

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

Thirtieth Session
Geneva, May 30 to June 3, 2016

REPORT

Adopted by the Committee

1. Convened by the Director General of the World Intellectual Property Organization (“WIPO”), the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee” or “the IGC”) held its Thirtieth Session (“IGC 30”) in Geneva, from May 30 to June 3, 2016.
2. The following States were represented: Algeria, Angola, Argentina, Australia, Azerbaijan, Bahamas, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Côte d’Ivoire, Cuba, Czech Republic, Denmark, Egypt, El Salvador, Ecuador, Ethiopia, Fiji, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Latvia, Lebanon, Lithuania, Kuwait, Malawi, Mexico, Morocco, Mozambique, Namibia, Netherland, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Kingdom, United States of America, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Uzbekistan, Zambia and Zimbabwe (94). The European Union (“the EU”) and its 27 Member States were also represented as a member of the Committee.
3. The Permanent Observer Mission of Palestine participated in the meeting in an observer capacity.
4. The following intergovernmental organizations (“IGOs”) took part as observers: African Regional Intellectual Property Organization (ARIPO), European Patent Organisation (EPO), General Secretariat of the Andean Community, Food and Agriculture Organization of the United Nations (FAO), South Centre (SC), and Secretariat of the Convention on Biological Diversity (SCBD) (6).
5. Representatives of the following non-governmental organizations (“NGOs”) took part as observers: ADJMOR; Assembly of Armenians of Western Armenia; American Intellectual Property Law Association (AIPLA); Asociación Kunas unidos por Napguana/Association of Kunas United for Mother Earth (KUNA); Bioversity; Chamber of Commerce and Industry of the Russian Federation (CCIRF); Civil Society Coalition (CSC); CropLife International; CS Consulting; Culture of Afro-indigenous Solidarity (Afro-Indigène); European Law Students’ Association (ELSA International); Fridtjof Nansen Institute (NFI); Health and Environment Program (HEP); Indian Movement - Tupaj Amaru; Indigenous Peoples’ Center for Documentation, Research and Information (doCip); Indigenous ICT Task Force (IITF); International Seed Federation (ISF); International Center for Trade and Sustainable Development (ICTSD); International Chamber of Commerce (ICC); International Federation of Pharmaceutical Manufacturers Associations (IFPMA); International Trade Center for Development (CECIDE); International Union for Conservation of Nature (IUCN); International Video Federation (IVF); Japan Intellectual Property Association (JIPA); Knowledge Ecology International (KEI); Massai Experience; Pacific Islands Forum Secretariat (PIFS); Third World Network (TWN); Tulalip Tribes of Washington Governmental Affairs Department; Traditions for Tomorrow; and, University of Minnesota (31).
6. The list of participants is annexed to this report.
7. Document WIPO/GRTKF/IC/30/INF/2 provided an overview of the documents distributed for IGC 30.
8. The Secretariat noted the interventions made, and the proceedings of the session were communicated and recorded on webcast. This report summarizes the discussions and provides

the essence of interventions, without reflecting all the observations made in detail or necessarily following the chronological order of interventions.

9. Mr. Wend Wendland of WIPO was Secretary to IGC 30.

AGENDA ITEM 1: OPENING OF THE SESSION

10. The Chair of the IGC, Mr. Ian Goss from Australia, opened the session.

11. The Assistant Director General, Mr. Minelik Alemu Getahun on behalf of the Director General, Mr. Francis Gurry, delivered opening remarks. He recalled that in October 2015, the General Assembly (“the GA”) had agreed to renew the IGC’s mandate for the 2016/2017 biennium. The renewed mandate requested the Committee to continue to expedite its work with a focus on narrowing existing gaps with open and full engagement, including text-based negotiations with the objective of reaching an agreement on an international legal instrument(s), without prejudging the nature of the outcome(s), relating to intellectual property (IP) which would ensure the balanced and effective protection of genetic resources (“GRs”), traditional knowledge (“TK”) and traditional cultural expressions (“TCEs”). The work program for the biennium comprised six sessions. Four sessions would be held in 2016: two sessions on GRs and two sessions on TK. In 2017, there would be two sessions on TCEs. The renewed mandate requested the Secretariat to organize seminars to build regional and cross-regional knowledge and consensus on issues related to IP and GRs, TK and TCEs with a focus on unresolved issues. Accordingly, a Seminar on Intellectual Property and Genetic Resources (“the Seminar”) had been organized on May 26 and 27, 2016. The Assistant Director General thanked the talented and experienced moderators and speakers for their participation in the Seminar. He also thanked the rapporteurs who would report on the Seminar later. He hoped that delegations and observers had benefited from the discussions at the Seminar. He acknowledged the intersessional work done by the Chair and two Vice-Chairs, and the preparation and guidance of Regional Coordinators and all Member States. The present session was the second session under the renewed mandate and it addressed GRs. He recalled that IGC 29 in February 2016 had discussed core issues and elaborated an indicative list of outstanding/pending issues to be tackled/solved at the present session. This list was included in document WIPO/GRTKF/IC/30/5. The consolidated text was in document WIPO/GRTKF/IC/30/4. Much work was still needed by negotiators with a view to pruning away text that was not directly material and creating further convergence on the outstanding/pending issues. Other documents for the session included document WIPO/GRTKF/IC/30/6 “Joint Recommendation on Genetic Resources and Associated Traditional Knowledge”, submitted by the Delegations of Canada, Japan, Norway, the Republic of Korea and the United States of America; document WIPO/GRTKF/IC/30/7 “Joint Recommendation on the Use of Databases for the Defensive Protection of Genetic Resources and Traditional Knowledge Associated with Genetic Resources”, submitted by the Delegations of Canada, Japan, the Republic of Korea and the United States of America; document WIPO/GRTKF/IC/30/8 “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”, submitted by the Delegations of Canada, Japan, Norway, the Republic of Korea, the Russian Federation and the United States of America. The Assistant Director General also acknowledged the substantial contributions made by indigenous and local community experts to the process. He mentioned that the WIPO Voluntary Fund had run out of money. He called upon Member States to contribute to the Fund and to identify ways to raise contributions. He also reminded delegations of the need to ensure the participation of indigenous peoples and local communities (“IPLCs”) within the IGC’s negotiations and the importance of the Fund in facilitating this. Finally, he acknowledged the presence of the Chair of the Commission on Environmental, Economic and Social Policy of the International Union for Conservation of Nature (IUCN), Ms. Aroha Te Pareake Mead, and welcomed Mr. Willem Collin Louw from South

Africa and Mr. Alancay Morales Garro from Costa Rica, who would participate in the session's Indigenous Panel.

12. The Chair stated that he had consulted with Regional Coordinators in advance and thanked them for their advice and constructive guidance. He also thanked the two Vice-Chairs, Ambassador Robert Matheus Michael Tene and Mr. Jukka Liedes for their assistance, support and advice. He recalled that the present IGC session, as previous sessions, was on live webcast on the WIPO website which further improved its openness and inclusiveness. More generally, this was a working session and he hoped for a constructive working atmosphere which was always about respect and trust. To that end, opening statements of up to three minutes would be allowed by Regional Coordinators, the EU and the Like-Minded Countries ("the LMCs"). Any other opening statements could be handed to the Secretariat or sent by email and they would be reflected in the report. The Chair wished to acknowledge the importance and value of indigenous representatives, as well as other key stakeholders such as representatives of industry and civil society. The IGC should reach an agreed decision on each agenda item as it went along. On Friday, June 3, the decisions as already agreed would be circulated for formal confirmation by the IGC. The report of the session would be prepared after the session and circulated to all delegations for comment. The report of this session would be presented, in all six languages, for adoption at the Thirty-First session of the IGC scheduled to take place in September 2016. The Chair stated that IGC 30 was the last formal meeting on GRs under the current mandate. The next chance to engage on GRs would be IGC 34 prior to the 2017 GA which would review progress and consider recommendations. Therefore, it would be important to engage on substantive issues at the present session. The Chair noted that there were two main proposals currently reflected in the working documents: (1) an international mandatory disclosure regime for GRs and TK associated with GRs; and/or (2) non-normative mechanisms for exchanging information on GRs and TK associated with GRs and other defensive measures. If the IGC was to make significant progress, it would be important that the processes were developed in a way that supported more detailed discussions of the merits that underpinned core objectives and issues. Hopefully that would lead to the development of a more broadly acceptable outcome that took account of all Member States' interests. He believed that, to achieve that objective, sufficient space should be given for each of those two approaches to be refined. The key issues which the IGC needed to focus on included: (1) objectives; (2) subject matter, including the inclusion of the term "derivatives"; (3) disclosure requirements, including trigger, content of disclosure, sanctions, exceptions and limitations, and relationships with ABS regimes; and (4) defensive measures including databases. In respect of those issues, he had asked Member States to review the facilitators' text that had been recorded in the report of IGC 29, as he believed that many of the proposals had merits. The Chair also noted that, if the IGC was to make progress, all delegations needed to show flexibility and be pragmatic, and they needed to understand each other's limits and weigh the risks and consequences of accepting those limits. All multilateral negotiations required trust among parties and a willingness to understand different points of view. He emphasized that any solution would need to take account of the interests of the holders, the users (such as industry) and the public. The Chair congratulated the WIPO Secretariat for their work in planning and organizing a very informative and well-constructed Seminar. He thanked the speakers and moderators who had provided so much information to be considered by the IGC. The Chair wished to applaud the African Group for organizing a Roundtable in the lead up to the session and for having made significant efforts to reach out to all parties.

AGENDA ITEM 2: ADOPTION OF THE AGENDA

Decision on Agenda Item 2:

13. *The Chair submitted the draft agenda circulated as*

*WIPO/GRTKF/IC/30/1 Prov. 2 for
adoption and it was adopted.*

14. The Chair opened the floor for opening statements.

15. The Delegation of India, speaking on behalf of the Asia-Pacific Group, thanked the Chair and two Vice-Chairs for their continuous engagement with Member States during the intersessional period. The constant and open communication channel had indeed helped the members of the Group to prepare themselves better for IGC 30. It supported the proposed working methodology and work program. The Group expressed its appreciation to the Secretariat for organizing the Seminar, which had provided conceptual clarity on various unresolved issues. The Group was looking forward to working intensively and in a coordinated manner under the Chair's able leadership to find a just and equitable solution to address the concerns of all Member States. Most of the Member States of the Group were firmly of the view that legally binding instrument(s) for protecting GRs, TK and TCEs could find the balance between the interests of the users and the providers of the resources and the knowledge. The conclusion of a legally binding treaty or treaties would provide a transparent and predictable regime for effective protection against misappropriation of GRs, TK and TCEs and ensuring their sustainable and legitimate use in the future. The misappropriation of GRs and associated TK could be adequately addressed through the establishment of a mechanism that guaranteed appropriate benefit-sharing. Utilization or exploitation of those resources should be based on prior informed consent ("PIC") and mutually agreed terms ("MAT"). Most Member States of the Group agreed that it was imperative for the IGC to explore the ways in which an effective mandatory disclosure requirement could be established, which would protect GRs, their derivatives and associated TK against misappropriation. The Group recognized the importance of establishing databases and other information systems and requested WIPO to assist the development of such database systems. In September 2015, all Member States had taken a solemn pledge to "[T]ake urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity" while endorsing "the 2030 Agenda for Sustainable Development". The opportunity for the IGC to take an important step towards meeting that commitment to safeguarding biodiversity would not be lost sight of. The Group was willing to walk an extra mile and urged other groups to engage in a spirit of cooperation so as to arrive at a landing zone where the gaps in the respective positions were narrowed and a common understanding on the issues was reached.

16. The Delegation of Nigeria, speaking on behalf of the African Group, looked forward to holding result-oriented discussions during the week. It reaffirmed its confidence in the commitment of the Chair and two Vice-Chairs to working assiduously towards a meaningful conclusion of IGC 30. It also thanked the Secretariat for the excellent preparations. The African Group took due note of the IGC's mandate for this biennium, and hoped that Member States and other stakeholders sufficiently appreciated the particular importance of the present session to charting a progressive course for the rest of the Committee's engagement within the biennium. As the present session was the last session to address GRs before IGC 34 in 2017, it was vital that good faith, flexibility, constructiveness and demonstration of political will underpinned the engagement. It believed that substantial progress had been made. It was optimistic that with the right approach, IGC 30 could significantly advance towards the "finish line". It hoped that any proposals made would be facilitative, progressive and focused on narrowing gaps. In pursuit of that goal, the African Group had held a two-day Roundtable on May 24 and 25, 2016. Its engagement with a cross-regional representation of the WIPO Member States had been focused on narrowing gaps and working towards a consensus text that could enable the IGC to move forward. It had listened to the views expressed and ideas put forward during the Roundtable, and had a reason to be optimistic about the readiness of the predominant membership of this organization to work together. The immeasurable socio-economic value of GRs, TK and TCEs to human and societal development and preservation was well known. As demandeurs, the members of the African Group had reflected deeply and

taken steps to demonstrate significant flexibility, while remaining steadfast to the core objectives of an international minimum standards legal instrument that would enhance transparency, efficacy and legal certainty in mechanisms for ensuring rightful access to GRs, their derivatives, and TK associated with GRs. The African Group did not question that a gap existed at the international level in this sphere, and looked forward to engaging constructively to forge a path forward.

17. The Delegation of China thanked the Chair and the Vice-Chairs for their efforts in advancing the work of the IGC. It also thanked the Secretariat for the preparations for this meeting, including, in particular, the Seminar, which had provided a very good platform for the sharing of experiences and the exchange of ideas. IGC 30 was the second meeting on GRs, and it also marked the important moment for deciding whether substantial progress could be made on the protection of GRs and associated TK in the 2016/2017 biennium, for which it was cherishing great hope. During IGC 29, the Committee had made some initial progress. It hoped that, during the present session, all parties would continue to work in a practical, open and inclusive manner, in order to find a solution that would accommodate the concerns of all parties, balance all interests involved, and be binding but with certain flexibility, so that a satisfactory answer could be submitted to the GA. The Delegation would continue to participate in the discussions in a positive and constructive spirit.

18. The Delegation of Bahamas, speaking on behalf of the Group of Latin American and Caribbean Countries (“GRULAC”), hoped that, with the depth of knowledge and experience that the Chair had with regard to IGC matters, in addition to the experience gained from IGC 29, it could look forward to constructive and fruitful discussions during IGC 30, as this was the last opportunity in the 2016/2017 biennium to discuss and negotiate in relation to IP and GRs. GRULAC thanked the Secretariat for organizing the Seminar, which had been insightful and helped to have a greater understanding of ways to achieve the effective protection of GRs, which was a priority for the members of GRULAC and IPLCs. It also thanked the Secretariat for the organization and preparation of the documents. It thanked the African Group for organizing the Roundtable. It appreciated the initiative as a means to work towards consensus. GRULAC reiterated that the IGC, according to its mandate, must focus on narrowing existing gaps by coming to a common understanding on the core issues that needed to be addressed, and eventually agree on an international legal instrument that would ensure the effective protection of GRs. Thus, it hoped that the discussions and negotiations during IGC 30 would narrow existing gaps in document WIPO/GRTKF/IC/30/4. It especially looked forward to the full and frank discussions in the proposed informal sessions scheduled throughout the week. It urged the IGC to ensure the effective use of the time allotted for discussions and negotiations. GRULAC was committed to supporting the work of the IGC and called on all Member States to utilize the time to engage in constructive discussions, and to work in a collegial manner and atmosphere, so that all delegations could achieve steady progress towards their goal of reaching an agreement on an effective legal instrument on GRs.

19. The Delegation of Greece, speaking on behalf of Group B, thanked the Chair for his continuous guidance and the Vice-Chairs for their continuously valuable supporting role. It was confident that the Committee would be able to make progress under the leadership of the Chair and the Vice-Chairs. It also thanked the Secretariat for its dedication in bringing the work of the IGC forward. Group B recognized the importance of the balanced and effective protection of GRs, TK and TCEs. It firmly believed that such protection should be designed in a manner that supported innovation and creativity, ensured legal certainty, was practicable and also recognized the unique nature of GRs, TK and TCEs. The IGC’s mandate provided that the IGC would continue to expedite its work, with a focus on narrowing existing gaps, including, but not limited to, text-based negotiations. The primary focus of the work should be to reach a common understanding on core issues including the objectives of the work. To inform the IGC’s work, the IGC was to use “an evidence-based approach, including studies and examples of national experiences, including domestic legislation and examples of protectable subject matter and

subject matter that is not intended to be protected". It hoped that the IGC would develop a common understanding on core issues and advance in a meaningful way. Open and full engagement would help in establishing a common understanding on core issues to inform text-based negotiations. In this regard, the work undertaken during IGC 29 had been a good first step to find coherent solutions to the core issues, but further work needed to be done to reach a shared understanding. The Group recognized that since 2001, when the IGC had begun to meet, a significant amount of work had been accomplished. There remained a lack of a common understanding on policy objectives and guiding principles that caused divergent and sometimes conflicting views on substance. It trusted that in the further work of the IGC such a common understanding could be increased. It highlighted that the Seminar had been a useful source of information on the issues under discussion. The Group remained committed to contributing constructively towards achieving a mutually acceptable result.

20. The Chair recalled the decision of IGC 29 on the establishment by the Secretariat of a new webpage consolidating all existing resources on regional, national, local and communities experiences. He advised delegations that the new webpage had been established and the link was http://www.wipo.int/tk/en/resources/tk_experiences.html, as also reported on in document WIPO/GRTKF/IC/30/INF/8.

21. The Delegation of Tajikistan, speaking on behalf of the Group of Central Asian, Caucasus and Eastern European States (CACEES), recognized that it was vital to reach an agreement on an international legal instrument(s) to ensure the balanced and effective protection of GRs, TK and TCEs. It firmly believed that, under the skillful guidance and leadership of the Chair, Member States would reach a common understanding on core issues by narrowing existing gaps. It hoped that the IGC's work under its current mandate would lead to a diplomatic conference. It wished to have a productive and successful session, and would remain constructively engaged.

22. The Delegation of Latvia, speaking on behalf of the Group of Central European and Baltic States ("CEBS"), expressed its confidence in the able guidance of the Chair. It extended its gratitude to the Vice-Chairs for all their efforts and thanked the Secretariat for the preparation of the session. The CEBS Group believed that in order for all Member States to arrive at an outcome, there was a need of a common vision which would be realistic and address the issues relating to protection of GRs from the perspective of the patent system. The IGC could only tackle the matters that were relevant to its mandate and to WIPO's mandate. The solution which the IGC was trying to find was to be complementary to the international legal framework dealing with other aspects of GRs, such as the access and benefit-sharing ("ABS") system of the Convention on Biological Diversity ("the CBD") and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity ("the Nagoya Protocol"). Over 15 years, the IGC had developed a basis for an outcome. The IGC should advance on a realistic basis that would provide effective and balanced protection of GRs, while preserving the legal certainty and predictability of the patent system. Bearing in mind that the current session was the last one dedicated to GRs in the 2016/2017 biennium, the CEBS Group wished to stress the importance of a realistic approach from all stakeholders to reach an agreement that would be acceptable to all. It was ready to engage in the discussions in a constructive manner.

23. The Delegation of the EU, speaking on behalf of the EU and its Member States, expressed its full support for the Chair's efforts to guide the IGC's work. It trusted that the Chair and the Vice-Chairs would continue the unstinting efforts they had demonstrated during IGC 29. It thanked the WIPO Secretariat for its excellent preparatory work. Looking back at IGC 29, it noted that fruitful and interesting discussions had been held. The Delegation had made significant and constructive contributions to those discussions, including confirmation of a far reaching proposal on patent disclosure requirements which would encompass many of the views heard during IGC 29 in a balanced and effective manner. It should also be noted that

since that proposal had been formulated, the Nagoya Protocol had come into force. Many of the concerns that the Delegation heard expressed in previous IGC sessions had been addressed successfully in that framework. The IGC should not aim to replicate the achievements of the Nagoya Protocol. The Delegation believed that the objective of the IGC's work should be to enhance transparency of the patent system to facilitate the possibility of ABS through the disclosure of country of origin or source of GRs in separate systems, such as the CBD. That objective should be seen in light of WIPO's mandate and the role that the IP system could play in the discussions in relation to IP and GRs. The ABS systems were handled and monitored in separate frameworks, such as the Nagoya Protocol. The Delegation stressed some elements which were key for the EU and its Member States in the forthcoming discussions: (1) any disclosure system should be limited to patent rights; (2) there should be a clear link between the GR and the invention which needs to be directly based on the GR; and (3) revocation of a patent could not constitute a sanction. It believed that the instrument should apply to GRs, and, pending further discussions, possibly TK associated with GRs. The Delegation was ready to continue its engagement. At the same time, it strongly urged all delegations to focus discussions on realistic and achievable outcomes, which would be the only way to move the work of the IGC forward. It was looking forward to the discussions on the terms of reference for the study proposed in document WIPO/GRTKF/IC/30/8. As requested by the mandate, the IGC's work should be guided by solid evidence of the implications and feasibility in social, economic and legal terms. The study proposed could inform the discussions.

24. The Delegation of Indonesia, speaking on behalf of the LMCs, firmly believed that the Chair's able leadership and past experiences would bring a fruitful discussion towards finalizing the text on IP and GRs. It thanked the Secretariat for its extraordinary preparation. It reemphasized the urgent need to prevent the misuse and misappropriation of GRs and TK associated with GRs. It believed a legally binding instrument would be a solution and that it was time to finalize such an instrument. The present session should narrow down the divergent views and find solutions to protect GRs and TK associated with GRs. It called on all delegations to show flexibility. The protection of GRs could only be done through providing transparency in the global patent system and ensuring the economic rights of sovereign states. Therefore, there should be a mandatory disclosure mechanism with remedies. The LMCs reiterated their commitment to working constructively with the Chair and Member States.

25. [Note from the Secretariat: the following opening statements were submitted to the Secretariat in writing only.] The Delegation of Thailand aligned itself with the statements made by the Delegation of India, on behalf of the Asia-Pacific Group, and the Delegation of Indonesia, on behalf of the LMCs. The Delegation attached high priority to a timely conclusion of text-based negotiations on GRs because Thailand was a country rich in GRs. The IGC had engaged for over 15 years, and needed to shift gears, focusing on what was doable and finding common ground for the ten identified outstanding issues, namely disclosure requirements, definitions of the key terms such as misappropriation and scope of application of this possible instrument. The Delegation fully supported the work of the IGC to explore the possibility of establishing a mandatory disclosure requirement as a means to effectively protect GRs, their derivatives and associated TK against misappropriation and prevention of erroneous IP registration. On top of that, utilization or exploitation of GRs should be based on ABS requirements including PIC and MAT. There was a need to reflect those important principles in the text. The Delegation confirmed its commitment to constructively working on those issues with other Member States. It hoped that substantive progress would be made by the end of the session.

