

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

Twenty-Sixth Session
Geneva, February 3 to 7, 2014

REPORT ON THE IMPLEMENTATION OF CLUSTER C ACTIVITIES (“OPTIONS ON MUTUALLY AGREED TERMS FOR FAIR AND EQUITABLE BENEFIT-SHARING”)

Document prepared by the Secretariat

1. At its nineteenth session, held from July 18 to 22, 2011, and with reference to document WIPO/GRTKF/IC/19/7 (“Options for Future Work on Intellectual Property and Genetic Resources”), the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) “requested the Secretariat to finalize, and update regularly as required, the activities referred to in Cluster C (‘Options on Mutually Agreed Terms for Fair and Equitable Benefit-Sharing’) and to provide information thereon to the Committee at each session.”¹
2. Such a report was prepared for the twentieth session of the Committee, held from February 14 to 22, 2012. Document WIPO/GRTKF/IC/20/INF/14 provided background information on each of the options in Cluster C and described the activities undertaken by the Secretariat up to that session. A report on the implementation of Cluster C activities since the twentieth session of the Committee was subsequently prepared for the twenty-third session of the Committee, held from February 4 to 8, 2013. Document WIPO/GRTKF/IC/23/INF/7 REV. consisted of an update to include references to the replies received, by January 14, 2013, to the “Questionnaire on Contractual Practices and Clauses relating to Intellectual Property, Access to Genetic Resources and Benefit-Sharing” (WIPO/GRTKF/IC/Q.6), circulated on November 20, 2012.

¹ Report of the Nineteenth Session of the Committee (WIPO/GRTKF/IC/19/12)

3. It is recalled that the options in Cluster C are:

C.1 Online database of IP clauses in mutually agreed terms on access and benefit-sharing (ABS)

Considering options for the expanded use, scope and accessibility of the online database of IP clauses in mutually agreed terms for access and equitable benefit-sharing. The contents of the online database could be published in additional, more easily accessible forms, such as on CD-ROM, for wider accessibility and easier use by all relevant stakeholders.

C.2 Draft guidelines for contractual practices

Considering options for stakeholder consultations on and further elaboration of the draft guidelines for contractual practices contained in the Annex of document WIPO/GRTKF/IC/7/9, updated in information document WIPO/GRTKF/IC/7/INF/12, based on the additional information available and included in the online database.

C.3 Study on licensing practices on GRs

Compile information, possibly in the form of case studies, describing licensing practices in the field of genetic resources which extend the concepts of distributive innovation or open source from the copyright field, drawing on experiences such as the Global Public License and other similar experiences in the copyright field.

4. The Secretariat would welcome receiving comments and guidance from the Committee on future steps to be undertaken regarding these options.

5. The Secretariat can report on the following related activities since the twenty-third session of the Committee:

- a. It may be noted that the Conference of the Parties to the Convention on Biological Diversity (CBD), at its eleventh session, held from October 8 to 19, 2012, invited Parties, other Governments, relevant international organizations, indigenous and local communities and all interested stakeholders to submit information to the Executive Secretary of the CBD on model contractual clauses, codes of conduct, guidelines and best practices and/or standards, as indicated in its Decision XI/1 "Status of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and Related Developments". Pursuant to this invitation, the Secretariat of WIPO submitted information to the Executive Secretary of the CBD on the online Database of Biodiversity-related Access and Benefit-sharing Agreements (available at <http://www.wipo.int/tk/en/databases/contracts/>), and on the Draft Intellectual Property Guidelines for Access to Genetic Resources and Equitable Sharing of the Benefits arising from their Utilization (available at http://www.wipo.int/export/sites/www/tk/en/resources/pdf/draft_guidelines_feb_2013.pdf) for consideration by the Third Meeting of the Intergovernmental Committee for the Nagoya Protocol (ICNP-3), taking place in Pyeongchang, Republic of Korea, from February 24 to 28, 2014.
- b. The Environment Management Group (EMG), an interagency coordination mechanism facilitated by the United Nations Environment Programme (UNEP), has developed an online mapping tool to show the United Nations system-wide contribution to the Strategic Plan for Biodiversity (2011-2020) (<http://ieg.informea.org/>). One objective of this mapping tool is to provide information on existing or planned policy-relevant, strategic or

programmatic activities that contribute to the achievement of the Aichi Biodiversity Targets. The Secretariat of WIPO was invited to contribute to this exercise and has indicated that WIPO's work, in particular, the online Database of Biodiversity-related Access and Benefit-Sharing Agreements (see above) and the Draft Intellectual Property Guidelines for Access to Genetic Resources and Equitable Sharing of the Benefits arising from their Utilization (see above), are relevant to the Nagoya Protocol, 2010.

- c. The United Nations General Assembly adopted Resolution 67/212 in December 2012, in which it decided "to devote one of the special events of the Second Committee during the sixty-eighth session of the General Assembly, as part of the United Nations Decade on Biodiversity and to further efforts to improve coherence, to a joint briefing [...] on the implementation of the objectives of the Convention on Biological Diversity, including actions undertaken to promote access to genetic resources and the fair and equitable sharing of benefits arising from their utilization and associated traditional knowledge [...]". The Secretariat of WIPO participated by video-conference in the joint briefing which took place on October 30, 2013, and provided information on WIPO's work relevant to access to genetic resources and associated traditional knowledge and the fair and equitable sharing of benefits arising from their use, including the online Database of Biodiversity-related Access and Benefit-Sharing Agreements (see above) and the Draft Intellectual Property Guidelines for Access to Genetic Resources and Equitable Sharing of the Benefits arising from their Utilization (see above). The summary report of the joint briefing is available at <http://www.cbd.int/abs/doc/summary-special-event-unqa-second-committee-67-212-en.pdf>.

6. *The Committee is invited to take note of this document.*

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