
SUMMARY MINUTES OF MAIN COMMITTEE I

MAIN COMMITTEE I OF THE DIPLOMATIC CONFERENCE TO CONCLUDE AN
INTERNATIONAL LEGAL INSTRUMENT RELATING TO INTELLECTUAL PROPERTY,
GENETIC RESOURCES AND TRADITIONAL KNOWLEDGE ASSOCIATED WITH
GENETIC RESOURCES

President of Main Committee I: Ms. Jodie McAlister (Australia)

Secretary of Main Committee I: Mr. Wend Wendland (WIPO)

First Meeting Tuesday, May 14, 2024 Morning

1. The PRESIDENT OF MAIN COMMITTEE I (President) opened the first session of Main Committee I and thanked the President of the Diplomatic Conference, H.E. Mr. Guilherme de Aguiar Patriota, Ambassador and Permanent Representative of Brazil to the World Trade Organization and other Economic Organizations in Geneva. The President looked forward to working with the Vice-Presidents of the Diplomatic Conference and collaborating closely with the President of Main Committee II, Ms. Vivienne Katjuongua (Namibia). The President announced that she would be supported by her very capable Vice-Presidents, Mr. Felipe Cariño (Philippines) and Ms. Violetta Fonseca (Bolivarian Republic of Venezuela). She thanked the Secretariat for the huge task of organizing this Conference and supporting the work of Main Committee I. She stated that in Australia, they would typically start an important meeting by acknowledging the traditional owners of the lands which they would be meeting on. However, as this was an international setting, the President acknowledged the lands from which all members had travelled and acknowledged the continuing culture of all Indigenous Peoples, who were the first innovators. She also paid her respects to elders past and present and those who were attending the Conference. She stated that Main Committee I had a very important task to finalize: the text of an international legally binding instrument on intellectual property, genetic resources, and traditional knowledge associated with genetic resources. The President thanked the Group Coordinators and Member States for the two productive meetings that had been held the previous week on the working methodology for Main Committees I and II. The second version of the working methodology had been sent out to the Group Coordinators. The President emphasised that the working methodology remained flexible and dynamic and should be based on the progress made. The delegates needed to capitalize on goodwill and consensus when it appeared, and embrace flexibility and space to build consensus as needed. For transparency reasons, the President wished to revisit some main points of the working methodology. The purpose of the working methodology would be to allow Main Committee I to propose, for adoption by the Conference, the substantive provisions of the international legal instrument. Observers' statements would be interspersed with Member States' statements, as has always been the

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practice in the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC). Requests for the floor would be given on a “first come first served” basis. Main Committee I would address Articles 1 to 10 and the Preamble of the Basic Proposal for an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources (the Basic Proposal)¹. Main Committee I would focus on the following three clusters of issues: (1) disclosure requirement, including Articles 3, 4, 5 and 6; (2) information systems, including Article 7; and (3) the nature, scope and objectives of the instrument, including the Preamble and Articles 1, 8, 9 and 10. The definitions included in Article 2 would be addressed throughout the relevant discussions. The President emphasized that all articles would be discussed. The clusters were intended as a conceptual device to organize and sequence the discussions around themes, rather than looking at the text in a linear article-by-article manner. The President proposed to establish informal sessions. The informal sessions would as far as possible not take place in parallel with the plenary. The President of Main Committee I, or one or both of the Vice-Presidents, would chair the discussions in an informal mode and report to the plenary. All interested delegates from both Member States and observers could attend and participate. The informal sessions would take place in the WIPO Conference Hall. Interpretation into and from all six United Nations languages would be available. Plenary would be convened at least once a day to report back on the informal sessions. The aim would be to move quickly into informal mode. Textual proposals from Observers would only be considered if supported by a Member State. Text from the Basic Proposal or textual proposals might be put on the screen, whenever the Chair or Chairs of the informal sessions deemed it appropriate. There would not be a webcast or record of the informal sessions. The President stated that she expected the Main Committee to benefit from small *ad hoc* contact groups, which would meet briefly and informally to discuss a specific policy or technical question and report back to the plenary. The outcome document of Main Committee I would be the revised Preamble and Articles 1 to 10 of the Basic Proposal, and any recommendation, resolution or agreed statement. The outcome document would be submitted for adoption by the Diplomatic Conference, meeting in Plenary. The President stated that her ambition was to settle as much of the first two clusters as possible during the first week and have a first draft of those articles to send to the Drafting Committee by May 20, 2024. Some issues would be linked across multiple articles, including the articles dealt with by Main Committee II. The President urged the participants to show flexibility in achieving progress. She believed that by May 19, 2024, Main Committee I should have had an opportunity to take stock and move to the final cluster, having found the right approach to deal with outstanding and challenging issues. After presenting how Main Committee I would move forward, the President presented a short video on the history of the negotiations. She recalled that the negotiations had taken over 20 years, and she invited Main Committee I to reflect on that effort and the number of people that had taken part in the process, invested time and energy, utilized their professional skills and considered the feedback of stakeholders. The President acknowledged the challenges and compromises made. The idea of a compromise text had been born during IGC 36 and despite disagreements on that text, there had been strong support for a middle ground. The President recalled that, even if COVID and other global challenges had slowed down the progress, significant advancements had been made. The negotiations were now on the