26. The Delegation of the Republic of Korea stated that, like other Member States of the Asia-Pacific Group, the Republic of Korea also had abundant and diverse GRs and associated TK. Therefore, the discussions in the IGC were important and the spirit of fair and equitable benefit-sharing arising from those resources should be highly respected. The Delegation supported

most of the contents contained in the opening statements delivered by the Delegation of India, on behalf of the Asia-Pacific Group. However, it had some different opinions on finding a way to prevent the misappropriation of those valuable resources. It expressed some concerns that disclosure requirements presented an excessive burden and unexpected obstacles to those wishing to utilize the patent system which was the core mechanism for innovation. During a series of meetings in the Republic of Korea, users and stakeholders had expressed concerns which could lead to avoiding the patent system and bypassing the IP regime altogether, due to the legal uncertainties caused by disclosure requirements. It underlined that IP policies and the patent system could not be separated from users, and the system should be more convenient for users to encourage its active use. The Delegation believed that securing rights for providing countries and user countries could be achieved through various mechanisms outside the patent system. It firmly believed that the most effective way to protect GRs and associated TK in patent system was to prevent erroneously granted patents through the establishment and use of database systems. It preferred in terms of outcomes of the IGC to have a non-legally binding instrument. It stressed that all aspects of the proposals or options, and users' opinions and the potential ripple effect on industry and other related areas, should be considered. It hoped that all Member States would be open-minded but sincere in discussions to create new international norms.

27. The Delegation of Japan congratulated the Chair on continuing the key role in the IGC and appreciated the facilitators' great dedication to the IGC. It thanked the Secretariat for its hard work in arranging the meeting. It recognized the importance of taking effective measures against the misappropriation of GRs and TK associated with GRs. It had been actively contributing to the discussions by making various proposals. The IGC should make a clear distinction between two different factors inherent in the issue of misappropriating GRs, namely, the lack of compliance with the ABS system and the erroneous granting of patents. It believed that the former issue should not be dealt with under the patent system. The IGC should focus on the issue of the erroneous granting of patents, especially the utilization of databases for prior art searches, given that WIPO had a crucial role as an organization specializing in IP. In that context, the Delegation, together with the Delegations of Canada, the Republic of Korea and the United States of America, had submitted document WIPO/GRTKF/IC/30/7. A mandatory disclosure requirement for ensuring compliance with the ABS system, which did not have a direct link with the patent system, could bring legal uncertainty, decrease legal predictability and discourage R&D activities utilizing GRs. Since a mandatory disclosure requirement could negatively affect the patent system and eventually hinder creations and innovations, it should not be introduced. It made more sense to conduct measures to protect GRs within the framework of the CBD and the Nagoya Protocol. The Delegation stressed that it had no intention whatsoever to discourage the discussion. It was willing to actively contribute as much as it could to ensuring the effective protection of GRs.

28. The representative of the Andean Community expressed its intention to continue its active cooperation with the IGC to achieve a positive outcome on an issue that was of great importance to the Andean countries. He thanked the Chair, the Vice-Chairs and the facilitators for their valuable efforts. He also thanked the Secretariat for the excellent organization of IGC 30 – the last session in the current budgetary biennium which would address the issue of IP and GRs – and for the very useful Seminar. The presentations and an open and informal discussion of a number of issues during the Seminar were of importance to the negotiations within the IGC. He believed that document WIPO/GRTKF/IC/30/4 was the key document in the negotiations and contained the essential features of the legal and institutional framework of an international regime. He was confident that the enthusiasm and flexibility displayed by all delegations would be reflected in the work of the IGC, so that it could continue to consider and, where feasible, reach consensus and agreement on outstanding/pending issues based on document WIPO/GRTKF/IC/30/5. The Andean Community had been following very closely and with great interest the negotiations of the IGC as it addressed one of the priorities in its sub-region that had been regulated by the Andean Community and national rules for at least 20 years. For

example, the Andean Community's regulations governing the Andean Common Industrial Property Regime subordinated the protection conferred by the decision on aspects of industrial property to the preservation of and respect for the biological and genetic heritage as well as TK. Moreover, the material in question must have been acquired in accordance with international, Andean Community and national laws. Furthermore, the Andean Common Industrial Property Regime established in Decision 486 had been implemented and interpreted so that it did not contravene the provisions of Decision 391 and its amendments, namely the "Common Regime on Access to Genetic Resources". The conclusions and agreements reached in the IGC would serve as a valuable reference in the light of the Andean Community's efforts to strengthen and modernize its common regime on access to GRs, so that it safeguarded and actively promoted the rights and benefits of all legitimate owners and stakeholders involved in those activities, as well as society as a whole. The proposed methodology, which had been agreed by Member States, seemed to be the right one for achieving results in the most efficient manner. He respectfully encouraged Member States to intensify their negotiations so that the necessary consensus would be achieved. The Andean Community was honored to continue its endeavors to assist in building consensus in this matter in order to achieve the legal certainty that would ensure fair, balanced, meaningful and effective protection.

29. The representative of the Secretariat of the CBD was pleased that the mandate of the IGC had been renewed and looked forward to the outcomes of the ongoing work and progress on addressing unresolved issues and considering options for a draft legal instrument. Regarding the recent developments related to the Nagoya Protocol, at its tenth meeting, the Conference of the Parties (COP) adopted the Nagoya Protocol and the Strategic Plan for Biodiversity, including the Aichi Biodiversity Targets, for the 2011-2020 period. The Nagoya Protocol had entered into force on October 12, 2014, and 76 Parties to the CBD from all regions had currently ratified the Nagoya Protocol. It was expected to reach 100 ratifications before the second meeting of the COP serving as the meeting of the Parties to the Nagoya Protocol, which would be held from December 4 to 17, 2016, in Mexico. A number of steps were being taken by Parties to the Nagoya Protocol to ensure that it became operational and consistent with national legislation. More specifically, Parties to the Protocol were to establish institutional structures and to revise or develop ABS legislative, administrative or policy measures to implement the Nagoya Protocol. In addition, the national processes of many countries required them to adopt measures to implement an international treaty prior to its ratification. Therefore, a number of countries which had not yet ratified the Nagoya Protocol but were planning to ratify had also taken steps towards its implementation. The ABS Clearing-House had been established by the Nagoya Protocol as a means of sharing information related to ABS. In particular, Parties to the Nagoya Protocol had the obligation to make available to the ABS Clearing-House: information on national focal points and competent national authorities; legislative, administrative and policy measures on ABS; and permits or their equivalent issued at the time of access as evidence of the decision to grant PIC and of the establishment of MAT. The ABS Clearing-House had a key role to play in providing clarity, transparency and legal certainty to both providers and users of GRs and associated TK. A number of countries had already made relevant information related to institutional structures, ABS measures and permits available to the ABS Clearing-House. The Secretariat of the CBD was actively engaging with countries and relevant stakeholders to assist them in making relevant information available to the ABS Clearing-House, in order to ensure that the ABS Clearing-House was being populated and could adequately support the operationalization of the Nagoya Protocol. Of particular relevance to monitoring the utilization of GRs, countries were establishing checkpoints and issuing permits which were being made available to the ABS Clearing-House to constitute an internationally recognized certificate of compliance. It was worth noting that 27 certificates had been published in the ABS Clearing-House. That represented a big step towards implementation of the Protocol, as the certificate of compliance could play an important role in supporting compliance once GRs had left the provider country. Regarding the Working Group on Article 8(j) and related provisions, it had met for its ninth meeting from November 4 to 7, 2015, in Montreal, to progress work on guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the free,

prior informed consent (“FPIC”) or approval and involvement of IPLCs for accessing their knowledge, innovations and practices, the fair and equitable sharing of benefits arising from the use and application of such knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity and for reporting and preventing unlawful appropriation of TK, as well as best practice guidelines for the repatriation of indigenous and TK. These guidelines would be considered for adoption by the COP in December 2016. The Nagoya Protocol should be implemented in a mutually supportive manner with other relevant international instruments and due regard was to be paid to useful and ongoing work under such international instruments and relevant international organizations, provided that they were supportive of and did not run counter to the objectives of the CBD and the Nagoya Protocol. Close cooperation between the work of the IGC and the work under the CBD remained more than ever necessary to ensure mutual supportiveness. In that regard, the representative assured the full cooperation of the Secretariat of the CBD. She looked forward to continued collaboration with the WIPO Secretariat and stood ready to assist the ongoing process of the IGC.

30. The representative of the HEP stated that a fair and equitable solution should remain the overarching objective, both for users and providers of GRs.

31. The representative of the Armenian Assemblies of Western Armenia had followed the highly-informative Seminar which had addressed unresolved issues. She commended the efforts to achieve consensus. In particular, she wished to raise an unresolved issue which must be addressed, or else the very nature of the IGC’s mandate as concerned indigenous peoples would lose its relevance. This was the seminal question of the sovereignty of indigenous people over their heritage and GRs. Indigenous peoples had specific needs and expectations in the area of IP, given their social, cultural historical and political ramifications. As regards GRs, Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples (“the UNDRIP”) stipulated that indigenous peoples had the right to maintain, control, protect and develop their cultural heritage, TK and TCEs, including their GRs. On that basis, she wondered how the IGC could ensure respect for the sovereign rights, in terms of their GRs, of indigenous people. She believed that the instrument should be legally binding, because there was firm political will to safeguard GRs, TK and TCEs by applying the appropriate IP protection measures.

AGENDA ITEM 3: ADOPTION OF THE REPORT OF THE TWENTY-NINTH SESSION

Decision on Agenda Item 3:

32. The Chair submitted the revised draft report of the Twenty-Ninth session of the Committee (WIPO/GRTKF/IC/29/8 Prov. 2) for adoption and it was adopted.

AGENDA ITEM 4: ACCREDITATION OF CERTAIN ORGANIZATIONS

33. The Chair referred to the list of ten organizations that had requested accreditation in accordance with the outlined criteria and procedure (document WIPO/GRTKF/IC/30/2).

34. The Delegation of Indonesia stated that, with the reference to the statement made at IGC 29 by the Delegation of India, on behalf of the Asian-Pacific Group, it could not support the accreditation of the Bureau of Consultation for West Papua Indigenous Community Development.

35. The Delegation of China welcomed the participation of all parties to the process, but at the same time believed that such participation should be subject to an appropriate mechanism. Unfortunately, it found that, in document WIPO/GRTKF/IC/30/2, the information on three organizations existed only in French or Spanish. To make sure that all Member States could effectively review the information, it suggested postponing the consideration of the accreditation of the three organizations listed on pages 23, 28 and 31 of document WIPO/GRTKF/IC/30/2 until such time as the Secretariat could provide the relevant information in all the UN official languages, including Chinese. It stressed that this was only a technical request.

Decision on Agenda Item 4:

36. *The Committee unanimously approved the accreditation of six organizations listed in the Annex to document WIPO/GRTKF/IC/30/2 as ad hoc observers, namely: Centre for International Governance Innovation (CIGI); European Seed Association (ESA); Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH; International Legal Consultancy and Advocates Network (LINCA); Japan Intellectual Property Association (JIPA); and University of Minnesota. The Committee did not approve the accreditation of the Bureau of Consultation for West Papua Indigenous Community Development. The Committee decided to postpone the decision as to whether to accredit Jeunesse Sans Frontières Bénin (JSF Bénin); Proyecto ETNOMAT, Departamento de Antropología Social, Universidad de Barcelona (España); and Suivi des Couvents Vodoun et Conservation du Patrimoine Occulte (SUCOVEPO) to the Thirty-First Session of the Committee.*

AGENDA ITEM 5: REPORTING ON THE SEMINAR ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES (MAY 26 AND 27, 2016)

37. The Chair invited Ms. Anna Vuopala, Government Counsellor, Department of Culture and Art Policy, Copyright Policy and Economy of Culture, Ministry of Education and Culture, Finland, to report on Roundtable 1 “Intellectual Property and Genetic Resources: Relationship with Relevant International Instruments”.

38. Ms. Vuopala reported on Roundtable 1 as below:

“Dr. Biswajit Dhar from India served as Moderator.

Due to unintended circumstances, the Speaker Professor Graham Dutfield could not take part in Roundtable 1. Therefore the respondents kindly adapted their presentations in a way to take into account the points made in the notes of his speech.

The first Speaker, Mrs. Susan H. Bragdon described the present international legal landscape relevant to the relationship between GRs and IP as piecemeal, fragmented and the result of a chain of reactions to specific problems addressed from specific perspectives. Mrs. Bragdon identified three categories of instruments proceeding in parallel. The international legal architecture of relevance is larger than we might be aware of. First, the IP system had been considerably strengthened with the adoption of the UPOV Treaty in 1961 and the WTO TRIPS Agreement in 1994. The UPOV, WTO and WIPO instruments promoted technology development through IP and trade, as a means to achieve for example food security. But as a result, market-oriented approaches had instead allowed for huge imbalances - aggravated by industry consolidation - between right holders and large corporations on the one hand, and society and small farmers in particular on the other, putting fair and sustainable agriculture at serious risk. Second, another series of instruments, namely the 1992 CBD, the 2004 FAO Plant Genetic Resources Treaty and the 2014 Nagoya Protocol to the CBD, attempted to address the imbalances between technology-rich and biodiversity-rich countries as well as Indigenous and Local Communities (ILCs), by putting in place ABS mechanisms that regulated their mutual interaction. Although much helpful, those mechanisms were perfectible in their implementation. They were also market-based and transactional, and were insufficient to address broader challenges. Therefore they are currently under review – not much benefits flowing from them yet. Third, and rather separately, human-rights instruments like the UNDRIP and the work of the UN Human Rights Council on Farmers Rights as well as on transnational corporations for example attempted to address imbalances by recognizing formal rights. Along the line of what Professor Dutfield might have done as well, Mrs. Bragdon made a plea instead for stepping back and envisaging the issues related to GRs and IP from a broader perspective, starting with an assessment on what the international community needed to achieve and for whose benefits. As interdependency and global challenges like climate change - and loss of bio-diversity as the Moderator pointed out - increased, so did the crucial need for a coordinated approach. As anticipated by the 1983 FAO Undertaking, and then enshrined in the UN Sustainable Development Goals (SDGs) that were adopted by the UN Member States in 2015, food security and promotion of sustainable agriculture should be recalled as a primary objective in regulating the access of human beings to nature. Mrs Bragdon concluded that in this regard, the IGC occupied perhaps a middle ground where the different perspectives at play should induce a re-thinking of IP in support of the SDGs, not only to prevent erroneous patents and misappropriation, but also to complement (rapporteur's remark: not "duplicate") implementation of the ABS systems and recognize the inventive contribution that small farmers and ILCs made to sustainable agriculture and food security.

The Moderator agreed with the picture painted by the speaker – we are easily working in silos.

The second Speaker, Mrs. Viviana Munoz Tellez recalled that WIPO should envisage IP as the result of a balance or trade-off of interests between right holders and society, in line with its mandate. IP was therefore a matter of public policy. As part of the UN system, WIPO was also expected to contribute to the implementation of the SDGs. Mrs. Munoz Tellez particularly emphasized the underlying recognition, within those goals, of the need to harmonize economic growth, social inclusion and environmental protection. Echoing Mrs. Bragdon's intervention, she referred to SDGs 4, 14 and 15, reading out the specific target 15.6 that aimed "to promote fair and equitable sharing of the benefits arising from the utilization of GRs and promote appropriate access to such resources, as internationally agreed." She emphasized that small farmers and ILCs were recognized by the UN Member States as relegated and vulnerable peoples who deserved special attention and protection. In this regard, the IGC had raised enormous expectations that IPRs could be extended and reviewed in order to follow up on this recognition, protect TK

and contribute to ensuring a fair and equitable access to, and benefit-sharing from GRs. The adoption of the SDGs had made the IGC even more accountable than before. Mrs. Munoz Tellez described the legal international framework the IGC should interplay with as multiple, comprising intellectual property law, environmental law (CBD, Nagoya Protocol, FAO ITPGRFA, etc.), human rights law (UNDRIP, right for food, etc.), trade and investment law, customary law, contract law, global health law and climate change law. She also referred to the negotiations on the Declaration of Rights of Peasants. She particularly emphasized that the framework was not static but dynamic. The IP regime was equally intended to evolve as a tool of public policy, as the TRIPs Preamble and Article 7 stated. IP was not only intended to be used as a means to be granted IPRs, but to serve broader public policy objectives. She particularly pointed out that the IP system should aim to recognize key ABS concepts regarding the right for countries to regulate on the national level on the access to and utilization of GRs and TK, the PIC principle and the principle of benefit sharing on mutually agreed terms. The concept of misappropriation should also evolve and comprise illegal access and/or utilization of GRs and TK (based on national law). Inclusion of TK in the public domain was also in contradiction with pre-existing rights recognized in national legislations and/or customary laws. Mrs. Munoz Tellez illustrated also how the patent law regime left many questions unresolved, open to review, and addressed differently among national jurisdiction, leaving much space for either legal uncertainty or an evolution towards more consistency and clarity. She listed issues regarding the patent system that would need to be addressed sooner rather than later: from the extension of the scope of subject matter to insufficient prior art search, from the blurred correlation between patent protection and increased innovation to a greater uncertainty for users regarding validity of patents, etc. She also recalled that Articles 27 and 29 of TRIPS were open to various interpretations and that Article 27.3 (b) was submitted to an on-going review at the WTO. She noted that various proposals had been submitted by WTO Member States, including on disclosure requirement of origin/source of GRs and associated TK. By addressing these issues in a way that was supportive of relevant internationally agreed public policy objectives and mechanisms, the IGC would not only contribute to bring more consistency in the IP regime. It would also bring about more certainty for its users.

The Moderator pointed out that, in his view, market-oriented solutions could not by themselves address the critical issues at hand, particularly the marginalization of small farmers and ILCs, while regulations inspired by robust public policy principles should instead address the present imbalances and promote the fair and equitable use of resources. He also reminded that TK is much broader than just traditional medicine as it encompassed sustainable ways for the human kind to interact with nature.

The Q&A part focused on how international instruments, whatever their goals and beneficiaries are, are in fact implemented on the national level. The representative of Australia asked a clarifying question regarding the content and nature of a disclosure requirement contemplating whether it would be a formality or a substantive requirement and Mrs. Munoz Tellez replied that in its current form it is a formality that aims at transparency of the information already in the possession of the applicant and therefore it would not entail any additional obligations or costs. The representative of Ghana noted that all instruments achieve their affect through national social and economic policies and Mrs. Munoz Tellez agreed with that and emphasized that IP is not just protecting the right holders – the broader picture requires combined use of the tools with the public interest in mind. The goal on the international level should be on setting minimum standards and nations must be left with discretion to allow benefits to flow to ILCs that have a collective and holistic way of looking at property. The representative of ARIPO made the point that IGC's objective should be to mutually support the existing instruments and not to resolve all issues relating to protection of indigenous rights.

To conclude I'd like say that this first roundtable provided us with very interesting thoughts regarding the interplay between existing and discussed instruments and this is really what is setting the scene for our discussions of this week, and the panel served that purpose very well. Thank you for the opportunity."

39. The Chair invited Mr. Denny Abdi, Counsellor, Permanent Mission of the Republic of Indonesia to the United Nations, World Trade Organization, and Other International Organizations, to report on Roundtable 2 "Policy Objectives relating to Intellectual Property and Genetic Resources".

40. Mr. Abdi reported on Roundtable 2 as below:

"Roundtable 2 was moderated by Miss Lilyclaire Bellamy from Jamaica.

Mr. Dominic Keating talked about a US perspective on Policy Objectives Relating to Intellectual Property and Genetic Resources.

He put forward the promotion of innovation through the patent system by taking into account both incentives that the patent system generates, and the risks to have a patent disclosure requirement. Indeed, patents promote innovation through securing capital, increasing sales and employment, and facilitating commercialization of innovative products which jointly concur to corporate and economic growth as well as disseminating information. He further described that new patent disclosure requirements tend to reduce innovation through the loss of patent rights, uncertainty, delays and expenses. Providing relevant prior art to patent examiners with the use of databases was mentioned as a second policy objective. The U.S. signature of the TKDL agreement in 2009 has led to a reduction in "weak" or erroneous granting of patents and also to claims in patent applications that were more distinct from the prior art. Mr. Keating pointed that national laws outside the patent system could also prevent misappropriation and illustrated that third policy objective with the Yellowstone National Park example (WIPO/GRTKF/IC/4/13).

Mr. Peirre Du Plessis first noted that the international legal instrument should simply refer to "objectives" and not to "policy" objectives as policy was made at national level. He stated that the original objective of the IGC exercise was to stop biopiracy and misappropriation through the IP system. Erroneous granting of patents and other IPRs could be corrected outside of the IGC using the patent system. He illustrated his point with the turmeric example from India where the patent got revoked on the basis of lack of novelty. The normal functioning of the IP system did not require special measures and current database proposals did not need the IGC to be put in place (e.g. India). The only concern would be to handle secret and sacred knowledge. As regards valid IPRs subject to ABS rules, the role of the IP system was not to enforce ABS, but to provide information. He pointed out that ABS rights come from international law, customary laws, and human rights conventions, outside of the IP system. The CBD and the Nagoya Protocol had only reaffirmed those rights. Mr. Du Plessis emphasized two main objectives for GRs instrument in the IP system: (1) to enhance the transparency within the IP system with its fundamental role as information and knowledge sharing tool to help States interested in enforcing ABS rights and (2) to make the IGC work in a mutually supportive way dealing with GRs and associated TK.

Mr. Steven Bailie talked about disclosure of provenance of GR and TK Policy Views from an IP Office.

He presented the view of an IP office without a disclosure requirement. The first issue that he raised dealt with how GRs and TK were related to patenting and especially to disclosure in patents. Another IP policy question advanced by M. Bailie was the

intersection of policy and technical issues for disclosure of provenance in patents. He used two examples to cover both ends of the spectrum of disclosure in patents. On the one hand, in the Munumbicin case, the claimed invention was directly based on 'utilization' of GRs and TK, but not a 'derivative'. The applicant could disclose where the GRs and TK were obtained, both country of origin and source; however, a clear picture of how the inventor obtained the TK was not provided. On the other hand, the Kakadu plum case consisted of a patent for cosmetics that used a commercially available GR that was the subject of widely known TK. In that case, the patent did not directly claim a composition with Kakadu plum. The description of the invention referred to the plum only as a "preferred embodiment" of the claimed invention. The patent applicant could disclose where the GR was obtained. The patent document did not mention TK about the Kakadu plum. Finally, regarding the publication of disclosures, and the consequences resulting of inaccurate or incomplete disclosures, M. Bailie underlined that patent office could make information available to national institutions and to the CBD-ABS clearing house. He pointed out that patent applicants were making disclosures, but they were not easy to find and sometimes they were inaccurate or incomplete.

