



IGC 31: Informal Information Session

Presentation by the Secretariat

September 13, 2016

Geneva

Welcome and Introduction

Mr. Wend Wendland
Director, Traditional Knowledge Division

2016

2017



Practical arrangements for IGC 31

Ms. Begoña Venero

Senior Counsellor, Traditional Knowledge Division

Working documents

- WIPO/GRTKF/IC/31/1 Prov. 3 (Draft Agenda)
- WIPO/GRTKF/IC/31/2 (Accreditation)
- WIPO/GRTKF/IC/31/3 (Voluntary Fund)
- WIPO/GRTKF/IC/31/4 (The Protection of Traditional Knowledge: Draft Articles)
- WIPO/GRTKF/IC/31/5 (Joint Recommendation on GRs and Associated TK)
- WIPO/GRTKF/IC/31/6 (Joint Recommendation on the Use of Databases for the Defensive Protection of GRs and TK Associated with GRs)
- WIPO/GRTKF/IC/31/7 (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)
- WIPO/GRTKF/IC/31/8 (The Declaration of the Source of Genetic Resources and Traditional Knowledge in the Swiss Patent Act and Related Swiss Regulations on Genetic Resources – Submission by Switzerland in Response to Document WIPO/GRTKF/IC/30/9)

Information documents for the session

- WIPO/GRTKF/IC/31/INF/2 Rev. 2 (Summary of Documents)
- WIPO/GRTKF/IC/31/INF/3 Rev. (Draft Program)
- WIPO/GRTKF/IC/31/INF/4 (Information notes on Voluntary Fund)
- WIPO/GRTKF/IC/31/INF/5 (Indigenous Panel)
- WIPO/GRTKF/IC/31/INF/7 (Glossary)
- WIPO/GRTKF/IC/31/INF/8 (List of References for Relevant Resources submitted by Member States and Observers)
- WIPO/GRTKF/IC/31/INF/9 (Professor Anaya's Technical Review)

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)

- Background Briefs
- The IGC Preparation Kit
 - A one-stop destination for preparatory information, substantive working documents and other materials most directly relevant to each IGC session.
 - Is updated with relevant information relating to IGC 31 (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 31

- Indigenous Consultative Forum
 - Not a formal committee session or official WIPO meeting, but endorsed by the Committee and facilitated by the Secretariat
 - Sunday, September 18, 2016, 14h00
- Indigenous Panel - Monday, September 19, 2016, around 11h00, for 1.5 hour
 - Theme: “IGC Draft Articles on the Protection of Traditional Knowledge: Indigenous Peoples and Local Communities Perspectives”
 - Keynote: Dr. Laila Susanne Vars, Member of the Sami People, Norway; Member of the Sami Parliament, Norway; Director of Galdu – Resource Centre for Rights of Indigenous Peoples
 - Respondents: Ms. Jennifer Tauli Corpuz (Philippines) and Mr. Jim Walker (Australia)

To note...

- WIPO Voluntary Fund
 - No further funds
 - Nominations by Regional Groups to the Advisory Board to be sent to grtkf@wipo.int
- Financial support provided by the US Patent and Trademark Office (USPTO) directly to the indigenous representatives who had been recommended for funding by the Advisory Board of the Voluntary Fund to attend this session of the IGC.

Recall:

- Chair's Information Note
- Meeting on September 5
- Draft Methodology for IGC 31 prepared by the Chair

Reminder:

- Meeting on September 14 from 16h00 to 17h00
- Venue: NB 0.107

Traditional Knowledge: Documents and issues for IGC 31

**Ms. Begoña Venero Aguirre
Senior Counsellor, Traditional Knowledge Division**

Working documents

- WIPO/GRTKF/IC/31/4 (The Protection of Traditional Knowledge: Draft Articles)
- WIPO/GRTKF/IC/31/5 (Joint Recommendation on GRs and Associated TK)
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WIPO/GRTKF/IC/31/4 (The Protection of Traditional Knowledge: Draft Articles)

- Prepared during IGC 27, which focused on:
 - Objectives
 - Principles
 - Subject matter of protection
 - Beneficiaries
 - Scope of protection
 - Limitations and exceptions

Structure of WIPO/GRTKF/IC/31/4

- Preamble/Introduction
- Policy objectives
- Use of terms: Misappropriation, misuse, public domain, publicly available, TK, unauthorized use, use/utilization
- Subject matter of protection/instrument
- Beneficiaries of protection
- Criteria for and scope of protection
- Complementary measures
- Sanctions, remedies and exercise of rights/application
- Disclosure requirement / No disclosure requirement
- Administration of rights/of interests
- Exceptions and limitations
- Term of protection/rights
- Formalities
- Transitional measures
- Relationship with other international agreements
- National treatment
- Transboundary cooperation

Core issues – Mandate for IGC 31

- Definition of misappropriation
- Beneficiaries
- Subject matter
- Objectives
- What TK subject matter is entitled to protection at an international level
- Exceptions and limitations
- Relationship with the public domain

Objectives

Themes reflected in document WIPO/GRTKF/IC/31/4, according to the IGC Chair's Information Note:

- a. Prevent the misappropriation/misuse/unauthorized use/unfair and inequitable uses of TK;
- b. *Enable beneficiaries to control ways in which their TK is used beyond the traditional and customary context;*
- c. Promote the equitable sharing of benefits arising from their use with prior informed consent or approval and involvement/fair and equitable compensation, as necessary;
- d. Encourage [and protect] [tradition-based] creation and innovation; and
- e. Prevent the grant of erroneous IP / patent rights over TK and TK associated with GRs.

- Are all of these directly related to IP?

Beneficiaries

- IPLCs
- Nations?
- National authority / Competent authority

Subject matter

- Subject matter
- Eligibility criteria
- Which is the appropriate place to deal with the criteria for eligibility? Are eligibility criteria needed? Or could the scope of protection and exceptions and limitations define what is to be protected?

Scope of protection

- Tiered approach
 - Different kinds or levels of rights (Economic rights? Moral rights?)
 - Depending on the nature and characteristics of the subject matter, the level of control retained by the beneficiaries and its degree of diffusion
- Distinction between:
 - TK available to the general public
 - ...
 - Secret TK, still controlled by its holders
- Opportunity for balance?

Exceptions and limitations

- Conditions to be established at a national level?
- Linked to discussion on tiered approach and public domain

Relationship with the public domain

- Other related terms:
 - Publicly available
 - Prior art
- Is a definition really necessary?

Definition of misappropriation

- 2 options:
 - Any access or use without prior informed consent or approval and involvement, and, where applicable, without mutually agreed terms, for whatever purpose
 - Acquisition of TK through improper means or a breach of confidence, and which results in a violation of national law in the provider country
- Is a definition really necessary?

Other issues

- Preamble/Introduction
- Use of terms
- Complementary measures and disclosure requirement
- Sanctions, remedies and exercise of rights
- Administration of rights/interests
- Term of protection
- Formalities
- Transitional measures
- Relationship with other international agreements
- National treatment
- Transboundary cooperation

Discussion and Closing Remarks

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

Sign up for our TK e-Updates!

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