¹ All articles referenced in the Summary Minutes of Main Committee I, unless explicitly stated otherwise, are references to the Basic Proposal.

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brink of a successful conclusion. The President proposed five key guardrails for Main Committee I. Firstly, the Basic Proposal would establish a disclosure requirement for patents only. The Basic Proposal was tailored to the unique requirements of patent rights and was agreed as the basis of deliberations. It would recognize that the primary commercial use of genetic resources within the intellectual property system would be within the patent system. She acknowledged the growing number of national disclosure regimes, with 33 national regimes and two regional standards. Disclosure, supplemented by voluntary information systems, would improve quality and transparency in the patent system. The second principle advocated for broader protection of traditional knowledge and traditional cultural expressions in the ongoing work of the IGC. The transparency created by disclosure would be an important step forward in the recognition of the role of Indigenous innovation in the patent system. The President then proposed the third key principle which was that existing international law would not be reinterpreted by the Basic Proposal. The President added that WIPO would have an important role to play in the development of a balanced and effective international intellectual property system which would enable innovation and creativity for the benefit of all. The fourth principle would be to ensure policy flexibility for national implementation. Since each Member State's national laws and circumstances could not be reflected in the international legal instrument, policy space and flexibility would be needed. Sharing examples of how national regimes worked in practice would help in finding the appropriate space. She advised that she had prepared a "guardrail document" which provided links to some of those key documents, which would help inform the discussion. The document would be made available. The fifth guardrail was that emerging issues might be addressed in the review. The President acknowledged that some issues were still emerging and, therefore, were not mature enough to be cemented in international law. The President was optimistic and wished that by May 22, 2024, the substantive part of Main Committee I's work would have been finalized. Main Committee I would have to work hard to achieve its objective. The President reaffirmed her commitment to the Basic Proposal and the compromises that had already been achieved through settling that text. She also reaffirmed her commitment to the respect and recognition of Indigenous knowledge and her commitment to the patent system and the importance of international legal certainty. The President made a pledge to consensus and declared that her aim would be to listen and work toward a compromise. She also stated that she was not present to rehash 20 years of history but would respectfully move Main Committee I forward in a firm, friendly and fair manner. She expected that the participants, in the important negotiation, respect each other and their time spent together. The Diplomatic Conference was not a time for disingenuous tactics, rehashing the past, or wasting time. She expected participants to frame their interventions and engagements with a focus on what would take Main Committee I forward to consensus. The President called for focus on the task at hand and adhering to the established guardrails. Lastly, she called for courage to compromise, making the refinements needed for the historic change to occur. There needed to be a willingness to work hard and tirelessly over the short time to achieve a consensus outcome. Agreement would take everyone's head, but it would also take everyone's heart. For the Conference to succeed, participants would need to find the courage and creativity to move past national positions and find practical solutions for the substantive articles. The instrument would need to respect the interests of all stakeholders, which could only be achieved by a spirit of compromise and consensus. She then opened the floor to any delegations for questions and comments.

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2. The Delegation of the ISLAMIC REPUBLIC OF IRAN congratulated the President on her election and thanked the Secretariat, Member States, and Regional Coordinators for their efforts to finalize the working methodology. Acknowledging the extensive work done to reach the current point, the Delegation expressed optimism for achieving a legally binding instrument after two decades, noting it would be the minimum recourse for developing countries, including the Islamic Republic of Iran. Based on its experiences, the Delegation noted the difficulty of finalizing provisions or resolutions in formal settings and supported the President's suggestion for informal consultations. Emphasizing the importance of open-ended and inclusive processes, the Delegation requested clarification on the small *ad hoc* contact group, specifically its membership, purpose, and the election process for its members.

3. The PRESIDENT thanked the Delegation of the Islamic Republic of Iran and explained that the small *ad hoc* contact group would aim at bringing together technical or policy-relevant experience, and interested Member States who had unique perspectives to bring to the discussion. The contact group would address challenges that could not be resolved in a large room setting. It would explore issues informally with experts on the issue at hand, but it would not be closed to other members. The *ad hoc* contact group would report back to the plenary.