Mrs. Deyanira Camacho emphasized the holistic approach taken by the Andean Community and affirmed their advocacy for balanced economic and social development. Andean Community Decision 391 had established a common regime for access to GRs in 1996 and led the Andean Community members to adopt national laws and to initiate actions against biopiracy. She referred to the Peruvian National Commission against biopiracy, established in 2004, which had identified 23 patent applications considered as biopiracy. Out of those 23 patent applications, 18 had not been granted, most of them thanks to the intervention of the Commission. Mrs. Camacho stated that the policy objectives should be more encompassing to prevent misappropriation of GRs, TK and their derivatives. She highlighted the need for inter-connectiveness between IP offices and between countries to strengthen their actions in order to better find and tackle cases of biopiracy. She also pointed out the importance for IP offices to have access to GRs and TK information in order to avoid the erroneous granting of patents. She mentioned that both the Peruvian National Commission against Biopiracy and the Patent Office were developing databases and registers.

Mr. Preston Hardison talked about policy objectives that meet multiple aspirations, beyond the IP system and ABS.

He advocated for a holistic and complementary approach of the policy objectives which accounted for indigenous peoples rights, and suggested to think the policy objectives beyond the IP system and ABS. He pointed out that IPLCs were surrounded by different ecology systems. He also noted that IPLCs had very diverse objectives and stressed that it was necessary to reflect on the whole range of aspirations of the IPLCs. It was important to consider not only whether benefits would flow back to IPLCs but also the harm that could be inflicted to IPLCs. Mr. Hardison further emphasized that international law could bring different protections for indigenous people's rights such as (1) the recognition of harms and recognition of benefits compatible with customary law, (2) avoidance of lock-out, (3) progressive realization of human rights and existing rights and interests, to cite only few examples. He also underlined several cross-cutting issues, such as the definition of the term "traditional", the beneficiaries in terms of control, PIC and MAT, the nature of the right to control benefit-sharing and the future uses of the shared knowledge, and the public availability of the GR/TK. He stated that the third policy objective as currently developed in the GRs consolidated text was inadequate and proposed that the policy must also ensure that measures for patent review respected international agreements and bilateral arrangements in order to protect rights and interests of IPLCs, including, inter alia, human, cultural, collective rights and other issues contributing to human dignity.

Mrs. Manisha A. Desai talked about IP and Genetic Resources: Policy Objectives in Practice.

She firstly pointed out to the length, complexity and cost of the research and development process for pharmaceutical companies and stated that conducting research on natural products generated multiplied risks in comparison to research conducted on a standard (chemical) product. She further underlined that patent disclosure would not facilitate ABS and instead well-established, transparent national laws could facilitate ABS even in the absence of patents (through technology transfer). She illustrated her point with a successful collaboration that benefited both Eli Lilly and the Costa Rica scientists INBio despite the lack of a patentable invention because of Lilly's accurate understanding of the national ABS law of Costa Rica. She added that legal certainty was a vital component for the R&D of natural products. Indeed, the risk of violation of national law and the uncertainty on future obligations had led Eli Lilly to abandon a project (collaboration between Eli Lilly and a Cameroun scientific institution), and later to stop natural product R&D. In the meantime, she emphasized that improved databases which ensured the access to appropriate information for patent offices would better prevent the grant of erroneous patents in comparison to disclosure of source and/or origin. Mrs. Desai stated that the industry had shown commitment to obligations under the CBD and abided by strict ethics in Lilly's collaborations.

Mr. Keating was asked by the Delegation of Ghana to further explain the meaning the USPTO gave to the term "misappropriation" and more specifically on how misappropriation would occur in the patent system. Mr. Keating answered that national laws in place that required permits to use GRs could help to fight misappropriation out of the IP system. Regarding the use of databases, Mr. Keating noted that in the turmeric patent case, the patent examiner did not find any evidence of prior art as the information was not available. He also mentioned the patent application on neem from India which was rejected by the USPTO.

Mr. Du Plessis reaffirmed his position that there was a need for disclosure and that disclosure was not likely to create a disincentive or to create uncertainty once the entity had already complied with ABS agreement and regulations. Mr. Keating, in response to Mr. Du Plessis, mentioned that disclosure requirements could drive SMEs to uncertainty and put a significant administrative burden on the companies, as well as on the examiner as that formality could create more delays.

Mrs. Desai stated, in response to the intervention of the Delegation of Chile, that theoretically establishing common rules at an international level could give more certainty for companies doing research, but in practice the current situation was not likely to change even though efforts were being made with IGC negotiations.

The Delegation of South Africa expressed its view that efficiency of the IP system is largely given to the patent right holders; however, other interests should be articulated in the balance. The Delegation of Ecuador questioned whether the term "public domain" could be applied to TK that has been used outside the community or as "state of the art." The representative of ARIPO finally questioned the existence of differences between transparency and mutual supportiveness."

41. The Chair invited Mr. Fayssal Allek, First Secretary, Permanent Mission of Algeria, to report on Roundtable 3 "Disclosure Requirements relating to Genetic Resources and Associated Traditional Knowledge".

42. Mr. Allek reported on Roundtable 3 as below:

“Professor Felix Addor served as Moderator. He opened the roundtable by highlighting that patent disclosure requirements might enhance transparency of the patent system, increase trust between users and providers of GRs, allow traceability of GRs and help examiners find relevant prior art. He also suggested that an agreement in the IGC could provide for minimum as well as maximum standards, and encouraged the IGC to move from the current *modus operandi* to solution oriented-discussions.

As the first Speaker, Mr. Daniel R. Pinto provided an overview of recent developments in Brazilian legislation on IP and GRs, in particular, regarding disclosure requirements. He noted that ABS legislation and the application of a disclosure requirement accordance with the legislation in force in 2001 (under Provisional Act 2186-16/2001) had several unintended consequences including that benefit-sharing (BS) measures were ineffective and caused insufficient R&D and patent filing activities. In 14 years, only 136 ABS contracts had been approved with no synergy with the Brazilian innovation system. In order to solve this problem, the new Biodiversity Law dated on 2015 (13,123/2015) emphasized incentives rather than penalties. It only required that “the granting of industrial property rights ... on the finished product or on reproductive material obtained from access to GRs or associated traditional knowledge is conditioned to registration or authorization under the terms of the Law.” While authorization would be required only in cases of national security, fines could apply for failure to register the use of domestic GRs. Benefit-sharing requirements applied to the sale of a final product and prior informed consent (PIC) was mandatory in case of an identified traditional knowledge holder. Part of the benefits were then due to fund a National Benefit-sharing Program and the whole process to conclude a Benefit-sharing agreement (for products to be commercialized on the market) could take a few minutes - instead of approximately two years under the previous law. Instead, scientific research and technological development would merely require an online registration and would take a few minutes.

As the second Speaker, Ms. Hongju Yang described the current system for the protection of GRs in China. In 2008, China had explicitly established as a policy objective in the National IP Strategy to strengthen the protection, development and utilization systems for GRs to prevent loss and their inappropriate use, while balancing interests between the need to protect GRs and the need to develop and utilize them, and to develop a reasonable mechanism for ABS and PIC. She stressed that full use of the IP system should be made in order to grant protection to innovation based on GRs and associated traditional knowledge and by applying higher criteria for granting rights, building up examination capacity and establishing defensive protection mechanisms to prevent undue granting of IP rights. A reform of the IP system should make it effectively connected to and mutually supportive of the protection mechanisms for GRs and traditional knowledge through the disclosure of the origin of GRs. If such disclosure was not made by the applicant in the patent application form, then examiners could refuse to process the application. She concluded by highlighting the universal coverage of the disclosure requirement in China, namely that such Disclosure requirements applied to all GRs coming from any country in the world and not only to those coming from China.

As the third Speaker, Mrs. Mirela Georgescu presented the current Patent Office’s approach to Disclosure requirements in Romanian patent legislation. Based on practical experiences and in line with EU and its Member States’ proposal (document WIPO/GRTKF/IC/8/11), Mrs. Georgescu expressed considerations on key issues to be tackled at IGC 30 with regard to disclosure requirements relating to GR and associated traditional knowledge. The current Patent Office’s approach was that there was no mandatory disclosure of origin under patent legislation. However, an indication of the geographical origin of GRs could be made by the applicant on voluntary basis. While there was no stringent obligation on the applicant to acknowledge prior art known to him

or her, and the burden to discover it was on the Patent Office, the implementing Regulations of Romanian Patent Law provided that the description shall indicate the background art which, as far as it was known, to the applicant, could be regarded as useful to understand the invention, for the search report and examination of the patent application. When the state of the art included traditional knowledge, this shall be clearly indicated in the description, including its source, if known. Although there was no sanction if the applicant held back part of his prior art knowledge, the Patent Office was entitled to ask the applicant all the clarifications and documents considered needed with regard to identity of an inventor or to fulfill the patentability conditions, and implicitly the invention disclosure requirements.

As the fourth Speaker, Mr. Dominic Muyldermans illustrated an industry perspective on Patent Disclosure requirements. He stressed the importance of the objectives to be achieved, namely having an effective compliance system with ABS obligations, avoiding the erroneous grant of patents, and incentivizing research on natural products. The industry position was that Patent Disclosure requirements were not needed because ABS compliance was already covered by specific ABS laws; not wanted because they raised questions of legality and were already covered by the patent system when they were needed for the fulfillment of the enablement condition and to avoid granting of erroneous patents. He noted that economic cost-benefit analysis showed an increase of transaction costs and an undermining of innovation incentive. He also said that defensive protection of GRs and traditional knowledge was ensured by the patent system and could be further enabled by databases and patent offices' guidelines. For erroneously granted patents, ABS disclosure was useless. Consistency in the application of the disclosure obligation would be ensured by safeguarding the necessary relationship between the invention and the GR. Admittedly, however, a claim "directly base upon" a GR could be the direct link with the IP system. He concluded that high transaction costs in the patent system that were due to addition Disclosure requirements could mean a 5 years delay in the recovery of R&D costs, which would discourage and divert investments to other activities or countries.

As the last Speaker, Professor Ruth Okediji discussed the principles of an international disclosure requirement. She noted that patent examiners may not always find information relevant to patentability or compliance and that the resources for doing so were limited. She focused on two inquiries: what are the principles/justifications for a disclosure requirement? And what is its optimal design? Key challenges included that knowledge diffusion was global, stakeholders were diffuse, and cross-border innovation was increasingly the norm, while multiple fora and regimes addressed issues related to GR and traditional knowledge. She noted that the patent system was not universally pro-innovation and also imposed social costs, while patent rules had been created for the public and not only for the applicants. The advantages of an international disclosure requirement, included having an international baseline to promote certainty and coherency, spreading knowledge, promoting competition, ensuring appropriate IP right boundaries, rewarding all true stakeholders and increasing legitimacy of the patent system. Disadvantages may comprise the burden related to an additional requirement for patent/IP applicants, the fact that the design of the requirement may affect the validity of patent rights, its implementation may discourage research in some fields and that systemic inequalities would remain since disclosure would not 'fix' everything. She concluded that an international disclosure requirement solution in the IGC could help increasing transparency, efficiency, certainty, and should be easy to use. This would only be the start of a journey and the possibility of refinements would always exist.

In the ensuing discussions it was highlighted that patents granted through the European Patent Office in Switzerland were not subject to national Patent Disclosure requirements. However, agreement on a national Patent disclosure requirement in Switzerland showed

that there were means to reach consensus on this important issue. Industry was in favor of a comprehensive approach to ABS issues and stressed that disclosure requirement should only be possible when disclosure was needed under the enablement condition and in the context of the full disclosure of the invention. Others highlighted that one of the benefits of a minimum standard treaty on Disclosure requirements was that it could ensure co-ordination, convergence and clarity on applicable rules. The need to be constantly working on improving the system by taking into account feedback from implementation and to monitor the whole innovation system was also highlighted.”

43. The Chair invited Mr. Luis Mayaute, Minister Counsellor, Mission of Peru in Geneva, to report on Roundtable 4 “Databases and other Defensive Measures relating to Genetic Resources and Associated Traditional Knowledge”.

44. Mr. Mayaute reported on Roundtable 4 as below:

“As a general impression, I would like to mention that the presentations made in this Roundtable linked the academic and evidence-based approach, with the current negotiations, which I found very positive considering the importance of the current session of the IGC. The presentations from the 5 experts participating in this Roundtable combined a national and a regional perspective and, in some specific issues, it was very interesting how those presentations reflected as well the different views of the membership on the way forward.

To start, the first speaker, Mr. Biswajit Dhar discussed the relevance of databases for protecting TK by presenting the experience of the Traditional Knowledge Digital Library (TKDL) and of the People’s Biodiversity Registers (PBRs) of India. He noted that there were two competing views regarding the use of databases to protect TK:

- One view advocated that databases like the Indian TKDL provided adequate protection to TK.
- The other view considered the TKDL only as an important first step.

The TKDL, developed by the Government of India, contained 290,000 formulations selected from existing literature related to Indian systems of medicine. It was an easily accessible database, available in five international languages: English, French, German, Japanese and Spanish. A TK Resource Classification had been developed for systematic arrangement, dissemination and retrieval of the information included in the TKDL which had been shared, under a non-disclosure agreement, with 10 Patent Offices. It had been a useful tool to challenge erroneous patents, but it was necessary to be mindful of its limitations in recognizing the contributions made by the local communities in protecting and preserving TK. Mr. Dhar stressed that incentivizing TK holders was crucial and that it was critically important to connect TK with the traditional communities that were the holders of the knowledge. As regards to the PBRs, he pointed out that they had been in place for more than 10 years and that they had been developed as part of the implementation of India’s Biological Diversity Act. Nearly 38 000 had been established in 26 States of India. The PBRs established a direct link between the knowledge and the communities / individuals that held the knowledge. It covered a wide variety of TK, not only traditional medicines and it is expected that the PBRs can play a critical role by providing incentives to TK holders.

Ms. Shelley Rowe, the second speaker, described the role of the patent system, as well as the patent application process and the patentability criteria in Canada. She also explained how the search for prior art was made and noted that databases were an important source. Foreign and domestic TK databases were used to search prior art. She

pointed out that TK databases should be voluntary and that databases could be developed for various reasons and that their nature could vary. For instance, they could be secret or public. However, only publicly available databases could be used for patent examination purposes. She stressed that the fact of disclosing information in a database or in a patent application did not put it in the public domain. A database was not an indicator of the status of protection afforded to its content. Ms. Rowe recalled that Canada, along with other delegations, had submitted to the IGC a “Joint recommendation on the use of databases for the defensive protection of GRs and TK associated with GRs”. She also referred to other defensive measures, such as codes of conduct or protocols. Those codes of conduct or protocols included principles of behavior or conduct, which were voluntarily elaborated, adopted and implemented by various actors, including companies, professional associations and research institutions. She highlighted that errors in granting of patents could cause legal uncertainty and increase costs for all and pointed out that the use of databases on existing GRs and associated TK improved the efficiency of prior art searches and prevented the erroneous grant of patents. At the international level, she mentioned that ensuring that databases were accessible to all patent authorities was key. Ms. Rowe noted that consistency in how those databases were indexed or classified could facilitate their use by patent examiners. Finally, she said that WIPO could play an important role in facilitating the creation of databases and as a central access point through a WIPO portal.

Mr. Emmanuel Sackey, third speaker, highlighted that documentation and database initiatives could facilitate the effective implementation of instruments such as the PCT, the CBD and the Nagoya Protocol, but they were not an end in themselves. He discussed a number of challenges that were faced in the use of databases of GRs and TK associated with GRs for preventing the grant of erroneous patents. Among others, he noted that databases might lead to unintentional loss of rights and control, and conflict with customary and spiritual restrictions of traditional and local communities, as well as to the indirect appropriation of TK associated with GRs. There was reluctance from traditional and local communities to document their knowledge and to give authorization for access to such databases. He pointed out that databases were factual and did not have legal effect. The cost of developing such databases, the language barriers and the capacity of traditional and local communities to manage the databases also needed to be considered. As regards ARIPO’s efforts in providing effective protection for TK, GRs and TCEs, Mr. Sackey indicated that the Swakopmund Protocol, adopted in August 2010 and in force since May 2015, had been ratified or accessed by 7 countries. He explained that the Protocol provided for prima facie evidence of ownership through the registration of TK associated with GRs belonging to traditional and local communities, transboundary TK associated with GRs, and licenses or assignments granted by traditional and local communities. Mr. Sackey also explained how ARIPO had approached the issue of development of databases and, in particular, its differentiated (tiered) approach to database construction. He recommended IGC 30 to focus its work on legal principles and substantive issues to enhance the transparency and mutual supportiveness of the IP and ABS systems; as well as to ensure that undisclosed information is not put into open access databases, and bear in mind that some traditional and local communities might not want to document/digitize their knowledge and, where that has been done, might not want to give access to third parties.

Ms. Aroha Te Pareake Mead, fourth speaker, pointed out that when the IGC was established, there were other processes underway that provided momentum for WIPO to respond to the call from indigenous peoples and some states to help provide protection. She provided a review of a timeline of relevant parallel global processes and mentioned that the countries that had participated in those processes also participate in the IGC. She felt very strongly that if it had been possible to get through all those difficult negotiations, there was no reason why that could not be made at the IGC. From an

observer's point of view, it seemed that the IGC was in a stage of impasse. That had happened with other negotiations, but it had been possible to get through it. Regarding databases, she stressed that TK was not only site specific but could also be community specific. TK existed as part of the culture and as part of the social fabric of a community. Therefore, the communities expected to be involved far beyond 'acknowledgement'. It was necessary to ensure direct participation of the TK holders. She argued that the most effective database of TK in the New Zealand Maori context could be a map showing Iwi tribal boundaries, whose main value was to identify the relevant tribe of any tribe one might have accessed a GR from and, therefore, who should be approached. It was a tool to start discussions rather than a disclosure database. She noted that indigenous communities had targeted education as a means of indigenous self-determination. An increasing number of communities was not only able to collaborate in research but also to lead and shape how research was undertaken, for what purpose and whose benefit. Ms. Mead highlighted that ethical frameworks including for TK were being developed by indigenous communities to distinguish minimum, good and best practices, such as the "Guidelines for Maori Research Ethics". She also referred to the establishment of an indigenous certification scheme as an example of best practice consistent with the Maori ethical framework.

Ms. China Williams, last speaker, presented the main features of the Kew Royal Botanical Gardens. She referred to the publicly available databases maintained by Kew and clarified that most of them did not record use. She pointed out that databases were usually created for a particular reason or project, and that information on use was not collected systematically, it was often not databased or available online. She explained that Kew had developed a policy on access to GRs and benefit-sharing, guidelines for staff working with TK, an overseas fieldwork policy that ensured legal collection of GRs and associated TK, and model agreements and clauses to ensure material and information was collected with PIC and on MAT, according to international, national and local legislation. Ms. Williams stressed that databases recording use overwhelmingly relied on associated TK cited in published literature. If TK was collected from a third party source or directly from the TK holder, that would always involve a bilateral agreement covering PIC, MAT, a recording of the source of TK and terms of use. She provided information about some of the projects Kew was currently undertaking, many of which had no permission to make public its content, or only subject to different terms of PIC in bilateral agreements. She emphasized the importance of names for the retrieval of information.

Ms. Mere Falemaka, Moderator of the session, commended the very rich presentations and opened the floor for questions.

In response to a question from the representative of Ghana, Ms. Rowe explained that Canada was not persuaded of the necessity and appropriateness of establishing disclosure requirements and that it was important to consider the implications of such measures not only in the IP system. She also mentioned that there were ongoing consultations with different stakeholders groups, among others IPLCs, on the Nagoya Protocol.

In response to a question from the representation of the Tulalip Tribes on the determination of TK in the public domain, Mr. Dhar indicated that internal discussions were taking place regarding how to deal with the issue of public domain. Mr. Sackey noted that he preferred to avoid the use of the term "public domain" and used instead "publicly available". He noted that it was important to consider that TK could have been made publicly available without the PIC of its holders. Ms. Williams pointed out that just because something was published, that did not mean that there were no restrictions on its use. Publicly available did not mean freely available.

In response to a question from a representative of Azerbaijan, Mr. Dhar recalled that TK was used by local communities and that their livelihoods depended on TK. The PBRs were making a very important point, that the local communities were the holders of the knowledge. They were putting a face to the TK. He stressed that TK holders needed to be protected.

Thank you for the opportunity and my recognition to the Secretariat for the way the Seminar was organized.”

45. The Chair thanked the rapporteurs for their clear, balanced and informative reports. The Chair opened the floor for any question.

46. The Delegation of Nigeria thanked the rapporteurs for their very detailed, illustrative and informative reports.

47. The Delegation of Brazil referred to the report on Roundtable 3. The rapporteur had said that under the new law enacted in Brazil recently, the whole process for disclosure and so on would take three months instead of two years under the old law. The Delegation clarified that, under the old Brazilian law, the simple application (for an ABS contract) could take up to two years or even more. Under the new law, the estimated full time from online registration to the request for a patent was three months, not including research time.

48. The Delegation of Ghana stated that, during Roundtable 2, it had raised an issue about the definition of misappropriation and had called on the presenters to provide a definition and examples of how misappropriation would occur in the patent system. That was the background to a very important issue which was why it would be necessary or logical to go outside the patent system for solutions if those problems occurred within the patent system. It believed that the patent system itself should be looked at to come up with solutions. That point had not been captured. Regarding the objections that were often given regarding the disclosure obligations, specifically that it would lead to loss of patent rights, uncertainty, delay and expenses, the Delegation believed that those were issues that applied in all cases of patent law practice, including acquisition, implementation, enforcement and defense of patent rights. It was not clear to the Delegation why that should appear to be exceptional only in terms of disclosure obligations. The final point that was also missing was that in terms of databases as suggested, the real use for databases was to help in determining “prior art”. However, the Delegation believed that the real issue would be the rigid definitions of “prior art” that were found in some national laws. If there were to be an amendment to those national laws that would encompass a broader definition such as the use of oral information, the function of the databases would not be significant.

