

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **WIPO GENERAL ASSEMBLY**

**Thirty-Fourth (18<sup>th</sup> Ordinary) Session**  
**Geneva, September 24 to October 3, 2007**

**MATTERS CONCERNING THE INTERGOVERNMENTAL COMMITTEE ON  
INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL  
KNOWLEDGE AND FOLKLORE**

*Document prepared by the Secretariat*

1. At its Thirty-Second Session, held from September 26 to October 5, 2005, the WIPO General Assembly considered the work of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC). The General Assembly considered two documents in particular:

(a) document WO/GA/32/6, which concerned the recommendation of the IGC for the establishment of a voluntary fund: participation of indigenous and local communities in its work; and

(b) document WO/GA/32/7, which reported on the work of the IGC to date and conveyed the decision of the Committee which “noted the broad support from Committee participants on the future work of the Committee” and the recommendation of the IGC to the General Assembly that “the mandate of the Committee be extended to the next budgetary biennium to continue its work on traditional knowledge, traditional cultural expressions/folklore and genetic resources”.

2. Following its consideration of these documents, the General Assembly reached agreement on the following decisions:

(a) It adopted the revised draft proposal for a Voluntary Contribution Fund contained in the Annex of document WO/GA/32/6 (document WO/GA/32/13, paragraph 168).

(b) It extended the mandate of the IGC to the next budgetary biennium (2006-2007) to continue its work on traditional knowledge, traditional cultural expressions/folklore and genetic resources (paragraph 202, WO/GA/32/13).

3. Since its mandate was renewed by the General Assembly in 2005, the IGC has met for its ninth, tenth and eleventh sessions, convened respectively from March 6 to 10, 2006, November 30 to December 8, 2006, and July 3 to 12, 2007. This document provides a brief report of subsequent activities undertaken by the IGC in pursuance of these two decisions.

*i) Implementation of the Voluntary Fund*

4. In line with the General Assembly decision, the Fund was established exclusively to finance the participation in the work of the IGC and other related activities of WIPO of the nominated representatives of accredited observers which represent indigenous or local communities, or otherwise represent customary holders or custodians of traditional knowledge (TK) or traditional cultural expressions (TCEs). The Fund was designed to operate transparently and without drawing on the regular WIPO budget. The resources in the Fund can only be applied to finance the travel and subsistence of eligible representatives of relevant accredited observers taking part in the IGC, according to regular United Nations standards. A significant role was reserved for representatives of Member States and for representatives of relevant observers on the Advisory Board which designates the beneficiaries of financial support from the Fund. The Director General of WIPO is required to implement the recommendations of the Advisory Board. The WIPO Secretariat provides administrative support only, and does not determine the choice of funded beneficiaries. The criteria for granting financial assistance are set out precisely, providing *inter alia* for "broad geographical distribution of the seven geocultural regions recognized by the United Nations Permanent Forum on Indigenous Issues".

5. Following the establishment of the Voluntary Fund by the General Assembly, steps were taken to implement the procedures laid down by the decision of the Member States. Principal developments include the following:

(a) A promotion campaign to encourage voluntary contributions to the Fund was undertaken so that the origins, rationale and operation of the Fund were explained to a wide range of potential donors.

(b) This led to generous contributions from several donors (the Swedish International Biodiversity Programme ('SwedBio'), the Government of France, the Christensen Fund, and the Swiss Federal Institute of Intellectual Property), and further generous pledges (from the Government of South Africa and the Government of Norway, and an additional amount from the Christensen Fund). The Fund has therefore had sufficient resources to support a significant enhancement of participation of local and indigenous communities and other custodians of traditional knowledge and traditional cultural expressions in the work of the IGC.

(c) In particular, sufficient funds have been available to support the participation of every applicant recommended for financial support by the independent Advisory Board.

Accordingly, seven and eight representatives were funded respectively for the tenth and eleventh IGC sessions (the tenth session was the first for which funding could be made available in line with the decision of the General Assembly). This level of support is expected to be available throughout the next mandate of the IGC, should the Assembly agree to renew the IGC mandate, so that all eligible representatives of communities and custodians recommended by the Advisory Board would be funded.

(d) The number of *ad hoc* observers accredited to the IGC has risen over the current IGC mandate to reach almost 200, over half of which represent indigenous or local communities, or other custodians of TK and TCEs.

(e) Current activities include promoting greater awareness of the Fund among potential applicants and potential donors, with a view to maximum effectiveness of the Fund in the event of a renewed IGC mandate.

Details of the fund, its operation, and the application procedure, are set out on the website: [http://www.wipo.int/ik/en/ngoparticipation/voluntary\\_fund/index.html](http://www.wipo.int/ik/en/ngoparticipation/voluntary_fund/index.html). Periodic reports are provided to the IGC on the detailed operation of the Fund, as required by the General Assembly's decision. These reports include full details of recommendations, funded candidates, expenditures, and contributions.

*ii) Meetings of the Intergovernmental Committee under its renewed mandate*

6. Following the decision of the General Assembly to renew its mandate for the 2006-2007 biennium, the IGC met for its ninth, tenth and eleventh sessions, convened respectively from March 6 to 10, 2006, November 30 to December 8, 2006, and July 3 to 12, 2007. Summaries of the working documents of these sessions have been circulated as documents WIPO/GRTKF/IC/9/INF/3, WIPO/GRTKF/IC/10/INF/4 and WIPO/GRTKF/IC/11/INF/2.