4. The PRESIDENT adjourned the meeting.

Second Meeting Tuesday, May 14, 2024 Afternoon
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5. The PRESIDENT hoped this session of Main Committee I would be as productive as the previous Main Committee II session. The President announced that the work of the Main Committee I would be carried out informally, but that plenary sessions would be held at least once a day to review the progress of the informal work and share any updates. Articles 3, 4, 5, and 6 would be addressed in the coming days. These were the core articles that addressed the disclosure requirement. Considering the "Guardrail Principles" (a copy of which was then available as a non-paper), the Basic Proposal was tailored to the unique requirements of patent rights and had been agreed upon as the basis of the deliberations. The Basic Proposal reflected many years of discussion, and to at least some degree, represented a finely balanced compromise. The President had reviewed the report of the IGC Special Session and had benefited from listening carefully to the discussion during the Cross-Regional Meeting in Namibia. She suggested focusing on minimal targeted improvements that everyone could agree on. To do that, the President decided to focus discussions on Article 3 for the moment. She acknowledged the relationship between Article 3 and Article 6; however, Article 6 would be discussed in due course. Article 3 of the Basic Proposal would establish a mandatory patent disclosure requirement. The Instrument would require patent applicants to disclose the country of origin of the GR and/or the Indigenous Peoples or local community providing the traditional knowledge associated with genetic resources. If none of the above information was known,

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the applicant would be required to declare so. Patent offices should provide certain guidance, although they would have no obligation to verify the authenticity of the disclosure. The President explained that the sentence “where the claimed invention in a patent application is [materially/directly] based on” was the challenge for the next day of discussions. The definitions in Article 2 would be relevant to the discussion. When looking at Article 3, the President questioned what the relationship or link should be between the subject matter of disclosure and the claimed invention to trigger the application of the patent disclosure requirement. The President asked what the definition of the trigger should be and what would need to be disclosed in the patent applications. Article 3 concerned the concept of Indigenous Peoples and local communities, and traditional knowledge associated with genetic resources. She wondered whether those issues could soon be addressed jointly by an *ad hoc* contact group and invited delegates to think about it. Before the President opened the floor for comments, she recalled the report of the virtual meetings of experts on disclosure requirements, as contained in document WIPO/GRTKF/IC/47/13. Those suggestions from the experts still remained worth considering. The President noted that there had been a growing number of national disclosure regimes in Member States. She reminded all delegates that each Member State’s national laws and circumstances could not be reflected in the international instrument. However, she also acknowledged that policy space and flexibility were needed. The President then suggested to move directly to informal mode.

6. The PRESIDENT adjourned the meeting.

Third Meeting Wednesday, May 15, 2024 Afternoon

7. The PRESIDENT reported back on the discussions held during informal consultations on May 14, 2024. The participants had discussed Article 3. Some coalescing around certain positions, terms and issues within the article had been observed. A different approach had been taken in looking at the definition of the trigger, and different ideas on how that could be improved had been heard. The discussions would continue. Additionally, Article 4 had been discussed, and there appeared to be some support for deleting the article. Several Member States had also suggested retaining the article, noting that additional clarity might be needed. Interventions indicated that some Member States had issues with Article 3.2(a), and further clarity on the scope of those issues was required. The President finished her report and proposed to move back to informal discussions.

8. The PRESIDENT adjourned the meeting.

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Fourth Meeting
Thursday, May 16, 2024
Morning

9. The PRESIDENT reported back on the informal discussions held on May 15, 2024. The President thanked all the participants for their engagement and courage in discussing the difficult issue of sanctions and remedies contained in Article 6. A range of views on sanctions, and transparency as well as the need for policy space accounting for national circumstances and laws had been heard. Live drafting on the connection between Articles 3.4 and 6.2 had been undertaken, during which several proposals had been considered. Article 5 had also been discussed. The President announced that the discussions on those articles would continue. The President proposed to move to informal discussions on Article 7.
10. The PRESIDENT adjourned the meeting.