Decision on Agenda Item 5:

*49. The Committee took note of the oral reports from the rapporteurs:
Ms. Anna Vuopala, Government Counsellor, Department of Culture and Art Policy, Copyright Policy and Economy of Culture, Ministry of Education and Culture, Finland;
Mr. Denny Abdi, Counsellor, Permanent Mission of the Republic of Indonesia to the United Nations, World Trade Organization, and Other International Organizations;
Mr. Fayssal Allek, First Secretary,*

*Permanent Mission of Algeria; and
Mr. Luis Mayaute, Minister Counsellor,
Mission of Peru in Geneva.*

50. *The Committee also took note
of document
WIPO/GRTKF/IC/30/INF/11.*

AGENDA ITEM 6: PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

51. The Chair recalled that the Voluntary Fund was depleted. He referred to the Indigenous Consultative Forum and was disappointed there had not been more indigenous observers present. He called upon Member States to consult internally and contribute to keeping the Fund afloat. The Voluntary Fund was important to the credibility of the IGC which had repeatedly committed itself to supporting indigenous participation. Document WIPO/GRTKF/IC/30/INF/4 provided information on the current state of contributions and applications for support, and document WIPO/GRTKF/IC/30/3 provided information on the appointment of members of the Voluntary Fund Advisory Board. The IGC would later on in the week be invited to elect the members of the Advisory Board. The IGC would, therefore, revert to this question later. The Chair proposed that His Excellency Ambassador Tene, one of the Vice-Chairs, serve as Chair of the Advisory Board. The outcomes of the Voluntary Fund Advisory Board's deliberations would be reported later in the current session in document WIPO/GRTKF/IC/30/INF/6.

52. [Note from the Secretariat]: The Indigenous Panel at IGC 30 addressed the following topic: "Intellectual Property, Genetic Resources and Associated Traditional Knowledge: Sharing Indigenous and Local Community Experiences and Perspectives". The keynote speaker was Ms. Aroha Te Pareake Mead, Member of the Ngati Awa and Ngati Porou Tribes, New Zealand; Chair of the Commission on Environmental, Economic and Social Policy of the International Union of Conservation of Nature (IUCN). The two other panelists were: Mr. Willem Collin Louw, Secretary of the Khomani San Council, South Africa; Member of the Provincial House of Traditional Leaders, Upington, South Africa and Mr. Alancay Morales Garro, Member of the Brunka peoples, Costa Rica; Kus Kra el Leon Sociedad Civil, Costa Rica. The Chair of the Panel was Mr. Preston Hardison, Policy Analyst, Tulalip Tribes, United States of America. The presentations were made according to the program (WIPO/GRTKF/IC/30/INF/5) and are available on the TK website as received. The Chair of the Panel submitted a written report on the Panel to the WIPO Secretariat which is reproduced, as summarized, below:

"Ms. Mead recalled observations and experiences working on GRs, IP and associated TK. Her first experience with WIPO was in 1991, when she had been involved on the Working Group on Indigenous Populations, working on the Articles in the UNDRIP related to cultural heritage and IP. She pointed to the 1993 Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples, which said: "that Indigenous Peoples are capable of managing their traditional knowledge themselves, but are willing to offer it to all humanity provided their fundamental rights to define and control this knowledge are protected by the international community". Her second visit to WIPO was as an invited panelist at the first WIPO Roundtable on these issues in 1998. In the introductory remarks of the then Director General and Deputy Director General, it was said that "the international intellectual property system must be democratic - if it is to survive the systems benefit must be available to all". The formation of the IGC in 2001 was considered a high point and created an optimism and anticipation that the process would be inclusive and bring constructive results. For many indigenous peoples, the IGC negotiations were started primarily to provide certainty for the protection of their GRs and TK. Her policy advice to IGC members was that (1) the text on GRs and associated TK should recognize the right of FPIC; (2) patent measures must be consistent with the

articles of the UNDRIP; and, (3) the burden should be placed on patent applicants to disclose whether their invention had used TK, rather than on indigenous communities to catalog or otherwise make available databases of TK. Indigenous people's rights did not only encompass all rights but included economic rights for the development of their own communities. She recalled a concern that indigenous knowledge should not be declared public domain by default without evidence that there had been an intention to place it there, even if this required retrospective provisions. The credibility of the negotiations in the IGC was dependent on an outcome that effectively recognized indigenous peoples as rights holders and not mere stakeholders, and effectively protected their rights. She ended by emphasizing that the negotiations must effectively involve representatives of IPLCs.

Mr. Louw began his presentation by characterizing what TK meant to the San. TK had been publicly available for thousands of years, yet this did not mean that it was in the public domain. The knowledge was collectively owned and based on the use of GRs. The ownership was not characterized in the Western sense, but was exchanged from generation to generation based on stewardship duties. These duties were not time bound, and the duties themselves were transmitted with the knowledge. There were no time limits to the protection of TK, and the knowledge did not fall into the public domain. The San were concerned that patents might exclude them from their traditional uses of GRs. Therefore, any new uses could not be divorced from TK and they should be co-owners of any patent. The San should also be involved in all phases of the development of a patent and should be made aware of any changes that were created based on their TK and GRs. The patent system must take into account the origin of GRs. Mr. Louw concluded there should be a holistic approach for the protection of TK. The basis for protection might come from within the IP system itself, but there were other forms of protection that should be recognized and respected. Protections must be sufficient to meet the requirements of TK holders. They must be able to identify those who are using the TK.

Mr. Morales started with a presentation of a Draft American Declaration on the Rights of Indigenous Peoples (ADRIP) which had been under development in the Inter-American Commission on Human Rights (IACHR). A final approved draft of the ADRIP contained articles providing for the full recognition of and respect for the rights of indigenous peoples to property, ownership, possession, control, development of protection of its material cultural heritage and IP. It also recognized the collective nature of cultural heritage and TK transmitted over centuries from generation to generation. He highlighted important aspects of negotiating the ADRIP and suggested those could be duplicated in the IGC negotiations. In particular the ADRIP included the rights of indigenous peoples and indigenous peoples participated as equal partners with the States. He then turned to a discussion of Costa Rica's Biodiversity Law 7788 of 1998. This law recognized that indigenous peoples had the rights of PIC for access to GRs. There were some limitations in those laws, as the rights that were recognized were limited to the gazette territories of indigenous peoples, which did not necessarily coincide with their traditional areas. There were also issues related to determining who was authorized to make decisions on collectively held TK and GRs. He noted that Costa Rica was currently revising its Biodiversity Law to address issues related to its experience.

The floor was then opened for questions. The Delegate from Ecuador stated that Ecuador was working on domestic legislation to protect GRs of indigenous peoples. As a plurinational State, Ecuador was concerned to ensure the legitimacy of a representative or consultative body to deliberate on issues of ABS. Their proposed body included representatives only from the indigenous nationalities. The Delegation asked Mr. Morales to compare this to the experience in Costa Rica. Mr. Morales responded that there were likely to be problems with legitimacy and acceptance of institutions by indigenous peoples when they did not have full participation, when the process was not inclusive and when

executive authority could take away the status of indigenous representatives and impose unilateral decisions.

Mr. Hardison then closed the Indigenous Panel.”

53. [Note from the Secretariat]: The Advisory Board of the WIPO Voluntary Fund met on June 1 and 2, 2016 to select and nominate a number of participants representing indigenous and local communities to receive funding for their participation at the next session of the IGC. The Board’s recommendations were reported in document WIPO/GRTKF/IC/30/INF/6 which was issued before the end of the session.

Decisions on Agenda Item 6:

54. *The Committee took note of documents WIPO/GRTKF/IC/30/3, WIPO/GRTKF/IC/30/INF/4 and WIPO/GRTKF/IC/30/INF/6.*

55. *The Committee strongly 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.*

56. *The Chair proposed, and the Committee elected by acclamation, the following six members of the Advisory Board to serve in an individual capacity: Mr. Parviz EMOMOV, Second Secretary, Permanent Mission of Tajikistan, Geneva; Mr. Nelson DE LEON KANTULE, representative, Asociación Kunas unidos por Napguana/Association of Kunas for Mother Earth (KUNA), Panama; Mrs. Ema HAO’ULI, Policy Advisor, Business Law Department, Ministry of Business, Innovation and Employment, New Zealand; Mr. Preston HARDISON, Policy Analyst, Tulalip Tribes of Washington, United States of America; Ms. Edwige Koumby MISSAMBO, Senior Counsellor, Permanent Mission of Gabon, Geneva; and Mrs. Marcela PAIVA, Counsellor, Permanent Mission of Chile, Geneva.*

57. *The Chair of the Committee nominated Ambassador Robert Matheus Michael Tene, Vice-Chair of the Committee, to serve as Chair of the Advisory Board.*

AGENDA ITEM 7: GENETIC RESOURCES

58. The Chair recalled that he had, during the previous week, consulted with the Regional Coordinators and interested delegations on the work program and working methodology for the session, especially for Agenda Item 7. He had circulated the agreed methodology and program, as well as the ground rules for drafting by facilitators. He emphasized that document WIPO/GRTKF/IC/30/4 (“Consolidated Document Relating to Intellectual Property and Genetic Resources (“the Consolidated Document”)) would continue to form the primary document for capturing the outputs of discussions. The IGC would begin, in plenary, to address the indicative list of outstanding/pending issues included in document WIPO/GRTKF/IC/30/5. It was not intended to repeat the discussions that took place at IGC 29, but to share new ideas/understanding, if any, of those issues. Since the list of outstanding/pending issues was non-exhaustive, it would also be an opportunity to raise any issues which were not included in the list. The plenary remained the decision making body and would review any outputs of informals, including revisions to document WIPO/GRTKF/IC/30/4. The informals were to facilitate, in a smaller, informal setting, discussion of the different approaches reflected in the Consolidated Document and other working/information documents, and the core issues underpinning them. A key focus was to reach a common understanding and narrow existing gaps. Each regional group would be represented by a maximum of six delegates, one of whom should, preferably, be the regional coordinator. In order to increase transparency, other Member State representatives would be permitted to sit in on the informals without speaking rights. Indigenous representatives would be invited to nominate two representatives to participate, and an additional two representatives to observe in the meetings without speaking rights. Concerning the methodology, the delegates forming the informals might take the floor and make textual proposals relating to the consolidated document. However, there would be no live drafting. The editing and final preparation of any text to be considered by the plenary would be done by the facilitators on the basis of those inputs. During informals, outstanding/pending issues would be introduced by the Chair of the informals, rather than in a sequential article-by-article manner. The Chair of the informals would make specific proposals in that regard. The Chair stressed that all participants were requested to respect the informality of the informals, and not to communicate their discussions to the public. Ms. Margo Bagley of Mozambique and Ms. Emelia Hernandez of Mexico would continue to be the facilitators for the session. They would follow the plenary and the informals discussions closely and undertake drafting so as to record all views and positions. The focus of their work was to facilitate narrowing of existing gaps, and to further refine and clarify the two approaches reflected within the Consolidated Document, which would enable Member States and stakeholders to more carefully consider the pros and cons of those approaches. The facilitators would ensure that all Member States’ textual proposals were reflected within the text; make modifications for clarity or to merge similar text if there was an opportunity to do so; implement any compromises and reductions in options reached by the plenary or the informals; and, where possible, narrow down options and refine and streamline the text. The Chair and the Vice-Chairs would work closely with the facilitators, to assist and guide them with that work. He recalled that they had been appointed by the Committee and worked for the Committee in an impartial role, with the aim of ensuring all Member States’ interests were captured. It was planned that the plenary would review the revisions to the Consolidated Document twice. In the last session under agenda item 7, the plenary would be invited to correct any obvious errors in Rev. 2 of the Consolidated Document; comment on Rev. 2 of the Consolidated Document, which would be reported on as usual in the full report of IGC 30; note Rev. 2 of the Consolidated Document and transmit it to IGC 34; and note other outputs of discussions, if any.

59. The Delegation of the United States of America (“USA”) pointed out that, since document WIPO/GRTKF/IC/30/5 contained an indicative list of outstanding and pending issues to be

solved, it was its understanding that it would be allowed to raise and discuss additional issues that were not contained in that list.

60. The Chair confirmed that the understanding of the Delegation of the USA was correct. He pointed out that the working methods that he had put forward were flexible, as was clearly articulated in the note that had been distributed. He would continually review the process as the Chair to ensure that it was leading to achievement of the mandate. He was available for any consultation with participants. He encouraged the participants to raise any issue with him or the Vice-Chairs. As indicated earlier, he wished to focus during informals on a number of core issues, and intended, subject to the discussions in the afternoon, to break up the work into three themes: objectives and subject matter; mandatory disclosure; and defensive measures, such as databases, voluntary codes, due diligence methods, etc. The Chair then individually identified the working and information documents for the session. Before the discussion on the outstanding/pending issues, the Chair asked the proponents of documents WIPO/GRTKF/IC/30/6, WIPO/GRTKF/IC/30/7 and WIPO/GRTKF/IC/30/8 whether they wished to make any comments on those recommendations or proposal.

61. The Delegation of the USA indicated that it would prefer to introduce the aforementioned documents the following day.

62. The Chair recalled that there would be no plenary the following day, but there would be other opportunities where the Delegation of the USA could introduce those documents. The Chair noted that document WIPO/GRTKF/IC/30/5 included an indicative list of outstanding/pending issues which was non-exhaustive. He invited the delegations to raise any issues which were not included in the list and needed to be addressed in the informals. He also invited the delegations to share any new ideas/understandings on the existing issues. He noted that he did not want to repeat the quite extensive discussions that had taken place during IGC 29.

63. The Delegation of the USA indicated that it preferred to maintain the list as an indicative list, to allow for the introduction of new ideas later in the discussions. It requested the Chair to confirm whether that would be acceptable.

64. The Chair confirmed that the list would be indicative.

65. The Delegation of Nigeria, speaking on behalf of the African Group, requested clarification on whether the Chair was inviting additions to the indicative list, or asking Member States to share their views on the indicative list or to make proposals that could narrow gaps to the items in the indicative list. If the Chair was inviting additions to the indicative list, the African Group was concerned that that might not help to narrow gaps as envisaged.

66. The Chair reiterated that it was an indicative list. He had no intention to reopen the list for a decision by the IGC. The list would help and inform the Chair in relation to where the Committee needed to focus. He did not wish to have an open-ended discussion about something that was indicative. He agreed that the IGC should narrow gaps, not create further gaps. Member States were entitled to make comments, but there would be no issuing of another list. He wished to open the floor for observations regarding the priorities that delegations saw for the future work and any observations they wished to make on the indicative list. For example, regarding the list of terms, he noted that many terms had been taken from international instruments. He asked Member States why some of those terms had been modified. There were very clear technical definitions taken, for example, from the Nagoya Protocol, but they had been modified. One of the things to discuss in informals was the rationale for those changes and whether or not the IGC should consider the original definitions. He also noted that the list of terms included some terms which were not referred to in the Consolidated Document, and wondered whether they should stay. It was also necessary to

start to look at some key terms, when discussing core issues, such as “derivatives” and “source”. Regarding the preamble, the Chair pointed out that it was non-operative. It provided a sort of guidance within any instrument. He reflected on the intervention of the Delegation of the EU, speaking on behalf of the EU and its Member States, which included very clear observations regarding key elements where the Committee should focus its attention. He opened up to more observations around the current list of terms, and the key areas where Member States clearly saw they needed to focus on. He noted that he had indicated his views but he was in the hands of Member States.

67. The Delegation of Chile commended the Chair, the facilitators and the Secretariat for their work. It pointed out that the debate at previous sessions of the Committee had allowed it to clarification of some concepts and visions. Chile had reached internal consensus following extensive consultations between the various authorities competent in the area in its country. It believed that IP could support the protection of GRs through the patent system, with a disclosure requirement triggered by the use of GRs. It noted that the relationship with other treaties should be one of collaboration. The definitions included in the list of terms were key. The definition of TK associated with GRs was preferred on the understanding that TK associated with derivatives was included in that definition. Regarding “misappropriation”, it preferred Option 1, since it left room for domestic legislation to establish regulations. As for “utilization”, the concept of “commercialization” seemed to go beyond the Nagoya Protocol, and it wished to understand why it had been included.

68. The Delegation of the Russian Federation believed that the term “biotechnology” should be deleted, since it was not used within the Consolidated Document. The deletion from the preamble of the paragraph relating to life forms was advisable, as the provision banning the issue of patents for life forms was not in accordance with Article 27 of the TRIPS Agreement concerning patentable subject matter. As regards policy objectives, it did not oppose provisions concerning efficacy and transparency. It noted that the contents of the first paragraph on policy objectives was difficult to read as it contained many square brackets. The wording “[...] prevention of misappropriation of genetic resources” did not relate to WIPO’s purview and needed to be clarified. Regarding subject matter, the document should apply to TK associated with GRs, rather than “any IP rights”, as indicated in the text. Regarding disclosure requirements, as noted during the previous sessions, the following key normative issues relating to the disclosure requirements needed to be considered: What should be the object of disclosure? (GRs and associated TK); what should be the contents of disclosure? (origin/source); should it be necessary to provide proof of legal access, e.g. PIC and confirmation of benefit-sharing?; what should be the nature of the disclosure requirement? (should it be mandatory)?; and, what should trigger disclosure? (relationship between GRs and claimed invention)”. As already noted, those provisions were also set out in document WIPO/GRTKF/IC/30/8, a proposal put forward by a number of countries and co-sponsored by the Delegation of the Russian Federation for a study by the WIPO Secretariat on measures related to the avoidance of the erroneous grant of patents and compliance with existing ABS systems.

69. In response to the statement of the Delegation of the Russian Federation, the Delegation of Australia stated that it saw value in keeping the definition of “biotechnology” in the document, because it was linked to other terms that were defined and used in the Consolidated Document, namely “utilization” and “derivatives”. Those three terms were defined in the Nagoya Protocol. It believed that any instrument coming out of the IGC should be consistent with the Nagoya Protocol. The definition of “biotechnology” played a role in the instrument.

70. The representative of Tupaj Amaru said that the inclusion of the term “know-how” in the definition of “Associated Traditional Knowledge” moved away from a proper definition of TK. He supported the proposal of the Delegation of the Russian Federation to delete the term “biotechnology”.

71. The Chair recalled that he wished to focus the discussions initially on what the priorities were, and not the list of terms.

72. The Delegation of Colombia agreed that the list of terms took many of the definitions from other international instruments. It noted that some of those definitions had been amended and those amendments were not very clear. It agreed with the Delegation of Australia that the definition of “biotechnology” was very important, because it was linked to other definitions and terms. The Delegation agreed with the Chair that the preamble should not be one of the priorities. The IGC should look at substantive issues, such as disclosure requirements and defensive measures.

73. The Delegation of Egypt sought clarification regarding whether the Committee should focus on TK associated with GRs, or GRs and TK together, because there was some TK that was not closely associated with GRs.

74. The Chair explained that the mandate of the IGC covered three subject matters. IGC 30 focused on GRs and associated TK or TK associated with GRs. Substantive discussions covering TK as a specific subject matter would take place at IGC 31.

75. The Delegation of Switzerland agreed with the Chair that the Committee should not focus its work on the list of terms, nor on the preamble, since those issues could be addressed later on, once other important concepts were clarified and it was clear which terms might be useful to include in the list of terms. The Delegation wished to state some core issues in the indicative list that were important and that should guide the informal discussions. The policy objectives should be as simple and concise as possible, and relevant to achieving a balanced and effective protection of GRs and TK associated with GRs. The objective of the international legal instrument should be to enhance the efficacy and transparency of the patent system in the context of GRs and TK associated with GRs. It did not see a need to refer to “misappropriation” in neither the objectives nor the list of terms, as there were other instruments and tools that specifically dealt with the issue, such as the Nagoya Protocol. The Delegation reminded that it had already ratified the Nagoya Protocol, and that new user compliance measures with ABS regulatory requirements of other parties had recently entered into force in its country. As regards the reference to the prevention of “erroneous” patents in the objectives, it believed that that notion had already been contained in the aforementioned objective of efficacy and transparency of the patent system. With regard to subject matter, the focus should be on GRs, as well as on TK associated with GRs within the patent system. It did not support the inclusion of “derivatives”. It believed that derivatives were already sufficiently covered by referring to GRs only. It also recalled that derivatives were not included in the operational provisions of the Nagoya Protocol. Moreover, the inclusion of derivatives could run counter to the achievement of a better protection for GRs and TK associated with GRs. Similar derivatives could be found in a variety of different GRs in *in situ* conditions, as well as in *ex situ* conditions, which might or might not be located in the same country of the GRs. Disclosing the source of derivatives instead of the source of GRs could, therefore, reduce the transparency about the GRs on which the invention was directly based. With regard to the content of the disclosure requirement, it believed that a disclosure requirement should not only be effective but also practical and easily implementable in order to enhance legal certainty. That included minimum, as well as maximum standards. The content of the disclosure should be the source of the GRs or TK associated with GRs, with one primary source being the country providing the resource that was the country of origin of such resources, if applicable. There was also a need to include a clear trigger for a disclosure requirement, and, as also mentioned by others, the trigger should be “directly based on GRs or TK associated with GRs”. That would make it clear that the specific genetic resource (“GR”) was essential for the invention or, in other words, that the invention would not exist without the specific properties of the GR to which an inventor had had access. With regard to the sanctions, revocation of a patent should not be permissible as a sanction.

76. The Delegation of the USA believed that the list of terms and the preamble were very important to the negotiations. It supported the proposal of the Delegation of the Russian Federation to delete the definition of “biotechnology”. It believed that the focus should be on tidying definitions and adding new definitions that might be helpful. The definitions of “associated traditional knowledge or “traditional knowledge associated with genetic resources”, as well as of “country of origin” or “country providing genetic resources”, could be improved. The definition of “misappropriation” deserved further attention, as did the definition of “physical access”. It noted that there was a definition of “source of genetic resources”, but not a definition of “source of associated traditional knowledge”. It wished to later propose a definition for that term.

77. The Delegation of Azerbaijan noted that there could be technical reasons for the reference to erroneous granting of patents in Article 8. There could be cases where there was intentional fraud. Instead of referring to erroneous patents, which was not a legal term, reference should be made to patents that did not meet patentability requirements.

78. The Delegation of Jamaica considered that, under disclosure requirements, ABS and PIC were two areas of great importance. It stressed that PIC was really critical for its country. It believed that the term “biotechnology” should be retained.

79. The Delegation of Brazil supported the approach of the Chair regarding the discussions that the IGC would have during the week. The list of terms and the preamble should not be the focus of discussion. It supported the statement by the Delegation of Australia that there were definitions already in other international treaties. It was of utmost importance to include “derivatives” in the international instrument. Derivatives were a product of the metabolism of a living being, such as the venom of a snake. It understood that there was a lot TK associated with those derivatives, and it was important to protect TK associated with derivatives of GRs. With respect to disclosure requirements, the trigger of the disclosure should be the existence of access. It requested the deletion of Article 4 in relation to PCT and PLT. It understood that there were international principles of international law that could be used. It was not necessary, at least at that stage, to dwell on the need of having other treaties amended. The Delegation was eager to contribute to the discussions in the informals.