7. Document WIPO/GRTKF/IC/11/9 provides a full summary of the work of the IGC. Annex I of that document, which provides a graphic overview of the Committee's work, is annexed to the present document.

8. Selected developments in the course of the current biennium include:

(a) The IGC elected by acclaim as its Chair Ambassador I Gusti Agung Wesaka Puja of Indonesia, and as its two Vice Chairs, Mr. Lu Guoliang of China and Mr. Abdellah Ouadrhiri of Morocco, for the ninth, tenth and eleventh IGC sessions.

(b) The IGC commissioned a further intersessional commentary process on draft objectives and principles for protection of TCEs and TK, in particular on the contents of documents WIPO/GRTKF/IC/9/4 ('The Protection of Traditional Cultural Expressions/Expressions of Folklore: Revised Objectives and Principles') and WIPO/GRTKF/IC/9/5 ('The Protection of Traditional Knowledge: Revised Objectives and Principles'); extensive commentary was received on these documents from Members and observers, and was circulated and compiled in line with the IGC's decisions.

(c) The IGC established a further policy process, in the form of a commentary procedure on 10 key issues concerning the protection of TCEs, and 10 key issues concerning

the protection of TK; extensive commentary was received on these documents from Members and observers, and was circulated and compiled in line with the IGC's decisions.

(d) The IGC requested the development of further documentation regarding the genetic resources agenda item, including updates of international developments and a review of options for the IGC's work; Member States submitted additional proposals on this item.

(e) Measures to enhance participation of indigenous and local communities and other custodians of TCEs and TK included the successful launch of the Voluntary Fund and the provision of financial support to all candidates recommended by the Advisory Board, and the convening of panels of indigenous experts, chaired by an indigenous representative, at the opening of each IGC session.

(f) Accreditation of further organizations as *ad hoc* observers, raising to almost 200 the total number of such observers. The majority of *ad hoc* observers represent indigenous or local communities, or other custodians of TK or TCEs.

9. Concerning its future work, the IGC reached the following decision at its eleventh session:

“The Intergovernmental Committee reviewed the progress made on its substantive agenda items at the current and previous sessions of its current mandate, and

- (i) Agreed that progress had been made on its substantive work to date;
- (ii) Agreed that its work had greatly benefited from the enhanced participation of representatives of indigenous and local communities made possible by various initiatives including the successful launch of the WIPO Voluntary Fund, and also from the participation of intergovernmental organizations;
- (iii) Agreed to recommend to the WIPO General Assembly that the current mandate of the Committee be renewed as set out in document WO/GA/30/8, paragraphs 93 to 95, namely that:
  - the Committee “will continue its work for the next budgetary biennium on questions included in its previous mandate”;
  - “its new work will focus, in particular, on a consideration of the international dimension of those questions, without prejudice to the work pursued in other fora,” and
  - “no outcome of its work is excluded, including the possible development of an international instrument or instruments”;
  - the IGC would be urged “to accelerate its work and to present a progress report to the session of the General Assembly” in September 2008.
  - The General Assembly would further request “the International Bureau to continue to assist the IGC by providing Member States with necessary expertise and documentation.”

- (iv) With respect to the content of paragraph (iii), the Committee agreed to work towards further convergence of views on the questions included in its previous mandates, in particular, within the areas of TCEs and TK, on the Lists of Issues agreed at its Tenth Session, with a view to making appropriate recommendations to the General Assembly.
- (v) Agreed concerning its substantive working document on item 7 (TCEs/EoF) that:
- the Secretariat should prepare a factual extraction, with attribution, consolidating the viewpoints and questions of Members and Observers on the List of Issues considered during the Eleventh Session including their comments submitted in writing for the Eleventh Session, subject to review of Member States and observers and without prejudice to any position taken on these issues, and
  - As agreed at the Tenth session, document WIPO/GRTKF/IC/11/4 (c) remains on the table in its existing form and comments made in relation to it are noted.
- (vi) Agreed concerning its substantive working document on item 8 (TK) that:
- the Secretariat should prepare a factual extraction, with attribution, consolidating the viewpoints and questions of Members and Observers on the List of Issues considered during the Eleventh Session including their comments submitted in writing for the Eleventh Session, subject to review of Member States and observers and without prejudice to any position taken on these issues, and
  - As agreed at the Tenth session, document WIPO/GRTKF/IC/11/5 (c) remains on the table in its existing form and comments made in relation to it are noted.
- (vii) Agreed concerning its substantive working documents on item 9 (genetic resources) that:
- the Secretariat should prepare a further update of international developments based on document 11/8(b) which would include omissions identified in the current session, more recent developments, and any other relevant developments reported to the Committee, and
  - document WIPO/GRTKF/IC/11/8 (a) remains on the table in its existing form and comments made in relation to it are noted.”

## CONCLUSION

10. In the light of the recommendation addressed to it by the eleventh session of the IGC, the General Assembly may wish to consider and agree to the extension of the mandate of the IGC for the 2008-2009 biennium, in the terms proposed by the IGC.

*11. The General Assembly is invited:*

*(a) to take note of the agreement of the IGC that progress had been made on its substantive work to date;*

*(b) to welcome the successful launch of the WIPO Voluntary Fund, to call for further contributions to the Fund and to encourage further initiatives to ensure the effective participation of representatives of local and indigenous communities in the work of the IGC;*

*(c) to approve the renewal of the IGC's mandate in the terms recommended by the IGC and set out in paragraph 9, above.*

[Annex follows]