Fifth Meeting
Friday, May 17, 2024
Morning

11. The PRESIDENT reported back on the informal consultations held on May 16, 2024. She thanked all participants for their flexibility regarding the change of the working methodology. The President enjoyed the discussions in the smaller room. She believed that the current pace would continue. She also asked the participants to be prepared to use a different and innovative methodology. She was pleased that the participants had engaged well in the new format. There had been comprehensive discussion on Article 7, with strong support for Articles 7.1 and 7.2, and several different views expressed on Article 7.3. Discussions on Article 7 would continue.
12. The PRESIDENT OF THE CONFERENCE thanked the President of Main Committee I and provided additional remarks regarding the working methodology and the pace of progress. The President of the Conference believed the Conference did well during its first week, starting off with the positive opening statements and by constructively aspiring to work on the basis of the Basic Proposal. The search for the middle ground would allow the Conference to achieve its goal of agreeing on an international instrument. Moving from the big room to a smaller room had led to a more interactive dynamic under the leadership of the respective Presidents of Main Committees I and II. The President of the Conference emphasized the importance of going through a full reading of all articles and the text. He noted that there were over 1200 registered delegates at the Diplomatic Conference and that not all delegates had spent 25 years following the development of this very important issue. He believed that it would be productive for

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delegates to test where they stood today, not 25 years ago, and to listen to each other to understand where the positions lay. The Basic Proposal was already the outcome of many years of efforts to find a middle ground. That was why from the beginning, he had advised the delegates to be very cautious in dealing with the Basic Proposal. The President of the Conference emphasized the importance of allowing all delegations to put forward their views and positions, stating that the first week had been the time to conclude that phase. He urged all delegates to be flexible and understanding, as the Presidents of both Main Committees I and II needed to conclude the first reading of the text by the end of the day. That phase could not extend beyond the first week due to time constraints. Sunday May 19, 2024 would be reserved for additional sessions, both morning and afternoon. The President of the Conference concluded by stating that the goal would be to find the middle ground, either with the Basic Proposal or with some tweaks to it, and it would be very difficult to find the middle ground in one of the extremes.

13. The PRESIDENT of Main Committee I thanked the President of the Conference and adjourned the meeting.

Sixth Meeting Monday, May 20, 2024 Morning
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14. The PRESIDENT OF THE CONFERENCE opened a joint plenary session of Main Committee I and II and offered his deepest condolences to the Islamic Republic of Iran and its people for the tragic loss of President Ebrahim Raisi and Foreign Minister Hossein Amir-Abdollahian. Indicating that the thoughts of the delegations were with the people of the Islamic Republic of Iran during these difficult times, the President passed the floor to the Director General.

15. The DIRECTOR GENERAL echoed the expression of condolences that had been expressed by the President of the Diplomatic Conference. On behalf of the staff of WIPO and the Secretariat, the Director General expressed the deepest condolences to the Islamic Republic of Iran and its people for the tragic loss of President Ebrahim Raisi and Foreign Minister Hossein Amir-Abdollahian. The Director General stated that the thoughts of WIPO staff and the Secretariat were with the people of the Islamic Republic of Iran during these difficult times.

16. The PRESIDENT OF THE CONFERENCE called for a minute of silence.

17. The Delegation of the ISLAMIC REPUBLIC OF IRAN thanked delegations for observing a minute of silence and expressed its sincere gratitude to the President of the Diplomatic Conference and the Director General of WIPO, for their condolences and solidarity with the Iranian people and the government who were mourning the sudden death of President Ebrahim Raisi and Foreign Minister Hossein Amir-Abdollahian in a sad and tragic accident. The Delegation stated that it was a sad and difficult time for the Iranian people and implored the almighty to grant the late President his infinite mercy and to receive him in his everlasting

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paradise. The Delegation concluded by hoping that their souls would rest in eternal peace.

18. The PRESIDENT reported on the *ad hoc* contact group of Main Committee I that had met from 5:30 p.m. to 6:30 p.m. on May 17, 2024, and for five hours on May 19, 2024. The *ad hoc* contact group had reviewed and discussed Articles 3 and 6, focusing on the core articles concerning the disclosure requirement, and sanctions and remedies. The President noted that the contact group had been very productive, and she expressed her gratitude for everyone's valuable contributions and flexibility, which had led to some agreements. She was going to go through the agreements reached for each provision, one by one, and proposed that Main Committee I approve those provisions, submitting them to the Drafting Committee. Articles 3.5 and 3.6 were agreed upon without any change and seeing no objections, the President announced it was so decided. The President specified that Articles 3.5 and 3.6 would be transmitted to the Drafting Committee, which was scheduled to meet on May 20, 2024, at 7:30 p.m. It had also been agreed to delete Article 6.5 and seeing no objections, the President announced it was so decided. Smaller groups had been formed to further refine Articles 3.1(a), 3.2(a) and 3.3. Those groups would continue their discussions and report back to the contact group. The President stated that after the plenary, the *ad hoc* contact group would reconvene for further discussions on Articles 1, 2, 5 and 7. Article 8 would be discussed on May 21, 2024, during the morning session, and the trigger definition would be discussed in the afternoon.