80. The Delegation of Peru believed that, as a number of delegations had already stated, that the definitions included in the list of terms should be consistent with the international legal framework, such as the CBD and the Nagoya Protocol, in particular the definitions of derivatives and utilization. It pointed out that the text should assist and facilitate the compliance with the obligations included in those instruments, by including in IP legislation disclosure requirements, when a patent application comprised an invention developed or obtained from GRs, their derivatives or associated TK originating from a Member State. It also wished to include complementary measures such as the invalidation of the patent, *ex officio* or at the request of a party, should it be verified *a posteriori* that the disclosure requirement had not been complied with earlier. The term “biotechnology” should not be removed from the list of terms, since Article 2 of the CBD defined it as “any technological application that uses biological systems, living organisms, or derivatives thereof [...]”.

81. The Delegation of Australia considered that the first priority for discussion should be subject matter, in particular, the question of whether the instrument should apply to any IP rights or only patent rights. That question informed all the other discussions such as derivatives, the trigger or the sanctions. It strongly advocated that the Committee prioritize discussing IP rights compared to patent rights as the subject matter.

82. The Delegation of Japan could not support unclear expressions in the list of terms, such as “Associated Traditional Knowledge”, “Traditional Knowledge Associated with Genetic

Resources”, “dynamic and evolving” and “from generation to generation” as referred to in the definition of “Associated Traditional Knowledge”. The term “derivatives” was not used in the main clauses of the Nagoya Protocol although its meaning was defined there, because the parties to the CBD had been afraid that the term “derivatives” which was likely to be interpreted too broadly could expand the subject matter of the Nagoya Protocol unlimitedly and bring legal uncertainty eventually. The Delegation shared the same concern and considered that the term “derivative” was not necessary and should be deleted.

83. The Delegation of the Islamic Republic of Iran supported the statement made by the Delegation of India, speaking on behalf of the Asia-Pacific Group. On policy objectives, it highlighted that one of the core objectives of the instrument should be to enhance the efficacy and transparency of the international IP system. Establishing measures for disclosure and legal provenance of GRs, their derivatives and TK was highly necessary to promote innovation. It believed that the policy objectives should refer to the IPRs system instead of the patent rights system only, since GRs, their derivatives and associated TK were related to other IP areas such as trademarks, designs, copyright and plant varieties. The Delegation stressed that the main aim of the forthcoming treaty should be to prevent misappropriation of GRs, so misappropriation should be referred to in the policy objectives. Regarding the subject matter, it supported that derivatives be included. There was a link between GRs, their derivatives and associated TK. Therefore, the instrument should apply to GRs, their derivatives and associated TK. It highlighted that it preferred to use the term “Associated Traditional Knowledge” in the text. Regarding sanctions, it supported that revocation be considered as a sanction in Article 5.

84. The Delegation of Bahamas thanked the Chair for making it clear that the aim was to narrow existing gaps.

85. The representative of IFPMA said that, in relation to the list of terms, he would appreciate sharing and hearing views on “country of origin” and “physical access”. He wished to include “misappropriation” and “derivatives” in the indicative list of outstanding/pending issues.

86. The Delegation of the EU, speaking on behalf of the EU and its Member States, pointed out that the definitions that were not used in the text and those that were outside the scope of WIPO’s competence, for instance, “biotechnology” and “certificate of compliance”, should be deleted. In relation to Article 2, it proposed to add a definition in the list of terms which would enhance legal certainty, namely “invention directly based on”. It supported a policy objective “to enhance transparency of the patent system to facilitate the possibility of access and benefit-sharing through the disclosure of country of origin or source of GRs in separate systems”. It therefore did not support a reference to “misappropriation”. As also expressed by the Delegation of Switzerland, the Delegation believed that the instrument should not address derivatives, and that the term “directly based on” should be used, as it linked the use of the GRs to the patent system.

87. The representative of Tupaj Amaru agreed with the statement of the Delegation of Peru, inasmuch as the definitions in the instrument should be in line with international instruments. The Delegation of Azerbaijan had raised a very important point that the word “erroneous” was not a term with legal meaning and that it had no place in the instrument. A binding international instrument needed to include the legal concepts applied in other instruments. As to sanctions, there was no instrument in international law which did not contain sanctions. He wondered how companies or countries could implement an instrument which did not have any binding clauses and sanctions for its non-compliance.

88. The representative of the AIPLA indicated that she was the Chair of the Biotechnology Committee of AIPLA. She supported in principle the objectives of preserving sustainable biodiversity and providing for the fair and equitable sharing of benefits through the use of material transfer agreements between a user of a newly identified GR and the Member State

from which it was obtained. AIPLA opposed a mandatory disclosure of origin or source for GRs and/or TK in patent applications. Regarding the list of issues, there should be a further clarification of the definition of “derivatives”.

89. [Note from the Secretariat: This part of the session took place after the informals and the distribution of Rev. 1 of the Consolidated Document dated July 1, 2016 (“Rev. 1”) prepared by the facilitators.] The Chair reopened Agenda Item 7. The Chair explained he would invite the facilitators to introduce Rev. 1 and to explain the context and rationale underlying the changes they had made. He would then open the floor for technical questions and clarifications from delegations. He would not allow initial statements at that time and encouraged delegations to further consider Rev. 1 before reconvening in plenary at a later stage. He recalled that the facilitators were impartial and worked in good faith, in a professional and balanced way, in accordance with the agreed drafting rules. Rev. 1 clearly attempted to give greater clarity to the different alternative approaches and to identify potential areas where gaps could be narrowed. The focus of the Committee would be to narrow gaps, especially on unresolved issues which were core issues as reflected in the IGC mandate.

90. Mrs. Margo Bagley of Mozambique, speaking on behalf of both facilitators, introduced Rev. 1. The facilitators had recorded all views and positions of all Member States according to the agreed ground rules and ensured that all textual proposals were reflected in the text while narrowing options and refining and streamlining the text. Due to the very short period of time they had had to review and organize all proposals from Member States, there could be possible omissions or better ways to frame the text. The facilitators were willing to hear corrections from Member States in working toward a Rev. 2. The facilitators had deleted the definition of “Associated Traditional Knowledge” based on consensus in informals to use the alternative language “Traditional Knowledge associated with Genetic Resources”. They inserted the definition of “directly based on” introduced by the Delegation of the EU, speaking on behalf of the EU and its Member States. The facilitators further deleted the definition of “International Certificate of Compliance” as that phrase did not appear in the instrument, consistent with instructions to try to streamline and simplify the text. The term “unauthorized use” was added by the Delegation of the USA as an alternative wording of “misappropriation” to apply to Option 1 of the definition of “misappropriation”. In order to maintain clarity between the distinct approaches to misappropriation, Option 3 was added with the proposed renaming of that definition inserted by the Delegation of the USA. The facilitators had inserted the term “Protected genetic resources” for which a definition was proposed by the Delegation of the USA in relation to their “no new disclosure” provisions. The facilitators admitted their difficulty to understand the meaning of that definition and encouraged the Delegation of the USA to explain it further. In Option 1 of the definition of “source”, the term “gene bank” was bracketed, and “Budapest depository” introduced by the Delegation of the USA was inserted and bracketed. In Option 2 of the definition of “source”, the facilitators had bracketed “patent owners, universities, farmers and plant breeders”, as well as “scientific literature”. The facilitators had also added a definition of “source of associated traditional knowledge” that was proposed by the Delegation of the USA. Even though the preamble was not directly worked on during plenary or informals, the facilitators had, however, tried to capture some of the ideas that had been introduced. Two insertions were added as the third and fourth items under the preamble to add a complementary option relating to the objectives. Both additions were bracketed and both contributed to the prevention of misappropriation of GRs, their derivatives and TK associated with GRs, and to minimization of the granting of erroneous IP or patent rights. The insertion of misappropriation language and minimizing the grant of erroneous patent rights language into the preamble from the objectives as an alternative to the objective was to allow removal of the definition of misappropriation and the associated controversy which appeared unnecessary for achieving the objectives of the instrument for a mandatory disclosure of origin regime. Mrs. Bagley added that it seemed to go along with the preferences expressed by a number of Member States for not having those provisions in the objectives. The facilitators underlined that work still needed to be done on the preamble as the provisions were not yet phrased in a preambulatory fashion, but

they expected that it could be addressed at a later stage of the negotiations. The facilitators had restructured the main body of document WIPO/GRTKF/IC/30/4 and added new headings to separate the various sections of the text: general provisions which included Articles 1 and 2; mandatory disclosure including Articles 3, 4 and 5, followed by no new disclosure requirement, which consisted of an alternative to Articles 3, 4 and 5; defensive measures including Articles 7 and 8; and final provisions including Articles 9, 10, 11 and 12. In Article 1, the word "Policy" had been deleted as agreed in informals. The facilitators had taken into account a primary formulation that had been introduced by the Delegation of the Islamic Republic of Iran with three broad objectives, and an alternative formulation of objectives close to the original that included some of the more controversial provisions relating to misappropriation and erroneous grant of patents. The facilitators had also included proposals made by the Delegation of the USA that further defined preventing the erroneous grant of patents as minimizing the granting of patents on inventions that were not novel, obvious, and industrially applicable. The facilitators were unclear as to whether the Delegation of the USA wished to retain the words "erroneous grant of patents" in addition to those insertions as they seemed redundant. Guidance from the Delegation of the USA on that point would be appreciated when working towards Rev. 2. The facilitators had also deleted, throughout the instrument, the words "Associated Traditional Knowledge" pursuant to discussions in the informals, as well as some words in the alternative such as "prevent", and "through the/in the context of" in an effort to simplify and streamline the text. Regarding Article 2, the facilitators emphasized that the primary provision reflected an intervention by the Delegation of Ghana in IGC 29 which had received wide support in the present session. A new alternative of Article 2, proposed by the Delegation of the EU, on behalf of the EU and its Member States, and supported by the Delegation of the USA, was limited to patents and included "directly based on". The facilitators noted the query by the Delegation of Australia and others as to whether a subject matter provision was necessary or redundant, and they encouraged Member States to consider that question. Mrs. Bagley recalled that the next section of the text had been designated "mandatory disclosure" and included Articles 3, 4 and 5. Regarding Article 3.1, as discussed in informals, the facilitators explained that "consciously derived from" was deleted by the Member State that had originally introduced it. An alternative compromise trigger proposed by the Delegation of Australia and supported by the Delegation of South Africa of "directly based on utilization of" was added. "Associated traditional knowledge" was deleted. "Should" was also deleted from the chapeau in light of the growing agreement around the concept of mandatory disclosure. In subparagraph (a), the facilitators added an option relating to "the providing country that is the country of origin" to capture the insights given by the Delegations of Switzerland and Australia that "country of origin" under the CBD included any country where the GR was found *in situ* which could, for example, allow an applicant to truthfully declare a country such as Switzerland as the country of origin when the applicant in fact knew that the providing country was a different country of origin, such as France. Subparagraph (b) was streamlined to eliminate redundant wording and subparagraph (c) was clarified in line with the amendment to (a). The facilitators amended Article 3.2 for clarity (as "effective" was vague) and to make clear that only guidance on compliance with formal disclosure requirements needed to be provided on request. The language regarding the ability of patent applicants to obtain a positive decision that formal disclosure requirements had been met was deleted by the facilitators as superfluous, as patent offices under that requirement would not be verifying the veracity or substance of the information submitted, and thus applicants would know that the formal requirement had been met because their application would be processed. Mrs. Bagley mentioned that those amendments were also to minimize the burden on patent offices by clarifying the formal nature of the proposed disclosure requirement. The facilitators also modified Article 3.3 by inserting the term "information" as to cover both disclosures and declarations, and similarly Article 3.4 was amended to clarify that both disclosed and declared information should be made publicly available. The facilitators pointed out that Article 3.1(a) dealt with a disclosure of information and Article 3.1(c) with a declaration of information, and, therefore, both generated two types of information. They wanted to make sure that both types of information were captured in Articles 3.3 and 3.4. Article 3.5 remained bracketed without change as it was not addressed during plenary or informals. In accordance

with interventions of the Delegations of Brazil and the EU, on behalf of the EU and its Member States, the facilitators moved Article 4 to Article 9.3 because both PCT and PLT were international agreements. They thought it would be helpful in clarifying and streamlining the text to place that provision in Article 9 as opposed to as a standalone article. Article 4 remained unchanged as it was not addressed during the plenary or informals. To streamline and improve clarity and simplicity, the facilitators identified a primary provision for the chapeau of Article 5.1 with some modifications thereto, and for the content of Article 5.2, supported by the African Group. Regarding Article 5.1, changes were made by the facilitators to add clarity and take into account some points raised by Member States, such as the proposal made by the Delegation of the EU, on behalf of the EU and its Member States, to include preventing further processing of patent applications. The facilitators thought that the proposed amendment by the Delegation of the USA would be better placed under sanctions and remedies. The second sentence of Article 5.1 gave a minimum sanction of preventing further processing of patent applications while allowing applicants to correct incorrect or erroneous disclosures, where the party would determine what that would look like. Article 5.2 contained the same language as Alt 5.2 from WIPO/GRTKF/IC/30/4. Mrs. Bagley said that the alternative largely retained the Consolidated Document formulation, but the brackets around “dispute resolution mechanisms” were deleted as unnecessary, and the word “preventing” was replaced with “suspending”. The facilitators introduced an alternative to Articles 3, 4 and 5, no new disclosure requirement and noted that current Article 3 was previously Article 6, and therefore it did appear in the Consolidated Document before. In trying to maintain clarity and to narrow gaps, the facilitators found that several proposals introduced by the Delegation of the USA seemed to at best fit in the “No New Disclosure”, which was an alternative to the mandatory disclosure regime envisioned in the primary Article 3. Mrs. Bagley added that a new Article 3.2 had been included dealing with a new concept of GRs being owned by a variety of other entities, not by states as under the CBD. That provision did not mandate disclosure of origin of country or source, but rather required in certain circumstances a statement that a GR was simply used in making an invention, and thus appeared to be an alternative to a mandatory disclosure of origin regime. That was a faithful reproduction of the transcript, but there appeared to be one or more words missing from the formulation. The facilitators invited the Delegation of the USA to provide additional information on how that narrowed gaps. The facilitators said that the new Article 3.3 had been drafted as a requirement for patent offices to publish patents at the time of granting. Mrs. Bagley said that patent offices normally strived to publish patents at or before the time of granting so that did not appear to aid a mandatory disclosure of origin requirement, nor to be directed to a disclosure of origin regime where disclosure of information could appear on a separate form and in addition to the patent application. It was not clear to the facilitators how that was narrowing issues or directly relating to the disclosure requirement. New Article 3.4 dealt with obtaining disclosure of origin information on GRs that were not necessary for making or using the invention. As the informal discussions indicated an interest in enclosing the disclosure requirement to GRs necessary for making or using the invention through use of words such as “directly based on”, it was not clear to the facilitators why such information would be sought and they requested additional information as that may more properly belong in the primary Article 3. They explained that new Article 3.5 encouraged patent offices to provide patent term extensions for any and all delays in patent examination, which expanded significantly the scope of that instrument and did not appear to narrow issues in accordance with the mandate. They requested information from the Delegation of the USA on how that actually was a narrowing proposal. Regarding defensive measures, some changes were made to Articles 7 and 8 upon the interventions by the Delegation of the USA, and in Article 7.1(b), the facilitators inserted “and potential inventors” which was bracketed. In Article 8.1(d) and Article 8.2 in the chapeau, “information associated with” was inserted by the facilitators and bracketed. The insertion of the bracketed phrase in Article 8.3 “and the public” seemed to the facilitators, as noted by the representative of IPLCs, particularly problematic in light of the language in document WIPO/GRTKF/IC/30/7 that databases would not make information available to the public but to examiners only. Articles 10, 11 and 12 were not addressed and, therefore, were not amended.

91. The Chair thanked the facilitators for their clear explanation of the context and rationale around Rev. 1. He noted that some Member States had raised a number of questions to add clarification, particularly how the changes to document WIPO/GRTKF/IC/30/4 actually did attempt to narrow gaps. He hoped that Member States which had proposed new texts could clarify their meanings. The facilitators had tried to capture all the information as accurately as possible, however, omissions could have been made. The Chair opened the floor for technical clarifications only.

92. [Note from the Secretariat: all speakers thanked the facilitators for their work]. The Delegation of Brazil sought to have a clear understanding of how each of the changes made in Rev. 1 were narrowing existing gaps in respect of the outstanding/pending issues which had been agreed at IGC 29. The Delegation highlighted the deletion of “Associated Traditional Knowledge” in the list of terms, and noted that at the same time, such wording was kept with the addition of the definition of “source of associated traditional knowledge” while it pointed out that there was no agreement on the definition of that alternative which was also mentioned during the informals. If there was no added value in those new changes, it advised to stick with document WIPO/GRTKF/IC/30/4. It was looking forward to hearing explanations both from the facilitators and from delegations that proposed new text. It reiterated that according to the WIPO Rules of Procedure, new proposals should be submitted in writing so as to be properly evaluated.

93. The facilitators thanked the Delegation of Brazil for its questions. The facilitators noted that as “Associated Traditional Knowledge” was taken out, “Source of Associated Traditional Knowledge” would be deleted. The facilitators asked the concerned Member States to provide explanations as to why or how some of the textual provisions that had been proposed and added to Rev. 1 narrowed gaps. The facilitators faced some difficulties in fully understanding several provisions that had been introduced and were willing to hear from Member States.

94. The Delegation of the Plurinational State of Bolivia shared the concern raised by the Delegation of Brazil with regard to how the new proposals would contribute to narrowing the gaps. It underlined that some language that had been included had not been appropriately or adequately discussed during the informals, whereas text in document WIPO/GRTKF/IC/30/4 had been discussed for several years before being included. The Delegation asked what criteria had been used by the facilitators for including or excluding wording.

95. The Delegation of Chile stated that many of the included elements were in line with the debates the country had had internally. It sought clarification on the definition of “protected genetic resources” and the use of that term, as it could not find any text referring to that term. It also sought additional clarification on the wording introduced by the Delegation of the Islamic Republic of Iran in Article 1 and asked whether that added alternative text to paragraph (a) was truly reflecting the objective they sought.

96. The Delegation of Brazil reiterated its agreement with the working methodology proposed by the Chair in plenary in particular so as to focus on narrowing gaps. It shared the concerns mentioned by the Delegations of the Plurinational State of Bolivia and Chile. The Delegation invited the facilitators to clarify how two alternatives in the same Article 5.2 related to sanctions that had the same content would help the discussions. It underlined the need to work on the content of the list of terms as to have one term referring to that content. It asked how the new proposal of “Source of Associated Traditional Knowledge” could be dealt with even though the concept of TK associated with GRs was not agreed during the informals.

97. The Delegation of Peru stated that Alt Article 3.1(c) should belong to a non-disclosure article instead of a disclosure requirement. It also stated that the last sentence of Article 5.1 that read “however, applicants shall/should be provided an opportunity to correct any incorrect or erroneous disclosure” did not fit where it was placed. It believed that sentence proposed by

the Delegation of the USA created a contradiction with the first sentence of Article 5.1 as the second sentence narrowed the possibilities for a member to prevent those cases.

98. The Delegation of Japan sought clarification from the facilitators regarding Article 3 on why the word “should” had been deleted. It reiterated its preference for “should”, as “shall” prejudged the nature of the legal instrument.

99. The Chair insisted that Member States should direct their questions to the facilitators only on technical points and for clarifications.

100. The Delegation of Nigeria, speaking on behalf of the African Group, pointed out that some proposals which were reflected in Rev. 1 had not been discussed or had not been supported.

101. The Delegation of Egypt found the added term “Protected genetic resources” unnecessary.

102. [Note from the Secretariat: This part of the session took place on the fourth day of the present session.] The Chair recalled that the Committee had started to look at Rev. 1. Moving forward, the Chair wished to take initial statements and comments on Rev. 1 before moving into informals in accordance with the program that had been set out. The Chair recalled that Rev. 1 was an interim document which contained ideas, concepts and views put forward both by Member States and the facilitators. Member States would now have the opportunity to comment and to propose modifications, deletions, corrections and insertions. For example, it was clear in some of the previous day’s interventions that where the facilitators had taken out the definition of “Associated Traditional Knowledge”, a number of Member States wanted that definition to be replaced in the document. That would, therefore, be done when the facilitators prepared Rev. 2. A decision on whether or not there would be a revision to the Consolidated Document would be taken at the end of the session if there was agreement to note the revision. If there was no agreement, the only document to go forward would be document WIPO/GRTKF/IC/30/4. He recalled that the Committee was to try and narrow existing gaps. If delegations just focused on what they had proposed and what they did not like, it would be difficult to narrow gaps. The facilitators had tried to identify areas where potential narrowing could occur and to propose alternatives for Member States’ consideration. Those could be removed if Member States so wished. It had been a difficult task for the facilitators. They had tried, as far as possible, to take account of the interest of all Member States. Member States needed to consider what an acceptable common starting point was, which would take account of the broad interests of all members. This required Member States to demonstrate flexibility and a pragmatic approach. The Chair opened the floor for comments on Rev. 1.

103. The Delegation of Brazil had made a strong effort to analyze the draft text, and it could not identify elements that bridged longstanding positions. It could also not find the necessary clarity on the new proposals so as to identify which gaps had been breached by the new additions. The Delegation recalled that on the first day of the present session, the Chair had reinforced the focus on narrowing gaps in the Consolidated Document. In that regard, it believed that that objective had not been reached by Rev. 1. The Delegation did not see Rev. 1 as a good basis to continue discussions and had a strong preference to keep the discussion based on document WIPO/GRTKF/IC/30/4 since it offered a clearer picture of the positions of Member States.

104. The representative of HEP indicated that many people had been waiting for a treaty for a long time that would address the needs of the various stakeholders. There was a great deal of divergence perhaps more than convergence. There were currently too many brackets. Article 1 was the only article without brackets. The representative agreed with the Delegation of Brazil that discussions should be based on document WIPO/GRTKF/IC/30/4. She hoped that discussions would move forward.

