prevention of erroneous patents

- Provide legal, policy or administrative measures
 - to prevent patents from being granted erroneously
 - to allow third party to dispute validity of a patent
- Develop and use voluntary codes of conduct and guidelines for users regarding protection of GRs
- Facilitate the creation, exchange, dissemination and access to, databases of GRs

Database search system

- Establishment of (national) databases for the purpose of search and examination of patent applications

WIPO portal

- Establishment of database search system to link databases of WIPO Member States

[OI: *- Safeguards for TK that is widely held and/or publicly available
- Burden on TK holders and MS]*

Discussion and Closing Remarks

**Facilitated by Mr. Minelik Alemu Getahun, Assistant
Director General, Global Issues Sector, WIPO**

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