19. The PRESIDENT adjourned the meeting.

Seventh Meeting Wednesday, May 22, 2024 Evening

20. The PRESIDENT stated that it had been a huge effort over the last nine days to bring the Main Committee I to that point. She recalled the focus of Main Committee I on inclusivity to allow open and transparent review and discussion of the Basic Proposal. She thanked the delegations for their excellent participation in the negotiations. There had been some epic huddles, that had resulted in many improvements, including the trigger definition. The President emphasized that she had been honored to watch the hard work of all delegations, particularly in the huddles. There had been other improvements, including agreed statements that brought clarity to the text. She wished to specifically acknowledge the resilience of the Indigenous Caucus who had engaged constructively throughout the process.

21. The PRESIDENT adjourned the meeting.

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Eighth Meeting
Thursday, May 23, 2024
Morning

22. The PRESIDENT of Main Committee II welcomed delegations to a joint plenary meeting of Main Committees I and II. She informed delegations that the Secretariat had transmitted, the night before, the list of articles that would be proposed for submission to the Drafting Committee. With regard to Main Committee I, the provisions concerned were: the text of the definition of “based on” in Article 2, and Articles 1, 3.1, 3.2, 3.4, 7.1, 7.2, 8, and 10. The President of Main Committee II proposed, speaking on behalf of the President of Main Committee I, that Main Committee I approve those articles and submit them to the Drafting Committee. Seeing no objections, the President of Main Committee II announced it was so decided.

Ninth Meeting
Friday, May 24, 2024
Early Morning

23. The PRESIDENT opened the joint plenary meeting of Main Committee I and Main Committee II and invited Ms. Lilyclaire Bellamy (Jamaica), President of the Drafting Committee, to report back on the work of the Drafting Committee.

24. The PRESIDENT OF THE DRAFTING COMMITTEE recalled that according to the Rules of Procedure of the Diplomatic Conference, the mandate of the Drafting Committee was to “coordinate and review the drafting of all texts submitted to it by the Main Committees”. The Drafting Committee met on the evening of May 20, 2024, and approved the following articles: Articles 3.5 and 3.6, Articles 11.1(b), 11.2(a) and (c), 11.3(a) and 11.4, Article 12, Article 13.1, Article 14.1(a) and (b), Article 17, Article 22 and Article 23. The Drafting Committee met again in the morning of May 23, 2024, and approved Article 1, the definition of “based on” in Article 2, Articles 3.1, 3.2 and 3.4, Article 7, Article 8, Articles 11.1(c), 11.2(b), (e) and (g), Article 13.1, Article 14.2, Article 20 and Article 21. The Drafting Committee submitted the texts so reviewed for final approval to the Main Committees. The President of the Drafting Committee thanked the members of the Drafting Committee whose tireless efforts and meticulous attention to detail had allowed the Drafting Committee to review many of the articles in all six WIPO languages. She extended her gratitude to the WIPO Secretariat as well as the translators and interpreters for their guidance, availability, and professionalism.

25. The PRESIDENT recalled the last two weeks of hard work, late nights, intense

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discussions and fabulous huddles. She was pleased that there was a text that could constitute the new WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge. Main Committee I had worked on the preamble and Articles 1 to 9 as contained in document GRATK/DC/7 Prov. The President acknowledged the remarkable dedication and flexibility shown by all delegates. She expressed her heartfelt gratitude, as applicable, to all participants for their relentless and patient efforts over the past two weeks, which had led to a balanced and effective outcome. The President applauded the participants' collaboration and readiness to compromise on the toughest issues. She also thanked the President of Main Committee II, Ms. Vivienne Katjiuongua, for her excellent and able leadership in arriving at consensus on the administrative provisions and final clauses of the agreed text. She expressed her gratitude to the President of the Diplomatic Conference, H.E. Ambassador Patriota, whose leadership and guidance had been crucial in steering the Conference to a successful conclusion. The President thanked Director General Tang and his support team in the Secretariat who had worked tirelessly in support of the work of Main Committee I. She expressed her gratitude to the President of the Drafting Committee and the whole Drafting Committee for their efforts in reviewing the text submitted in all six WIPO languages. In accordance with Rule 12.1 of the Rules of Procedure of the Diplomatic Conference, the President proposed that Main Committee I approve for adoption by the Diplomatic Conference the Preamble and Articles 1 to 9 as contained in document GRATK/DC/7 Prov. Seeing no objections, the President announced it was so decided.

26. The PRESIDENT closed the meeting.