105. The Delegation of Nigeria, speaking on behalf of the African Group, stated that the Group had discussed Rev. 1 further. While certain provisions in the Rev. 1 raised concerns, perhaps there had not been sufficient clarity on the ground rules for drafting by the facilitators. The Group was ready to move forward based on Rev. 1 towards a Rev. 2. On the list of terms, it understood that there was consensus as to the use of the term “traditional knowledge associated with genetic resources”, but it did not support the deletion of the content of the definition of “Associated Traditional Knowledge”. A definition was provided for the term “directly based on”. However, that definition had not been completely discussed and it did not understand how it was already reflected in Rev. 1. The Group preferred to use the term “utilization”. It welcomed the deletion of “Internationally Recognized Certificate of Compliance”. With respect to “misappropriation” in the context of objectives, it was possible to capture the principle of misappropriation through other terms. For neatness and clarity it was best to move the introduction of “unauthorized use” to Option 3, where “unauthorized use” was defined. In that way, misappropriation was left as misappropriation and unauthorized use was defined as Option 3. It did not understand what the term “Protected Genetic Resources” meant and did not support its inclusion. It did not understand the need for a definition of “Source of Associated Traditional Knowledge”. The Group welcomed the introduction of the elements of misappropriation and minimizing the granting of erroneous IP or patents rights in the preamble. It believed that this set of general principles was also contained in the proposals that had been put forward by the African Group. On Article 1, it preferred the alternative Articles 1(b) and 1(c). It had concerns about paragraph (a) because it understood that the idea was to promote the effective protection of GRs, their derivatives and the TK associated with GRs. That paragraph, however, led to the understanding that it was to promote the effective protection of IP related to GRs. On Article 2, it welcomed the first alternative. On Article 3, in the first paragraph, it preferred the words “claimed invention” rather than “subject matter”, however, in the interest of reaching compromise, it would be flexible and could also agree on the choice of “patent” as the rights to be applied. It preferred using “utilization” rather than “directly based on”, but noted the use of the term “directly based on the utilization of” and believed that that phrase could meet the concerns of the different groups and it would be flexible and support that in paragraph 3.1. Article 3.5 should be placed in the article on exceptions and limitations. It would welcome the removal of that paragraph but wished to understand why it had been placed in the article on disclosure requirements. On Article 4, the elements listed in sub-paragraphs (a) to (f) were not really exceptions, but were more relevant where ABS rules or regimes applied. That matter had to be left to national jurisdictions in the interest of the public good and the Group proposed the following more balanced language for Article 4: “In complying with the obligation set forth in Article 3, members may in special cases adopt justifiable exceptions and limitations necessary to protect the public interest, provided such exceptions and limitations shall not unduly prejudice the implementation of this instrument.” On Article 5, the Group welcomed, in principle, Articles 5.1 and 5.2 of the first alternative. However, the last sentence of paragraph 5.1 which was bracketed did not add much value. On the alternative to Articles 3, 4 and 5, the Group believed that the provisions did not have the effect of narrowing gaps in line with the mandate of the IGC. The provisions raised more questions than they answered and were very complex. It had not had time to see those statements in writing and to discuss them adequately, and it would wait to hear more about the rationale for their introduction before engaging further. On Article 8, this was a complementary mechanism which was not inconsistent with the disclosure regime. However, it had a problem with Article 8.3 which provided that the information contained in database systems could be made public. In that regard, it had concerns about secret and sacred TK. The Group was flexible with respect to Articles 9, 10, 11 and 12.

106. The Delegation of Ecuador referred to the preference expressed by some delegations to work on document WIPO/GRTKF/IC/30/4, as they believed that Rev. 1 was taking the Committee down the wrong path. Going back to document WIPO/GRTKF/IC/30/4 would ensure progress in a linear manner and should not be interpreted as a step backwards but rather as a means to allow the Committee to make progress.

107. The Delegation of Latvia, speaking on behalf of the CEBS Group, welcomed Rev. 1 and thanked the facilitators for their efforts in narrowing the gaps. The Delegation noted some areas of convergence in Rev. 1 and welcomed certain changes in the list of terms, such as the narrowing of the definition related to TK, and the inclusion of the definition of “directly based on”. The structure of the document facilitated its reading and highlighted the different positions of Member States. This would enable the Committee to focus its discussions on the major differences and to move forward in a structured and constructive manner. As mentioned in its opening statement, the CEBS Group was of the view that the Committee had to address issues relevant to its mandate. In that regard, it believed that the objectives of the instrument should address issues relating to the IP system, and that this instrument would not be able to resolve issues deriving from or tackled in other international agreements. Finally, the agreed methodology foresaw work on a Rev. 2 and it expected that time would be provided for Member States to study the new language and to comment in an appropriate manner.

108. The Delegation of Mexico believed that the facilitators had managed to take into account the concerns that had been expressed and discussions that had taken place during the informals. The Delegation was also grateful for the intervention made by the Delegation of Nigeria, speaking on behalf of the African Group, because it sought to bring the positions of different groups together.

109. The Delegation of the USA believed that Rev. 1 helped to evolve the text and move the process forward. It requested that all of the facilitators’ new language be placed in brackets until there was an agreement thereon and this would also provide additional time to study that language and gain a better understanding of them in light of the text on the whole. On the definition of “Traditional Knowledge Associated with Genetic Resources”, at the end of that paragraph, the Delegation wished to add the words “and where but for the traditional knowledge the invention would not have been made”. This was being done to emphasize what the Delegation saw as an important link between the TK and an invention based on that TK. In the definition of “Country Providing/Providing Country”, it wished to bracket “or that has acquired the genetic resources” through to the end of that paragraph, and replace it with “or is the country that possesses the genetic resources and/or traditional knowledge in *in situ* or *ex situ* conditions and that provides the genetic resources and/or traditional knowledge”. This was to provide an alternative text that would not be linked to the CBD and this was consistent with the longstanding position of the USA on similar issues. In the definition of “Physical Access”, it wished to bracket “or at least contact which is” through to the end of the sentence. This was to limit the definition of “physical access” to include “contact” or to be limited to “contact”. In the definition of “Utilization”, it wished to add “and to make a new product or a new method of use or manufacturing of a product” at the end of the paragraph. It suggested this language because it believed that utilization should only be relevant to this instrument if the research and the development on a GR led to a new product or method of use or the manufacturing of a process. In the preamble, with respect to the paragraph “promote transparency and dissemination of information”, it wished to bracket the words “transparency and” because it was concerned that disclosure requirements would not promote transparency. In the final paragraph of the preamble, it wished to bracket “their” before “natural biological resources”. It wished to insert the word “genetic” before “resources” and to insert “within their jurisdiction other than those associated with human beings or those associated with intellectual property rights” after “resources”. This was because the Delegation wished to clarify what it saw as limitations of a State’s sovereign rights over GRs. The Delegation suggested the following three sentences to be added to the preamble: (1) “reaffirming the important economic, scientific, cultural, and commercial value of genetic resources and traditional knowledge associated with genetic resources”; (2) “acknowledging the important contribution of the patent system to scientific research, scientific development, innovation and economic development”; and (3) “stressing the need for the members to ensure the correct grant of patents for novel and nonobvious inventions related to genetic resources and traditional knowledge associated with genetic resources”. The Delegation wished to bracket “general provisions” because it was new. It also

wished to bracket Article 1 because it was treaty like. Under policy objectives, in the alternative sub-paragraph (c), it wished to retain the words "and those relating to intellectual property" at the end of that sub-paragraph, which had been deleted. It preferred the instrument to be supportive of international agreements related to IP. The Delegation wished to add a policy objective that had been suggested in the informals as "to prevent the granting of patent rights on inventions that are not novel, nonobvious and industrially applicable". The reason for incorporating that language back into the objectives was because it seemed to be a better placement for that language. Under mandatory disclosure, it wished to bracket the heading. In Article 3.4, it wished to bracket the words "and/or declared". In Article 4.1(f), it wished to insert the words "entry into force of the Nagoya protocol on October 12, 2014", because it had heard discussions about the relevance to the Nagoya Protocol. In Article 4.2, it wished to insert "or having a priority date" after "IP patent applications filed". The Delegation wished to bracket all of paragraph 4 to reflect that this was a work in progress. The Delegation also wished to bracket the entire Article 5. In Alt Articles 3, 4, and 5, it wished to bracket the title. In Article 3.2, it wished to delete the comma before the bracketed phrase "including a patent owner", to insert the word "may" after "that entity", and to insert a comma after "right to use the genetic resource". The purpose of those particular edits was to resolve some grammatical errors and to improve the readability of that paragraph. The Delegation wished to move Articles 3.2 to 3.5 back under the disclosure requirement because those proposals had been made in the context of a disclosure requirement and would not make sense in the context of an alternative to a disclosure requirement. In Article 8, the Delegation wished to maintain the headings "Database Search Systems" and "WIPO Portal Site" because they helped to understand the relationship between this document and the proposed joint recommendations. In Article 9, it wished to bracket Article 9.1 and replace it with the language "this instrument should be consistent with international IP agreements. Members recognize the coherent relationship between policies that promote the granting of patents involving the utilization of genetic resources and/or associated traditional knowledge and policies that promote the conservation of biological diversity, promote access to genetic resources and the sharing of the benefits of such genetic resources." The intention of this language was to reflect a broader consistency between this instrument and other international instruments or agreements. The Delegation wished to add in Article 9.2 "the universal declaration on human rights" after "and shall/should support in particular" and this was to reflect that this instrument complemented another relevant international agreement. It wished to bracket Article 10, and replace it with "patent examination authorities should share information related to sources of information related to genetic resources, and/or traditional knowledge, especially periodicals, digital libraries, and databases of information related to genetic resources and traditional knowledge." The Delegation also wished to add "WIPO members should cooperate in the sharing of information related to genetic resources and knowledge, including traditional knowledge regarding the use of genetic resources". The intention of this language was to reflect another option for international cooperation under this instrument.

110. The representative of Tupaj Amaru indicated that the meeting was being held at one time but the TK and GRs of indigenous peoples were open to bioprospecting and biopiracy at all times. While many communities and ancestral peoples were almost extinct, the draft instrument still had the words "indigenous peoples" in brackets. It was important that the Committee did not ignore the great challenges of the twenty-first century when looking at the draft articles and proposed amendments. He urged Member States to consider IPLCs as guardians of TK and GRs. He had listened with attention to the intervention of the Delegation of the USA. He did not agree that a reference to the Universal Declaration on Human Rights should be included. It was important not to confuse coercive protection measures for GRs with human rights. The IGC was discussing a binding international instrument not human rights. The representative believed that the Committee had to consider every article, proposal and amendment and adopt all of its decisions in plenary without submitting them to the facilitators.

111. The Delegation of El Salvador expressed its concerns regarding the various provisions contained in Rev. 1. However, it was willing to participate constructively in the detailed discussions of the text. The Delegation was concerned with the new Option 3 under the definition of “misappropriation”. It was necessary to include a general safeguard provision as follows: “No provision of the present instrument shall be construed in a manner that is prejudicial or detrimental to the rights of indigenous peoples enshrined in the United Nations Declaration on the Rights of Indigenous Peoples. In the event of conflict, the rights of indigenous peoples enshrined in the aforementioned Declaration shall prevail. Any interpretation shall be guided by the provisions of the Declaration and the doctrine derived therefrom”. Such a provision could be included in the Final Provisions part of the instrument. With respect to Article 5, the first paragraph of the first option was adequate, but the current Article 5.2 should be deleted and replaced by “the measures referred to in paragraph 5.1 shall include restorative justice measures such as financial compensation to facilitate, in respect of the indigenous people and/or local communities that are holders of genetic resources, their derivatives and knowledge associated with genetic resources that have been used without consent, the protection and development of such peoples and/or communities and their genetic resources, derivatives thereof and associated traditional knowledge”.

112. The Delegation of the EU, speaking on behalf of the EU and its Member States, valued some of the significant improvements in Rev.1, especially the enhanced readability of the text. It welcomed the fact that its concerns in relation to the definition of “Associated Traditional Knowledge” had been taken into account. It wished to bracket the words “Traditional Knowledge Associated with Genetic Resources” in the appropriate segments of the document as the definition of TK in this context was yet to be agreed. It wished to see references to “derivatives” deleted from the text. The inclusion of the concept of derivatives created further uncertainties on the scope and reach of the instrument and was not a concept that was defined in international patent law. There was still a divergence of views on what WIPO could realistically achieve through the IGC taking into account WIPO’s mandate. Nevertheless, on the central question of the objectives of the instrument, no progress had been registered. In that regard, it noted that the proposal that it had made in plenary in relation to the objectives had not been included. This was a concern to the Delegation and perhaps pointed to flaws in the methodology. For the sake of clarity, it restated its proposal for the objective with respect to GRs: “To enhance transparency of the patent system - to facilitate the possibility of ABS through the disclosure of country of origin or source of genetic resources in separate systems such as the CBD”. While some articles seemed to have improved, it was difficult for the IGC to engage in meaningful detailed discussions on the articles until there was clarity on what the articles exactly related to. It would endeavor to provide focused comments on the revised articles where changes had been made, on the clear understanding that its position in relation to the other articles which had not been modified remained unchanged. It wished to make a clear distinction throughout the text between the type of disclosure the IGC was discussing, and sufficient disclosure of an invention under patent law in order for the invention to be carried out by a person skilled in the art. It understood that according to the agreed methodology the Chair intended to start work on a Rev. 2 draft as soon as all delegations had had the opportunity to comment on Rev. 1. While it did not oppose this approach, it recalled the need to ensure sufficient time for the Rev. 2 document to be properly scrutinized by IGC participants and for them to provide comments. In relation to the list of terms, it supported the insertion of a definition of “directly based on” which clarified the text but suggested adding “invention” to the title of that definition so it would read “invention directly based on”. The Delegation supported the deletion of the definition of “Internationally Recognized Certificate of Compliance”. In relation to “Source”, it supported Option 1. It wished to retain the words “gene bank”. Gene banks preserved tangible biological material for preservation purposes, thus the reference to the Budapest depository was superfluous. The Delegation suggested that discussions on the preamble be deferred, until a better common understanding had been reached on the essential elements of text, including the objective. In relation to the policy objectives, it wished to bracket the whole article as both options did not cover the proposal that it had made in plenary. The

Delegation believed that WIPO's mandate was not to facilitate implementation of other agreements, as mentioned in sub-paragraph (c) in Option 1. It still had concerns about the concept of "misappropriation". Turning to subject matter, the Delegation appreciated that the alternative 2 had been included, and it wished to bracket the words "traditional knowledge associated with genetic resources" at this stage as the definition was unclear and therefore it had reservations. On disclosure, it believed that Article 3.1 should be limited to "directly based on". It did not support the new concept of "directly based on the utilization of". It was unclear how that definition would create a link between the invention and the GR. Further, it wished to retain "should" in the last line. In relation to sub-paragraph (a), it had concerns around the definition of "providing country". The definition seemed to include accessed TK in accordance with the CBD, which was unclear. Country of origin referred to the country which possessed the GRs in *in situ* conditions. It did not understand the concept of the insertion of the word "first". As stated before, it did not support sub-paragraph (b). In sub-paragraph (c) it preferred the original wording. In relation to Article 3.2, it supported the fact that patent offices should not verify the content. Each country could be different and, therefore, it suggested using the word "may" in the second sentence. In relation to Article 3.4, it noted that in a normal patent application procedure, information was made available. The Delegation was not sure why the language in Article 3.4 was added and what its practical value in this instrument would be. The Delegation did not support the language used in Article 3.5, as it extended into the area of substantive patent law, it was unrelated to disclosure requirements, which were being discussed in this context, and it was also contrary to the Biotech Directive 98/44. With respect to Article 4, it supported to move it to Article 9. I did notice, however, that the last sentence, which had not been bracketed before, should also be bracketed, because it extended to PIC and MAT. With respect to Article 5, if there was agreement on how the instrument was framed, the wording in Article 5.1 may be appropriate. From that perspective, it supported to include the last sentence. In relation to Article 5.2, it believed that "in the absence of fraud" should be deleted. The Delegation had a proposal in relation to Article 5.2 to clarify matters. It believed that Article 5.2 should include the words: "incorrect or incomplete information shall/should not affect [...]". In relation to the articles on no new disclosure requirements, it noted that the last paragraph 3.5 was not in line with Article 63 of the EPC, and therefore it did not support it.

113. The Delegation of Colombia had several profound concerns principally with regard to the new wording which had been submitted but had not been sufficiently debated. The Delegation believed that the mandate of the IGC was to narrow gaps and not to increase them, but in many respects the Committee had not been able to achieve this. The Delegation had not, in particular, had adequate time to debate the new definition of "Protected Genetic Resources" and the alternatives in Articles 3, 4 and 5. With regard to Article 1, it agreed with the comments made by the Delegation of Nigeria, on behalf of the African Group, with regard to sub-paragraph (a). It wished to have more explanation as to why that had been added. The Delegation also agreed with the African Group on limitations and exceptions. With regard to Article 5, the alternative did not capture the discussions. The sentence which had been introduced beginning with "however" invalidated the discussions. Article 5.2 which was included in both alternatives limited the ability of States to establish sanctions for non-disclosure of the origin of the resource. The Delegation reserved its right to comment further at a later stage with regard to the rest of the text.

114. The Delegation of Ghana believed that Rev. 1 provided a basis to move forward. However, on the list of terms, the Delegation had some difficulty with the definition of "directly based on". It was not clear how an invention could be made of GRs and the Delegation wished to bracket the word "invention". It was not clear why the word "must" was used in that context and it wished to bracket that word. It proposed to bracket the word "immediate" as when using the word "immediate" it was not clear what time was implied. The Delegation noted that "directly based on" was limited to "physical access", which it believed unduly restricted the disclosure obligation. For all of those reasons, it wished to bracket the term "directly based on", and preferred that the entire term be deleted and not defined. Regarding the term "Protected

Genetic Resources”, it was not clear how once the monopoly IPRs had expired GRs would fall into the public domain. If a patent right expired, maybe the patent right would fall into the public domain, but it was unclear how the expiration of the patent would necessarily lead the GR to the public domain. For that reason, it believed that brackets should be inserted over the use of GRs in the last part of that definition. On sanctions, the Delegation of Nigeria, on behalf of the African Group, had made certain proposals, which appeared to have been excluded, and it wished to draw attention to that omission. In that respect it proposed to capture the words “material misstatements made with intent to deceive the patent office regarding compliance with Article 3 shall be deemed perjury, lying to an official or other similar infraction and punishable as such in accordance with national law”. The African Group had always viewed the use of databases to be complementary to the disclosure obligation and not an alternative to it, but the reference to databases being complementary was missing from Rev. 1. The Delegation proposed to add the following language to Article 8.4: “As a complement to the disclosure obligation provided for in Article 3, and in the implementation of this instrument, Member States may consider the use of databases on traditional knowledge and genetic resources in accordance with their needs, priorities and safeguards as may be required under national laws and special circumstances.”

115. The Delegation of the Plurinational State of Bolivia shared the concerns expressed by the Delegations of Brazil, Ecuador and Colombia because it believed that Rev. 1 would not contribute to narrowing the gaps with regard to the matters that had been flagged earlier. Some of the text in Rev. 1 had not even been debated. One example was the new objective in Article 1(a). The proposals should have been distributed in writing before being discussed adequately in the informals. The Delegation also noted that Article 3.1(c), when read together with the new Article 5 (sanctions and remedies), invalidated the purpose of this instrument. Therefore, Article 3.1(c) had to be removed. The new concept of “source of associated traditional knowledge” nullified benefit-sharing prospects and it also had to be removed. The Delegation was not clear how the proposals that had just been heard would be entered in the text, and it believed that they had to be submitted in writing to ensure that delegations would have the opportunity to better understand the proposals and decide on whether or not they contributed to narrowing the gaps.

116. The Delegation of Peru asked whether proposals made by the previous delegations, particularly the Delegations of the USA and the EU, could be made available to Regional Coordinators in writing to ensure that there would be sufficient time to review those proposals, because Rev. 2, in accordance with the program, would be received the following day. It felt that the additional text that was being suggested would take the Committee further from the objectives of the meeting. Regarding definitions, the Delegation agreed with the comments made by the Delegation of Ghana. Article 1 was not in line with the objectives of this document. It also believed that the disclosure requirement was fundamental to ensuring that the IP system was compatible with the objectives of this instrument. However, with the new text that was suggested in Article 5, it did not see any sanctions, because, if there was evidence of misappropriation of GRs, no sanctions such as nullifying the patent or revocation of the patent were included in Article 5. Databases would be important for patent examiners to use when they looked at the patent applications. It asked that filters be included and that a confidentiality agreement be set up.

117. The Delegation of Nigeria, speaking on behalf of the African Group, did not support bracketing the entire Rev. 1 and asked for clarity as to how the proposals that had been made in plenary would appear in a possible Rev. 2. The African Group was ready to submit its proposals in writing and wondered if this would apply to every delegation. It indicated that many Member States had expressed discontent with some elements that were reflected in Rev. 1 which they said had not been adequately discussed, and with the fact that Member States had not had time to look at the document or the proposals before they had been featured in the text.

118. The Delegation of New Zealand noted that it was not a small task to produce a text aimed at taking account of the many and varied views and proposals that Member States and observers had put forward. It wished to highlight the use of the term “directly based on the utilization of” in Article 3.1, which had been proposed by the Delegation of Australia and supported by the Delegation of South Africa. It was encouraging to see a proposal that accommodated different views and sought to narrow existing gaps in line with the mandate. It wished to hear more on how the term “directly based on the utilization of” might be better incorporated into the list of terms. The current definition of “directly based on” did not quite align with the term “directly based on the utilization of”. It had the term “directly based on” applying in the sense of an invention based on GRs, rather than directly based on the utilization of GRs. The Delegation would be interested in other Member States’ views on addressing this definitional issue and other ways to facilitate the proposal in Article 3.1, as it supported its intent.

119. The Delegation of India, speaking on behalf of the Asia-Pacific Group, believed that the process had not made progress towards fulfilling the mandate given by the 2015 GA. The GA had mandated the IGC to expedite its work with a focus on narrowing existing gaps. The Group believed that IGC 30 needed to make progress towards fulfilling that mandate. It asked the Chair to convene informals in which Regional Coordinators, recognized groups and other interested parties could participate constructively towards making progress within the remaining time. This was the last session in which GRs would be discussed and it was important to show urgency in making progress.

120. The Delegation of India asked for a clarification about the process as the current discussion in plenary was substantially resulting in rewriting Rev. 1. Rev. 1 was becoming completely unrecognizable in view of all the additions and modifications that had been made. It wished to know when informals would take place. Before doing so, and as it had been suggested by other delegations, it suggested that proposals should be submitted in written form so that delegations would be able to engage in constructive discussions.

121. The Delegation of the Islamic Republic of Iran supported the statement made by the Delegation of India, on behalf of the Asia-Pacific Group, and noted that the IGC’s mandate should be fulfilled. The mandate clearly instructed the Committee to narrow existing gaps. It believed that new text proposals should be tabled in good faith and in line with the mandate for reducing the existing gaps, not expanding them. Rev. 1 did not reflect its expectations in that regard. However, there was some progress in Rev. 1, such as on its structural form. The Delegation supported the establishment of an informal meeting with Regional Coordinators and other interested delegations to work on Rev. 1. It would express its position on the content of Rev. 1 at a later stage during informals.

122. The Delegation of Tajikistan, speaking on behalf of the CACEES Group, appreciated the views given by Member States. As regards the definition of “misappropriation” in the list of terms, it preferred Option 3. As regards Article 1, it preferred to keep alternative 2 in Article 1. In relation to Article 2, it had a preference for alternative 2. In relation to Article 5, it preferred alternative 1. Some Member States of the Group were going to seek more clarifications on some texts and they could further intervene during informals as well as in the plenary. The Group remained engaged in the process and trusted the work undertaken under the Chair’s leadership.

