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

Sixteenth Session
Geneva, May 3 to 7, 2010

DECISIONS OF THE SIXTEENTH SESSION OF THE COMMITTEE

prepared by the Secretariat

DECISION ON AGENDA ITEM 2:

ELECTION OF OFFICERS

Upon the proposal of the Delegation of Thailand, on behalf of the Asian Group, seconded by the Delegation of El Salvador, on behalf of the Group of Countries of Latin America and the Caribbean and supported by Switzerland on behalf of Group B, the Committee elected as its Chair His Excellency Ambassador Philip Richard Owade of Kenya, unanimously and by acclamation, for the 2010-2011 biennium. Upon the proposal of the Delegation of El Salvador, on behalf of the Group of Countries of Latin America and the Caribbean and the Delegation of Slovenia on behalf of the Central European and Baltic States, seconded by the Delegation of Switzerland, on behalf of the Group B and by the Delegation of Angola on behalf of the African Group, the Committee elected as its Vice Chairs, for the same period, Mr. José Ramon Lopez de Leon Ibarra of Mexico and Mr. Vladimir Yossifov of Bulgaria.

DECISION ON AGENDA ITEM 3:

ADOPTION OF THE AGENDA

The Chair submitted the revised draft agenda circulated as WIPO/GRTKF/IC/16/1 Prov. 2 for adoption and it was adopted.

DECISION ON AGENDA ITEM 4:

ADOPTION OF THE REPORT OF THE FIFTEENTH SESSION

The Chair submitted the revised draft report of the fifteenth session of the Committee for adoption and it was adopted.

DECISION ON AGENDA ITEM 5:

ACCREDITATION OF CERTAIN ORGANIZATIONS

The Committee unanimously approved accreditation of all the organizations listed in the Annex to document WIPO/GRTKF/IC/16/2 as *ad hoc* observers, namely: *Association des Etudiants et Chercheurs sur la Gouvernance des Etats insulaires (AECG)*, Azerbaijan Lawyers Confederation, *Confederación de Nacionalidades Indígenas (CONAIP)*, *Cooperativa Ecológica de las Mujeres Colectoras de la Isla de Marajó (CEMEM)*, Ethnic Community Development Organization (ECDO), *Kus Kura el León Sociedad Civil*, National Education Social and Traditional Knowledge (NEST) Foundation, National Indigenous TV Ltd. (NITV), *Organisation d'appui aux organisations communautaires de base "Arc-En-Ciel"* and the United Nations of Indians.

DECISION ON AGENDA ITEM 7:

PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES: VOLUNTARY FUND

The Committee took note of documents WIPO/GRTKF/IC/16/3, WIPO/GRTKF/IC/16/INF 4 and WIPO/GRTKF/IC/16/INF 6.

The Committee 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 as members of delegations of WIPO Member States: Mr. Heinjoerg HERRMANN, Counsellor, Permanent Mission of Germany, Geneva; Mr. Faiyaz Murshid KAZI, First Secretary, Permanent Mission of Bangladesh, Geneva; Ms. Marisella OUMA, Executive Director, Kenya Copyright Board, State Law Office, Nairobi, Kenya; Mrs. Antonia Aurora ORTEGA PILLMAN, Officer, *Dirección de Invenciones y Nuevas Tecnologías, Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual* (INDECOPI), Lima, Peru; and Mrs. Larisa SIMONOVA, Deputy Director, International Cooperation Department, Federal Service of Intellectual Property, Patents and Trademarks (ROSPATENT), Moscow, Russian Federation; and, as members of accredited observers representing indigenous and local communities or other customary holders or custodians of TK or TCEs: Mr. Preston HARDISON, representative of the Tulalip Tribes of Washington Governmental Affairs Department, United States of America; Mr. Lyndon ORMOND-PARKER, representative of the Arts Law Centre of Australia, Woolloomooloo, Australia; and, Ms. Polina SHULBAEVA, representative of the Russian Association of Indigenous Peoples of the North (RAIPON), Moscow, Russian Federation. The Chair of the Committee nominated Mr. Vladimir Yossifov, Vice Chair of the Committee, to serve as Chair of the Advisory Board.

DECISION ON AGENDA ITEM 8:

TRADITIONAL CULTURAL EXPRESSIONS/EXPRESSIONS OF FOLKLORE

The Committee invited the Secretariat to prepare and make available for the first session of the Intersessional Working Group a further draft of document WIPO/GRTKF/IC/16/4. The further draft should be made available by the Secretariat by June 19, 2010. This draft should clearly identify drafting proposals and comments made by Committee participants during the sixteenth session and proposals and comments submitted to the Secretariat in writing before May 14, 2010. Specific drafting proposals should be attributed in footnotes. Comments made should be reflected, with attribution, in a commentary in the document. The draft should explain clearly how proposed additions, deletions, other amendments and comments have been reflected. Drafting proposals made by observers should be included in the commentary for consideration by Member States.