123. The Delegation of Japan supported in principle the statement made by the Delegation of the USA. As regards the chapeau of Article 3.1, it sought an explanation on why the word “should” had been deleted. The deletion of the word “should” would prejudice the nature of the instrument. It had been agreed in the GA that text-based negotiations should not prejudice the nature of the outcome.

124. The Delegation of Chile preferred to maintain the expression “utilize” throughout the text instead of “acquisition” or “directly based on”. It did not understand what “acquisition” could mean in this context. As regards “directly based on”, it noted that this concept was limited to physical access and could not support it. As regards the alternative between “misappropriation” and “unauthorized use”, the Delegation preferred the concept of misappropriation. With respect to the definition of “protected genetic resources”, it did not hear any clarifications, while it had heard concerns voiced by the Delegation of Nigeria, on behalf of the African Group. It therefore preferred to delete the reference to protected GRs. In the preamble, it noted that two new subparagraphs had been added and the facilitators had explained that those were included as alternatives. However, they had not been discussed yet. The Delegation endorsed those new insertions. As regards Article 1, it agreed with what the Delegation of Nigeria, on behalf of the African Group, and the Delegation of Colombia had previously stated that subparagraph (a) altered the central objective of the instrument by referring to the effective protection of IP rather than the effective protection of GRs. The Delegation endorsed the elimination of that subparagraph. As regards the alternative Articles 3, 4 and 5, it was still analyzing them. As regards Article 7, it preferred to delete the word “protected” before “genetic resources” because it could not understand the underlying idea. Article 7 further mentioned that “genetic resources have been accessed in accordance with applicable ABS legislation.” The fact that the scope of this provision was therefore limited to “applicable legislation” was providing for parameters that would need to be explained in accordance to what was stated in national legislations. Thus, it believed that additional clarifications should be provided. At present, the entire provision was confusing and it preferred to delete it.

125. The Delegation of China believed that Rev.1 was a new foundation as well as an important reference for subsequent discussions. It was not an easy task, as delegations had expressed different opinions, comments and views during informals. However, the Delegation also noted the fact that Rev.1 had been only an intermediate paper and not mature enough, and there were many improvements to be made. For example, Rev. 1 only reflected specific suggestions for amendment proposed by some delegations, and did not present the feedback, comments or acceptance by other delegations concerning those suggestions, nor did it show the background, rationale and inherent logic behind those amendments. Therefore, the IGC still had very important work to do in further improving Rev. 1. The Delegation believed that, as a first step, delegations should find consensus on some fundamental issues, and then on that basis further narrow the gaps, thereby improving contents and wording. As for Rev.1, it had some specific comments. For example, the concept of “traditional knowledge associated with genetic resources” needed to be considered together with the discussions on TK. In the article on exceptions and limitations, there should be sufficient flexibility. As a preliminary measure, it could consider accepting the proposal made by the Delegation of Nigeria, on behalf of the African Group.

126. The Delegation of Canada believed that Rev. 1 was a step in that direction. With respect to the list of terms, the Delegation of Canada, like some other Member States, would have appreciated hearing from the proponents of “directly based on” concerning how to interpret certain elements. For example, it wondered what “make immediate use of” meant; what “depend on the specific properties of” meant; and how those terms had been interpreted and applied by Member States using those terms in their disclosure requirements. In regards to the objectives, the Delegation believed that there was more work to be done and supported working with the alternative text which, unlike the other proposal, included the objective of ensuring appropriate information to avoid the erroneous granting of patents. With respect to Article 1(c), it preferred to retain the term “facilitating” in brackets. Canada had not acceded to the Nagoya Protocol although it was considering what implementation could be. Canada had recently announced that it would adopt the UNDRIP in its constitution. As it continued to learn from those other instruments, which had been identified as being related to the instrument under consideration, the Delegation was not in a position to state that they facilitated each other but it believed that they complemented and mutually supported each other. The Delegation also

noted that the facilitators had proposed to move the substance of Article 4 (Relationship with PCT and PLT) to Article 9.3 (Relationship with International Instruments). It supported the deletion of that provision, which was calling Member States to amend the PCT and PLT. It believed that such commitment was beyond the scope of the IGC. Without prejudice to its position on disclosure, the Delegation wondered whether it was necessary to include in Article 5.1 a reference to preventing further processing of patent applications, which would be one of many possible sanctions. Leaving such reference out would provide Member States with maximum flexibility in determining what sanctions, if any, would be appropriate. With respect to Article 8, it had some concerns with the addition of “and in the public”. This was not due to the fact that it did not support transparency in the patent system but rather because some databases could be accessed based on certain terms of conditions. As regards the new headings, the Delegation appreciated efforts to improve the organization of the text. However, in doing so, the alternative of using defensive measures as a primary form of protection had been eliminated. This could be even more unclear following the introduction of the text proposed earlier by the Delegation of Ghana, which should appear in brackets. The Delegation continued to support the use of defensive measures as a source of protection. The text needed to continue to reflect that there were two views on this matter. Given the new heading, this was not clear. Depending on the chosen perspective, it could be part of either mandatory disclosure or under no disclosure. While it recognized that there was a footnote, it believed that it would be clearer if that was reflected also in the heading on “defensive measures” by adding in brackets the following text: “[as alt to Mandatory Disclosure]/[as complement to Mandatory Disclosure]”. In regard to “derivatives”, it recognized that this issue could not be easily resolved. It reiterated its continued interest in getting further clarity on how that term, in conjunction with the terms “biotechnology” and “utilization”, would be interpreted and applied, including on the basis of how those terms had been interpreted and applied by Member States with relevant requirements.

127. The Delegation of Switzerland believed that the focus should be on core issues, that is, on objectives, subject matter, as well as the disclosure requirement, including sanctions and remedies, in order to narrow gaps and reach a better common understanding on those core issues. The Delegation suggested refining the definition of “source” in Option 2 by deleting the insertion of “patent owners, universities, farmers and plant breeders”, since it believed that those sources were already captured in (ii). Alternatively, those terms could be moved to (ii). In (ii), it was also in favor of deleting the brackets around a reference to “scientific literature”. The Delegation also took note of the definition of “directly based on” as well as the new term “directly based on the utilization of”. It would further analyze those definitions, especially how they could relate to TK associated with GRs.

128. The representative of ICC said that the mandate of the Committee was clear. It was to narrow the gaps. However, the size of the gaps needed to be recognized. The ICC was firmly opposed to any mandatory disclosure of origins in patent specifications. The reasons for that were fully set out in the document, which he had entered into the record of IGC 29. However, disclosure that was not mandatory would be much less problematic. The discussion of this topic over the last 15 years had moved things on and influenced public opinion. If someone was filing a patent application that mentioned a GR, the patent applicant could well consider it prudent to discuss its origin, particularly if the resource was rare or unique. But in the vast majority of inventions involving GRs, those resources were common or widely available or not crucial to the invention. Another possibility would be that they came from a country that was very happy to make them freely available to all without restriction. In such cases, applicants should have no need to specify a source or origin. He suggested bearing in mind that a patent specification became published. If the patentees, for whatever reason, had decided that they were not going to disclose anything about the source or the origin in the patent specification, then if critics considered that one was needed, the patentees might have to defend themselves in the court of public opinion. In light of this, he supported the proposal of the Delegation of Japan to keep the term “should” rather than “shall” in Article 3.

129. The representative of the Tulalip Tribes supported further work on the basis of Rev. 1. He welcomed the concept of balance which should, however, be employed in a balanced way. He recalled the Chair's words that the IGC proceedings must embrace a vision that involved all relevant actors: society, users and holders. Balance did not mean that all have equal claims or that the principles of balance could legitimize taking without consent. He registered his deep concern that Member States continued to introduce new text and concepts which were not respecting the mandate to reduce the remaining gaps.

130. The Delegation of Brazil reiterated the position of the Delegation of Bahamas, on behalf of GRULAC, during informals that new proposals should be presented in writing in order to allow Member States to read them. The Secretariat could provide those documents in order to enable a fruitful discussion and evaluation of any new proposals. This could apply not only for the proposals presented currently, but to all proposals presented since the first day of the present session. The Delegation had heard a number of new proposals, some of which had been implemented in Rev. 1, while others did not.

131. The Delegation of Jamaica said that delegations needed to look at the gaps and try to move forward. Rev. 1 sought to facilitate moving forward, because it seemed to provide a clear articulation of the points that were put forward by delegations and reiterated some of the underlying concerns that some of them had. As regards some of the points that delegations did not seem to arrive at a common position, it stressed that it was almost a moral imperative to understand that if someone was to take something that did not belong to him or her, irrespective of how to call it, this taking could not be right. If someone had chosen to use it and converted it into another format, that action could not make it anymore his or her property because the genesis of that particular product was wrong. The Delegation stressed that it would have been a waste of resources to have come to the IGC without trying to achieve something tangible.

132. The Delegation of Nigeria, speaking on behalf of the African Group, stated that the African Group did not support the proposal that had been put forward by the Delegation of the USA to bracket the whole Rev. 1. Second, it supported the organization of Rev. 1 into general provisions, mandatory disclosure, defensive measures and final provisions. Third, to the Group sought clarification on how delegations could proceed on the requests for brackets and new language in the text.

133. The Delegation of the Russian Federation supported the use of the term "TK associated with GRs" in the list of terms and throughout the document. If delegations were to use the term "protected GRs", a definition was also needed. The expression "directly based on" needed further clarification. It preferred to use the term "misappropriation" instead of "unauthorized use". If delegations were to use the term "erroneously grant of patents", a definition for that concept should be included in the list of terms as well. As regards Articles 1 and 2, the Delegation supported the comments presented by the Delegation of Tajikistan, on behalf of the CACEES Group. As regards Article 7 on "due diligence", it believed that this issue was not part of the mandate of WIPO. Regarding Article 9.2, the instrument under consideration should complement and was not intended to modify other agreements. In that regard, Article 9.3, which would require modifying the PCT and PLT, appeared to contradict with Article 9.2.

134. The Delegation of Azerbaijan proposed use of the term "direct access" instead of "physical access", deletion of "a patent owner" in alternative Article 3.2 and deletion of "erroneous" in Article 8.

135. The Chair stated that, in his assessment, there was broad agreement to proceed on the basis of Rev. 1 but there were also a number of reservations regarding the process. The key issue was how to capture the discussions and the interventions during both informals and plenary.

136. [Note from the Secretariat: this part of the session took place after the Chair had had consultations with Regional Coordinators.] The Chair stated that he had taken into account the objections to Rev. 1 by a number of Member States, while also noting that there was broad support to work on the basis of that document. He intended to request the facilitators, based on the interventions during the week both in plenary and informals, to produce another revision of the Consolidated Document (document WIPO/GRTKF/IC/30/4) and to then see whether delegations could support that revision. It was not unusual that, when a first revision was made available, Member States' reactions could be quite negative. The facilitators needed to hear the initial responses to their proposals and changes, and to understand the rationales for them. A second attempt to produce a revision was usually much more successful. His intent was to stay in plenary and focus on the substantive core issues, namely: policy objectives, subject matter, disclosure requirements, and defensive measures. All statements, submissions and textual proposals were on the record and would be considered in the new revision document.

137. The Delegation of Greece, speaking on behalf of Group B, supported the proposed way forward.

138. The Delegation of Ghana suggested working out some type of arrangement whereby demanders would make interventions with respect to parts of the text that would be of interest to them and non-demanders would also proceed accordingly.

139. The Chair stated that he could formulate a methodology that would allow different streams to develop effectively but Member States would have to agree to that.

140. [Note from the Secretariat: The Chair convened a brief meeting with some delegations in order to clarify their concerns.] The Chair opened the floor for any further comments or textual proposals.

141. The Delegation of China, on Article 3.1(a), suggested deleting "if known" from "or if known", so that it would become "or", thereby allowing Member States to directly request the origin of the GR, because, based on the practice in China, the information on origin that the patent office asked for might also include the country of origin. Such an amendment would give more flexibility. On Article 3.4, which requested all parties to disclose relevant information, that article could be further improved. One issue concerned the disclosure of information "at the time of publication of the application". It understood that patent applications for inventions were published before rights were granted. After the publication but before the grant, patent offices might also ask the applicant to make additional amendments to the information disclosed. Therefore, it should be allowed to make improvement before the grant, while the disclosure might wait until the grant. A second point concerned the information to be disclosed, because the information on origin might contain very specific details, which might involve personal privacy, business secrets or even confidential information of the State. There should be exceptions for such information. In other words, if the information to be disclosed involved personal privacy, business secrets or even State secrets, such information should be allowed to be withheld from disclosure. In Article 3.4, it proposed to add "except for the information related to privacy business secrets or other lawful confidentiality" after "and/or declared". In the definition of "traditional knowledge associated with genetic resources", the Delegation proposed to add "rightful holders, including" before "indigenous peoples and local communities". The same change applied to the first paragraph of the preamble.

142. The Delegation of Brazil welcomed the Chair's proposal on the way forward. It believed that the focus should be on document WIPO/GRTKF/IC/30/4, but it could show flexibility and engage in discussion on the indicative list of outstanding/pending issues with a focus on revising the document. As regards the policy objectives, it preferred to retain "misappropriation" in the text. The mutual supportiveness of international agreements also should be one of the policy objectives. It still needed to be convinced regarding whether the prevention or minimization of

erroneous patents should also be retained. It seemed more related to the TK discussion that would take place in the next IGC session. With respect to subject matter, it understood that the term “derivatives” was an important element. With regard to discussions on associated TK versus TK associated with GRs, it stressed that the utmost should be done to preserve the right of traditional communities, local communities and indigenous peoples in this regard. Therefore, it supported the broader definition that was presented. With respect to disclosure requirements, it supported mandatory disclosure requirements. As regards “revocation”, that issue would be better dealt with in the national legislation, unless delegations could support a minimum standard agreement on how to address non-compliance. Regarding the trigger, it understood that “utilization of subject matter” should be the trigger. This was a more objective element that could be used when compared to the idea of “directly based on”. Regarding the role of the patent office in relation to the notification of disclosure, the Delegation understood that such notification should be only a formal requirement, rather than a substantive one. Databases would be a supplementary measure to a disclosure requirement and they could not be read in isolation from the necessary mandatory disclosure requirement. With respect to the relationship with international agreements, including the PCT and PLT, the Delegation was still waiting to receive more information from other Member States on how that would be addressed.

143. The Delegation of Indonesia stated that provisions on “no new mandatory disclosure” should be separated from those on “mandatory disclosure.” It believed that such separation was very important to understand the position of delegations. Regarding the textual proposals, it stressed that the revised draft should be simple, very clear and not confusing, and the objective was to narrow the gaps. It also suggested discussing how many WIPO Member States, which were also the Members of existing multi-lateral instruments such as the Nagoya Protocol or the CBD, could comply in full with the rights and obligations under such instruments. The Delegation sought clarifications on the implication of referring to or omitting certain terms which were in both the CBD and the Nagoya Protocol.

144. The representative of Tulalip Tribes supported the modified text of Article 1(a) in Rev. 1 which would be “promoting the effective protection of GRs, TK associated with GRs, and their derivatives”. He restated his position of eliminating the reference to IP in the policy objectives.

145. The Delegation of Namibia supported the statement made by the representative of Tulalip Tribes.

146. The Delegation of the Plurinational State of Bolivia suggested the inclusion of the words “conservation, prospection, collection, characterization, among others” after “research and development” in the definition of “utilization”. It supported the wording “misappropriation” in policy objectives, as well as the structure of Rev. 1. It preferred the trigger to be “utilization” rather than “directly based on”. It singled out Article 5.1 contained in document WIPO/GRTKF/IC/30/4, that was to say “preventing further processing of patent applications.” The Delegation wished to maintain Article 3.5 for the reasons expressed in IGC 29.

147. The Delegation of Jamaica stated that IP offices should be permitted to require proof of a benefit-sharing agreement, in addition to requiring mandatory disclosure, where GRs and/or associated TK were utilized. It also stated that the instrument should permit IP offices to determine sanctions for non-disclosure, including that failure to fulfill the disclosure and benefit sharing requirement might prevent the grant of IPRs. The Delegation underlined that those two fundamental points, if not included, would render the instrument inconsistent and incompatible with the draft Caribbean Regional Framework for the Protection of GRs, TK and TCEs.

148. The Delegation of the Islamic Republic of Iran expressed some concerns relating to the additions of new terms in the list of terms such as “directly based on” and “unauthorized use”. It underlined a lack of clarity in the new term “protected genetic resources”. It suggested replacing the word “to promote” by “to ensure” in the objectives, focusing the objective on IP

rather than the patent itself, and including “derivatives” in the objectives. Regarding Article 2, it stated that the subject matter should be kept to the minimum as it was currently. In Article 3, the trigger should be “utilization” rather than “directly based on”. Regarding Article 4, “derivatives” and “traditional knowledge in the public domain” should be deleted, and “commodities” should be replaced by “genetic resources when they are used as commodities”. Such replacement was in line with existing international instruments, such as the International Treaty on Plant Genetic Resources for Food and Agriculture (“ITPGRFA”). It emphasized that the separation of the disclosure requirement from the non-disclosure issues as an alternative was a step forward. It considered the defensive measures as being complementary to a disclosure requirement rather than separately. Regarding sanctions and remedies as well as Article 8, the Delegation preferred to continue the work on existing text from document WIPO/GRTKF/IC/30/4 rather than the new alternatives. The Delegation aligned itself with the statement made by the Delegation of Brazil to delete former Article 4 that was put under final provisions.

149. The Delegation of India wished to retain mandatory disclosure, misappropriation and mutual supportiveness in Article 9. It emphasized its preference for IPRs, derivatives and associated TK in terms of subject matter. It considered the trigger to be utilization of GRs in claimed inventions. Regarding the consequences of noncompliance, the Delegation would consider revocation to be allowed as an option to individual States to exercise, and to have other consequences including non-processing of patent applications. It considered the databases as a complementary measure that effectively safeguarded TK that was widely held, such as the Indian TKDL.

150. [Note from the Secretariat: this part of the session took place on the last day of the session and after the distribution of the Second Revision of the Consolidated Document Relating to Intellectual Property and Genetic Resources (“the Second Revision”).] The Chair reopened the plenary and invited the Delegation of the USA to present Document WIPO/GRTKF/IC/30/9 that it had submitted under Agenda Item 7.

151. The Delegation of the USA recalled that the work of the IGC had to use an evidence-based approach, including studies and examples of national experiences, domestic legislation and examples of protectable subject matter and subject matter that was not intended to be protected. It observed that the discussion at the IGC had often been general, with few specific examples. Because it believed that the IGC’s work would benefit from a more detailed technical discussion, it had submitted document WIPO/GRTKF/IC/30/9, which was entitled “Seeking a Better Understanding of Switzerland’s ‘Federal Act on the Protection of Nature and Cultural Heritage’ and ‘Federal Act on Patents for Inventions’ by Hypothetically Applying them to U.S. Patent Number 5,137,870” dated June 1, 2016. The Delegation realized that the timing of the submission of the document had not allowed the Delegation of Switzerland to engage in a discussion of this document. Its goal of submitting this document was to seek a better understanding of the definitions, objectives and other text in the Consolidated Document. By considering national laws and practices, as well as how those requirements applied to the patent system, as it had attempted to do with the Swiss national laws, it believed that the IGC could develop a shared understanding of key terms. The purpose was also to get a sense for whether such discussion was a useful one. If so, the Delegation of the USA would plan to introduce other prepared documents regarding other WIPO Member States that had a domestic disclosure requirement at the appropriate time in other IGC meetings, so as to allow the IGC to develop a shared understanding of the objectives of its work and key terms, as well as mechanisms.

152. The Delegation of Switzerland took note of document WIPO/GRTKF/IC/30/9. It thanked the Delegation of the USA for its interest in the national provisions of Switzerland on the disclosure-of-source requirement in its national patent law, as well as in its national provisions that implemented the Nagoya Protocol. Those provisions had been elaborated in the framework

of a democratic process, involving all stakeholders, including industries and stakeholders that expressed criticism of patents. The provisions struck a delicate balance between all interests concerned. Some might view them as going too far, while others might view them as not going far enough. The Delegation was very positive about the resulting legislation and considered it a realistic and practical result. Parallel to its national legislation on the disclosure requirement, the Delegation had submitted proposals with regard to the disclosure of the source in patent applications at the international level, which had been summarized in document WIPO/GRTKF/IC/11/10. The Delegation found a number of erroneous interpretations of the Swiss legislation in document WIPO/GRTKF/IC/30/9 and mentioned three of them. First, the document did not adequately distinguish between the different national provisions of the Swiss legislation concerning GRs. Consequently, the document mixed the legal effects of the Swiss patent law with other regulations. Among others, the Delegation noted that the document confused the disclosure-of-source requirement as stipulated in the Swiss patent law, the notification of the due diligence obligation according to the regulations implementing the Nagoya Protocol and the market approval procedures. Contrary to the analysis in document WIPO/GRTKF/IC/30/9, the due diligence obligation according to the Swiss regulations implementing the Nagoya Protocol was not linked in any way to the disclosure requirement in the Swiss patent law. Second, the Swiss national legislation was not limited to laws that were mentioned in the document. The legislation of Switzerland also consisted of ordinances with more detailed provisions that implemented the laws. This held true, for example, for the Swiss Ordinance on Patents for Inventions as well as for the Nagoya Ordinance which had entered into force on February 1, 2016. Regrettably, however, those ordinances had not been taken into account in document WIPO/GRTKF/IC/30/9. Third, the hypothetical example used in the document was based on a patent application submitted in 1990. The GRs used in the research leading to this patent had been most likely accessed even before the CBD entered into force. In the decade since, approaches on how research involving GRs had changed, as had the Swiss laws on GRs and the laws of other countries mentioned in the analysis, namely, Mexico, Panama, Honduras, Colombia and Belize. Based on this, the Delegation was convinced that a more recent patent application would have been more appropriate for an analysis of the relevant legal regimes. The Delegation stated that an incomplete analysis with wrongful interpretations of laws prevented a correct understanding of the approach of Switzerland with regard to the disclosure of the source. The value of document WIPO/GRTKF/IC/30/9 was thus seriously limited for a fact-based discussion and ran the risk of adding confusion to the IGC discussions on GRs and TK. Based on the aforementioned, the Delegation asked the Delegation of the USA to withdraw document WIPO/GRTKF/IC/30/9 from the list of the working documents of IGC 30. The Delegation strongly supported a fact-based discussion. Such discussion would allow the IGC to better understand national legislations, such as the one from Switzerland and the disclosure requirement, and share information and experiences about various different national approaches. In order to facilitate this fact-based discussion, the Delegation was planning to submit a paper on the relevant legislations. It was of the view that all Member States should participate in the negotiations of the IGC in an open and flexible manner, based on mutual confidence. Only this approach would allow the IGC to move forward in a constructive and pragmatic manner.