DECISION ON AGENDA ITEM 9:

TRADITIONAL KNOWLEDGE

The Committee invited the Secretariat to prepare and make available for the next session of the Committee:

- as a working document, a further draft of document WIPO/GRTKF/IC/16/5. The further draft should be made available by the Secretariat by September 30, 2010. This draft should clearly identify drafting proposals and comments made by Committee participants during the sixteenth session and proposals and comments submitted to the Secretariat in writing before July 31, 2010. Specific drafting proposals should be attributed in footnotes. Comments made should be reflected, with attribution, in a commentary in the document. The draft should explain clearly how proposed additions, deletions, other amendments and comments have been reflected. Drafting proposals made by observers should be identified in the commentary for consideration by Member States;
- as an information document for the next session of the Committee, a list and brief technical explanation of various forms in which traditional knowledge may be found (such as “codified/non-codified”, “disclosed”/“non-disclosed”);

- for the next session of the Committee, a technical information document on the meanings of the term “public domain” in the intellectual property system, with special reference to the protection of traditional knowledge and traditional cultural expressions.

DECISION ON AGENDA ITEM 10:

GENETIC RESOURCES

The Committee invited the Secretariat to prepare and make available for the next session of the Committee:

- as a working document, a further draft of document WIPO/GRTKF/IC/16/6. The further draft should include proposed amendments to and comments made by Committee participants during the sixteenth session of the Committee, as well as written comments on that document submitted to the Secretariat before July 31, 2010. The further draft of WIPO/GRTKF/IC/16/6 should also include a factual update on relevant developments in the CBD, FAO and the WTO;
- as an information document, an updated version of document WIPO/GRTKF/IC/7/9 (“Genetic Resources: Draft Intellectual Property Guidelines for Access and Equitable Benefit-Sharing”);
- as an information document, a glossary of key terms related to intellectual property and genetic resources.

The Committee also requested the Secretariat to update the database of biodiversity-related access and benefit-sharing agreements currently online on the WIPO website and to report, in an information document, on such updating to the next session of the Committee.

The Committee invited IGC participants to provide written comments on document WIPO/GRTKF/IC/16/7 before July 31, 2010 and requested the Secretariat to compile such comments in an information document and to issue document WIPO/GRTKF/IC/16/7 as a working document for the next session of the Committee.

DECISION ON AGENDA ITEM 11:

ARRANGEMENTS FOR THE INTERSESSIONAL WORKING GROUP SESSIONS

The Committee agreed as follows:

Mandate

The Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is the negotiating and decision-making body. The Intersessional Working Groups (IWGs) are to support and facilitate the negotiations of the IGC.

The IWGs shall provide legal and technical advice and analysis, including, where appropriate, options and scenarios for consideration of the IGC. The IWGs shall report to the IGC on the outcomes of their work and submit recommendations and texts relating to the discussion in the IGC.

Subject Matter

All three subjects of the IGC shall be treated on an equal footing and the total time for discussion allocated to each subject in the IGC and in the IWGs should be equal.

The following subjects shall be considered at the respective IWG meetings:

IWG 1: TCEs

IWG 2: TK or GRs (to be decided at the 17th session of the IGC)

IWG 3: GRs or TK (to be decided at the 17th session of the IGC).

Composition

Participation in the IWGs shall be open to all Member States and accredited observers. Each Member State and accredited observer shall be represented by one technical expert who shall participate in his/her personal capacity.

Funding for each IWG shall be provided by WIPO for one representative each from 71 developing countries and countries with economies in transition, on a proportional basis, as follows: Africa: 25; Asia-Pacific: 17; Latin America and the Caribbean: 15; Central Europe and Baltic: 8; Eastern Europe and Central Asia: 5; and, China: 1. The names of the countries to benefit from the funding shall be communicated to the WIPO Secretariat by the representatives of the regional groupings in the usual way.

The funding shall comprise travel in economy class on the most economical and direct route, hotel accommodation (bed and breakfast) and a daily stipend of 75 Sfr. Regarding hotel accommodation, WIPO shall directly cover the cost of hotel reservations for each of the funded participants. Funding shall not include a daily subsistence allowance, terminal expenses or any other incidental expenses. This funding arrangement for the IWGs does not constitute a precedent for other WIPO meetings.

Indigenous representatives shall be funded by the Voluntary Fund as decided by the Advisory Board on the same basis as applicable to State representatives and subject to availability of funds in the Voluntary Fund. The Secretariat is requested to prepare proposed administrative changes to Rules of the Voluntary Fund needed to implement this decision, for adoption by the WIPO General Assembly in 2010.

Observers would participate in the same capacity as in the IGC.

There will be a separate room at WIPO headquarters from where the discussions in the IWGs can be followed by representatives of Member States and accredited observers.

Methods of Work

The IWGs will take, as a basis of their work, all WIPO working documents, including WIPO/GRTKF/IC/16/4, WIPO/GRTKF/IC/16/5 and WIPO/GRTKF/IC/16/6, as may be revised, in line with the IGC's current mandate. The working languages of the IWGs shall be the six official languages of the United Nations.

Chairmanship of the IWGs

The Chair and Vice-Chairs of the IGC shall be invited to the IWG meetings. Each IWG shall elect its own Chair and Vice-Chairs.

Duration and Venue of Meetings

The duration of IWG 1 shall be 5 days. Based on the experience of IWG 1, the duration of IWGs 2 and 3 could be adjusted as appropriate, but in no case would the duration be less than 5 days.

The IWG meetings will take place at WIPO Headquarters, Geneva.

DECISION ON AGENDA ITEM 13

CLOSING OF THE SESSION

The Committee adopted its decisions on agenda items 2, 3, 4, 5, 7, 8, 9, 10 and 11 on May 7, 2010. 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 before the first session of the Intersessional Working Group in accordance with the arrangements decided upon under Agenda Item 11. 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.

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