153. The Delegation of Australia supported the statement made by the Delegation of Switzerland. It supported an open and factual-based engagement on the issues, as long as the IGC would have correct and accurate information to consider.

154. The Delegation of Ghana supported the statements made by the Delegations of Switzerland and Australia. It observed that the Delegation of the USA promised the submission of examples of national experiences that would clearly not be based on the national experience of the USA, which was therefore misleading. For that reason, such initiative was not helpful to the process. It joined the Delegation of Switzerland in asking that document WIPO/GRTKF/IC/30/9 be withdrawn by the Delegation of the USA.

155. The Delegation of India supported the statement made by the Delegation of Switzerland. It believed that document WIPO/GRTKF/IC/30/9 did not set a good precedent in a discussion that should instead be very open and frank, as well as based on facts.

156. The Delegation of the USA thanked the Delegation of Switzerland for its comments and welcomed the paper envisaged by the Delegation of Switzerland. As noted in its introductory statement, its intention with document WIPO/GRTKF/IC/30/9 was to help to facilitate a dialogue. In this line, it felt that the paper to be submitted by the Delegation of Switzerland would help to contribute towards such dialogue. It took note of the request made by the Delegation of Switzerland for the Delegation of the USA to withdraw its document, although that was not an option which it would consider at that point. It might be willing to update its document, especially after hearing more from the Delegation of Switzerland and studying the paper that it might provide.

157. The Delegation of Switzerland reaffirmed its support for fact-based discussions in the IGC. But it seemed self-evident that working document published by WIPO should not present the national legislations of other Member States in a faulty and incomplete manner, as that would add unnecessary confusion in the IGC discussions. The Delegation of the USA did not clarify whether it was in a position or not to withdraw the document. The Delegation of Switzerland regretted that, but requested that the statement made by the Delegation of Switzerland be attached as an annex to document WIPO/GRTKF/IC/30/9.

158. The Chair closed the discussion regarding document WIPO/GRTKF/IC/30/9 and introduced the Second Revision that had been prepared by the facilitators. He explained that the Second Revision was based on document WIPO/GRTKF/IC/30/4 and not on Rev. 1. He recalled that there had not been adequate support for using Rev. 1 as a basis for a further revision. What the facilitators had done in the Second Revision had been to reflect all Member States' interventions both in plenary and informals. The Chair clarified that submissions had been checked against the verbatim of the corresponding statements. The facilitators had added some footnotes whenever they might have been confused about an intervention, in order to explain the rationale of their proposed changes. The Chair understood that in presenting the Second Revision, the facilitators would indicate as far as possible which Member States had made the interventions that had been reflected. In preparing the Second Revision and for the sake of clarity, the facilitators had also tried to reflect the different broad positions of Member States. Two main proposals were reflected in the Second Revision: a mandatory disclosure regime for GRs and TK associated with GRs, on the one hand, and mechanisms for exchanging information on GRs and TK associated with GRs and other defensive measures, on the other hand. The Chair believed it important, if the IGC was to make significant progress at this meeting, that those approaches were developed in a way that would support more detailed discussion of their respective merits, core objectives and issues. This could lead to the development of a more broadly acceptable outcome that took account of all Member States' interests. The Chair conveyed his view that the key issue within the disclosure approach would be to develop a mechanism that could reach overall support. This issue related to the scope of the instrument, namely whether the disclosure regime touched upon IP that would be directly based on GRs or upon another formulation. Another key issue that was also reflected in the Second Revision related to the nature of the sanction. The Chair observed in that regard that many Member States that were supportive of a disclosure regime would rather conceive it as part of the formalities. In relation to the other broad approach, the Chair noted that there had been many new proposals, which had been presently reflected verbatim in the Second Revision. Member States would have an opportunity to reflect on those proposals and carefully consider them. The Chair noted that the facilitators had attempted to capture the view of a number of Member States that many of the defensive measures could be considered complementary to mandatory disclosure, as reflected in the title of Section III, and resulting from a proposal that the Delegation of Canada put forward as an alternative. From the Chair's perspective, the facilitators had attempted to construct the Second Revision so that it captured

all Member States' views, including those that were competing clearly with each other, whilst not undermining the clarity of the different positions. In moving forward, Member States would need ultimately to make judgments about which positions they supported. Hopefully, the Second Revision would provide clarity for that purpose. At the same time, the Second Revision could clearly not narrow gaps in some core areas. The Chair emphasized the difficult task that the facilitators had to perform until late in the night. He hoped that the Committee would acknowledge such effort that had been made in good faith, and would engage with the Second Revision in a positive way. He reminded the IGC that in accordance with the agreed methodology and work program, the plenary would be invited, once the facilitators have presented their document, to identify any obvious errors in the Second Revision for correction. Any other comments on the Second Revision, including any new proposals, drafting improvements and other substantive comments would be recorded as usual in the report of the session. The Chair emphasized that the Second Revision would not be adopted at that stage. At the end of the discussion, the Chair would simply invite the IGC to take note of the text as corrected for transmission to IGC 34. He then invited Ms. Emelia Hernández, one of the facilitators, to introduce the text in details.

159. Ms. Hernández, speaking on behalf of both the facilitators, said that the Second Revision was a new version based on the Consolidated Document, following upon an agreement reached in plenary after the review made of Rev. 1. The facilitators had made their best efforts to reflect all the concerns and positions that had been expressed by Member States in plenary and informals. The facilitators had tried insofar as possible to reduce and limit the gaps that had been identified, as agreed under the current mandate for the IGC. They had retained the structure that had been proposed in Rev. 1, given that many delegations had agreed with such structure and that such structure had allowed for a clearer understanding of the articles. It had been hard work taking into account the very divergent positions expressed by Member States. However, the facilitators had worked toward establishing a balanced text, containing all the elements that were essential for the negotiations. There were two clearly different positions with regard to disclosure. Given the time that the facilitators had had, they had focused the revision on the key concepts of the document. Mrs. Hernandez then reviewed the changes made compared to document WIPO/GRTKF/IC/30/4. Given the support expressed by many Member States, including the African Group, the broad definition of "Traditional Knowledge Associated with Genetic Resources" had been kept in the list of terms with two options, since the facilitators had been notified by many Member States that this would bring more clarity. The facilitators had taken into account cases where the invention did not come from TK as requested by the Delegation of the USA. The definitions of "Biotechnology", "Country of Origin" and "Country Providing/Providing Country" had been retained. A new alternative for the definition of "Country Providing Genetic Resources" had been added. Some Member States had supported the deletion of the definition of "Invention Directly Based On", while others had supported its inclusion. The facilitators believed that this definition still required further discussion, including the notion of "physical access" to GRs. In the definition of "Source", two proposals had been added, including gene banks and the Budapest depository. With regard to the "Source of Traditional Knowledge associated with Genetic Resources", the facilitators had decided not to include any definition in the list of terms, since such notion did not appear in the body of the text, but to refer to it in a footnote. The facilitators had included two options for the term "Misappropriation". The definition of "Physical Access" included the notions of "physical access" or "direct access" to GRs, which were reflected in the body of the text. Similarly, the concept of "Unauthorized Use" was differentiated in the list of terms. Regarding the definition of "Utilization", the facilitators had opted to include two alternatives, attending to the proposal made by the Delegation of the USA in this regard. In the Preamble, the notions of "rightful holders", "prevention of misappropriation" and "minimizing the granting of erroneous IP/patent right" had been included. An alternative had been included in the preamble, in line with the proposals made by the Delegation of the USA. In Article 1, three alternatives had been accommodated. Regarding Article 2, the facilitators made a drafting proposal whose options were far easier to understand. In Section II, the facilitators had kept mandatory disclosure in

brackets, given the discrepancy of positions in this regard. Some wording in italics under Article 3 referred to drafting proposals made by the facilitators. Some Member States had highlighted the need for a definition of “directly based on the utilization of” as reflected in footnote 1 from the facilitators. The facilitators recalled the importance of holding further and deep discussion on those terms in future sessions. They recalled that the same was true for “the country of origin” and “the providing country”. In Article 3.4, the notion of the exception for confidentiality had been retained, but the facilitators emphasized the confusion that surrounded what this exception would embrace. In footnote 2, the facilitators added an alternative formulation drawn from the Nagoya Protocol, namely Article 14.2, which would include all possibilities. Under Article 4 “Exceptions and Limitations”, two alternatives were proposed. The facilitators added the proposals made by the Delegation of the USA referring to exceptions on the basis of access to GRs which had been gained before the entering into force of the Nagoya Protocol, as well as exceptions for those patent applications which had a priority date predating the entry into force of the instrument. Under Article 5 “Sanctions and Remedies”, the facilitators had divided out the pre-grant and post-grant sanctions, introducing the concept of economic compensation for holders of GRs and TK associated with GRs, including IPLCs. An alternative Article 5 had been accommodated. The notion of revoking the patent had been retained, as requested by various Member States. With regard to the alternative to a “[Mandatory] disclosure requirement”, namely “No new disclosure requirement”, the facilitators had opted to the inclusion of three alternative articles to Articles 1, 2, 3, 4 and 5, in order to bring increased clarity to the text and to make attempts to reduce gaps. The facilitators had decided to place the proposals of the Delegation of the USA under the Alt Article 3, given that the facilitators were unsure whether those proposals were related to, or in conflict with the subject matter on disclosure under Article 3. Since some Member States were of the view that defensive measures should be conceived as complementary to a mandatory disclosure requirement, the facilitators had added this option to the title of Section III and had this option reflected in an alternative paragraph under Article 7.2 related to databases as proposed by the Delegation of Ghana. The facilitators had also discussed the concept of “protected genetic resources” under Article 6. They believed that more discussion was required on this issue, as reflected in footnote 5. In Article 7.3 relating to a “WIPO Portal Site”, safeguards were exemplified as proposed by the Delegation of Peru, “such as filters”. The facilitators believed that further discussion was needed in order to determine what the nature of this kind of safeguards would be. Under Article 8, two alternatives had been added. Article 9.3 referred to possible amendments to the PCT and the PLT. Its placement there increased understanding, but this was also an issue that needed further discussion at future sessions. Under Article 10, the facilitators had introduced an alternative proposal submitted by the Delegation of the USA.

160. Ms. Bagley, speaking on behalf of both the facilitators, made additional comments regarding the footnotes that related to terms in the Second Revision. As referred to by Mrs. Hernández, footnote 5 under Article 5 concerned the terms “protected genetic resources”, which the Delegation of the USA had introduced in the list of terms. Several Member States had expressed difficulty in understanding the meaning of that particular definition, and the facilitators also had struggled with it. Before including it in the list of terms, the facilitators wished to seek further clarity. Similarly, footnote 3 under Article 3 relating to the definition of “source of traditional knowledge associated with genetic resources” explained why it had not been included in the list of terms and why it had been placed in the footnote at that particular place. More clarity was also sought regarding the rationale for such definition. Footnote 6 under the title of Article 7 reflected the fact that the facilitators were unsure about a proposal that had been made regarding this title, while the facilitators had put “erroneous” between brackets as suggested. They sought clarification in this regard.

161. The Chair thanked the facilitators for their hard work in producing the Second Revision. He opened the floor for corrections of obvious errors or other comments and observations, in accordance with the methodology that the IGC had agreed upon. [Note from the Secretariat:

Many of the delegations and observers which took the floor expressed appreciation for the facilitators' work].

162. The Delegation of Azerbaijan referred to footnote 6 under Article 7 of the Second Revision. It proposed again the deletion of the word "erroneous" in the title of the article because it was not a legal term, nor a term that was appropriate in a legal instrument. It wished to propose the following formulation of the title instead: "Prevention of the grant of patents which do not comply with the patentability requirements of the invention and voluntary codes of conduct". Similarly, it wished to delete the word "erroneous" under Alternative 2 of Article 1(a) and replace it accordingly. The Delegation further referred to Article 3.2 under the "Alternatives to Articles 1, 2, 3, 4 & 5" of the Second Revision, which might imply that the patent owner could be an entity having a legal right over the GR, which could not be envisaged, as GRs were owned by society at large. It proposed therefore that the terms "including a patent owner" be deleted. It proposed as well that "physical" be deleted from the list of terms. "Direct" would be the concept that expressed what was meant by "physical".

163. The Delegation of Guatemala said that the Second Revision constituted a good basis for further work. It recognized that it took better account of the specificities of its country.

164. The Delegation of El Salvador, regarding its proposal made under Article 8 reflected as Alternative 8.2, wished to clarify that it had been conceived as complementary to Alternative 8.1 and 8.2, and should therefore be numbered as 8.3, with 8.3 in the Second Revision be renumbered as 8.4. Regarding its proposal made under Article 5(b)(iii), it wished to see the concept of "restorative justice" be included. Restorative justice included the possibility to promote TK associated with GRs instead of punitive sanctions in case of non-compliance.

165. The Delegation of Ghana said that the Second Revision was a significant improvement compared to document WIPO/GRTKF/IC/30/4. The Second Revision identified an emerging consensus that would justify its submission to the next GA. The Delegation referred to footnote 7 of the facilitators and wished to clarify that its proposal (Alternative 7.2) had been introduced as an addition that should be placed after Article 7.1 and be numbered Article 7.2. Its proposal reflected an important element that had not been reflected so far, namely that there was a consensus within the Committee that the use of databases would be complementary. As formulated, Article 7.2 of the Second Revision qualified its proposal, and should therefore be renumbered as Article 7.3. The Delegation also pointed out that "their" in its proposal should read "its" in order to make it grammatically correct.

166. The Delegation of Chile referred to the preamble of the Second Revision. It was unclear whether the Alternative on page 7 of the clean version was conceived as an alternative to the preceding paragraph or to the whole preamble. The Delegation wished that this be clarified. The Delegation further referred to Article 3.5 under the "Alternatives to Articles 1, 2, 3, 4 & 5" of the Second Revision. It wished to remind that there had been little clarity with regard to how this proposal related to the mandate and the objective of the instrument, as the facilitators themselves emphasized. The Delegation wished therefore that this consideration be reflected in a footnote at the appropriate time. Regarding Article 6, it wished to see the term "protected" in Article 6(b) be bracketed as it was the case in Article 6(a) since the reasoning was the same. The Delegation took note that a definition of "protected genetic resources" was reflected in footnote 5, but this should be without prejudice to the fact that further clarification was needed on what those terms meant.

167. The Delegation of the EU, speaking on behalf of the EU and its Member States, wished to reserve its rights on the articles it had not commented on, on new language in the text and on the articles that had not been discussed. Referring to the preamble, it wished to see "traditional knowledge associated with genetic resources" bracketed whenever those terms occurred. It noted that its proposal under "Subject matter of instrument" had disappeared. It wished to see it

reintroduced and read it out again: “This instrument shall/should apply to patent applications for inventions directly based on GR [and TK associated with GR]”. Under “Disclosure requirement”, Article 3.2, the Delegation reminded that it had suggested “may” in the second sentence. It furthermore proposed that “formal” be inserted after “meet” in the third line. Paragraph 4 under “Exceptions and Limitations” should be bracketed, as it constituted new language. Under “Sanctions and Remedies”, paragraph ALT 5.1 should be bracketed. It furthermore proposed that the sentence “However applicants shall/should be provided an opportunity to correct any incorrect or erroneous disclosures” be inserted in paragraph ALT 5.1. It wished to see the bracket before “the amendments” be added in Article 8.3.

168. The Delegation of the USA made the following technical suggestions. In the list of terms of the Second Revision, the definition of “Protected Genetic Resources” had been moved to a footnote, as it had been indicated by the facilitators. The Delegation preferred that this definition be maintained in the list of terms. With respect to the definition of “Source”, in Option 2(i), the Delegation had suggested the insertion of the words “patent owners, universities, farmers and plant breeders” after “ITPGRFA”. It noted that those terms were placed in Option 2(ii) in the Second Revision and wished them to be moved correctly under Option 2(i). It furthermore noted that the definition of the “Source of Associated Traditional Knowledge” had been moved from the list of terms to a footnote. The Delegation wished to have that definition retained in the list of terms. It noted that two different sets of “Objectives” were listed. The Delegation wished to keep the policy objectives centralized in one place, until Member States had had a chance to discuss whether they wished to separate them and create multiple instruments within this document. Similarly, under “Subject Matter of Instrument”, two alternative sets were reflected. The Delegation would prefer to have those objectives consolidated, until Member States had had a chance to discuss this and agree upon an approach. It noted that there had been some deletions of text without the consent and agreement of all Member States. It preferred that those deleted terms remain in the text, possibly in brackets, until Member States could discuss and agree upon their placement. The Delegation reserved the right to reintroduce any deleted text. With respect to Article 3 “Disclosure requirement”, the Delegation recalled that it had submitted proposals for Articles 3.2 to 3.5. It noted that those proposals had been placed in the “No new disclosure requirement” part, while the Delegation had requested their insertion under the disclosure requirement heading, because they were relevant to the disclosure requirement. In Article 3.2, it proposed that a mandatory disclosure requirement be discussed via contractual obligations. In Article 3.3, the Delegation provided a means for ensuring transparency with respect to mandatory disclosure requirements. In Article 3.4, the Delegation provided a means for the compliance with the disclosure requirement after a patent filing date. In Article 3.5, it provided a means for the adjustment of a patent term to compensate for a delay in patent examination caused by mandatory disclosure requirements. Since those paragraphs were not relevant to the “No new disclosure requirement” part, but to the “disclosure requirement” section, the Delegation requested that they be placed in the correct location.

169. The Delegation of the Plurinational State of Bolivia had preliminary comments to make before the Second Revision would be analyzed by its authorities in the country. In the definition of “Utilization”, it noted that its proposal had not been captured in the Second Revision. It reiterated its proposal on the insertion of “conservation, collection, characterization, among others” after the terms “research and development”. In Article 4 “Exceptions and limitations”, it wished to have the new paragraph bracketed, until it could be reviewed. The Delegation had no position in favor of, or against this new wording. It noted as well that the organization of paragraphs in the Second Revision could cause confusion as former language could be read as new proposals in the text. It wished to see the new proposals be systematically placed under the original text.

170. The Delegation of Peru referred to Article 7.2(c) and it felt there was a lack of clarity. It was particularly concerned that databases could be accessible to other approved users. Since databases could include confidential information, it would be appropriate instead that access to

this kind of information be only allowed for patent examiners in order to assess the patentability of an application. Filters should be accommodated therefore for accessing the information contained in databases.

171. The Delegation of Latvia, speaking on behalf of the CEBS Group, believed that the views shared by the Member States of the CEBS Group were reflected in this document. However, it aligned itself with the technical comments made by the Delegation of the EU, on behalf of the EU and its Member States.

172. The representative of Tulalip Tribes shared the concern that had been expressed by the Delegation of Peru regarding the accessibility of databases for other approved users. He believed that this part would require a lot of discussion, particularly on how such accessibility, if such accessibility was to be eventually accommodated, would be managed. It furthermore requested that the Second Revision be revisited by the Member States after the present session in order to insert appropriate safeguards throughout for the rights of IPLCs. He did not see any reference to the principle of FPIC and believed in particular that such reference would be fundamental for any action that would envision the transmission of TK associated with GRs to any party outside of the patent examination system.

173. The Delegation of Indonesia stated that the Second Revision reflected its request to see the two different approaches regarding the disclosure requirement clearly differentiated. It believed that the defensive measures, like databases, were complementary to the mandatory disclosure requirement. As far as the erroneous grant of patents was concerned, the Delegation wished to consider the relevant issues further. It believed that the Second Revision provided a good basis to move the IGC negotiations forward. The Second Revision would be useful in narrowing the gaps within each of the two different approaches on disclosure requirements. The Delegation sought clarification regarding the words “international agreements”. It wondered whether they meant regional, bilateral or multilateral agreements. Such clarification would be important as they might impact on the objective of the instrument as formulated in Article 1.1 and on the relationship with international agreements in Article 8. The Delegation emphasized that some Member States were the parties to the CBD and the Nagoya Protocol, and were supportive of a consistent relationship between those specific instruments and the present instrument. Regarding the words “conflict of laws” in Alt Article 8.2, it sought clarification as to whether this reference was applicable in the public international law sphere. The Delegation reserved its rights to make further comments at a later stage. It urged the Committee to narrow the remaining gaps, especially in the disclosure part on key issues. It expressed its readiness to strive towards this objective in a constructive and collaborative way.

174. The Delegation of Canada referred to a proposal made by the Delegation of Ghana to add an opening sentence at the beginning of Article 7 on “Prevention of the [erroneous] grant of patents and voluntary codes of conduct” in order to state that this Article was in complement to mandatory disclosure, as it was reflected in the ALT paragraph on page 13 of the clean version. The Delegation wished to have this proposal bracketed, and completed by an alternative that would specify that this article could also be conceived as an alternative to mandatory disclosure.

175. The Delegation of the Republic of Korea observed that the structure of the text in the Second Revision had been rearranged quite a lot compared to the Consolidated Document. It felt that the new structure was still confusing though. It referred for example to Article 1. The Delegation was unsure whether the options, like Alternative 2, were only applicable to the provisions that included mandatory disclosure and defensive measures complementary to mandatory disclosure all together, or whether those objectives were also applicable to at least some of the provisions with no new disclosure requirement. The Delegation noted that Alternative 2 under Article 1 was essentially the same as that in the Consolidated Document which included no new disclosure provisions. As for the alternative Article 1 “Objective” under

the “no new disclosure requirements” section, it felt that more work needed to be done, since it was too broad and did not reflect the same objectives of the instrument.

176. The Delegation of Nigeria, speaking on behalf of the African Group, felt that the text provided higher clarity on the different streams of thought. It believed that it would have opportunities to make specific comments as the Committee proceeded. It welcomed the Second Revision as a basis for future discussions.

177. The Delegation of Colombia considered that the Second Revision was an improved version compared to Rev. 1. The Second Revision reflected all positions, clarified the structure of the text and could serve as a basis for future work.

178. The Delegation of Egypt supported the statement made by the Delegation of Nigeria, on behalf of the African Group. It referred to the definition of “Protected genetic resources” which was missing from the list of terms and required further discussions as the facilitators recognized. It acknowledged that GRs were not protected as a patent, because they were not inventions. But GRs were protected under the CBD. Therefore, the expiration of a patent based on GRs had no effect on their protection under the CBD and the relevant GRs would not thereby fall into the public domain. This should be reflected clearly in the text.

179. The Chair closed the agenda item.

Decision on Agenda Item 7:

180. The Committee developed, on the basis of document WIPO/GRTKF/IC/30/4, a “Second Revision of the Consolidated Document Relating to Intellectual Property and Genetic Resources”. The Committee decided that this text, as at the close of the session on June 3, 2016, be transmitted to the Thirty-Fourth session of the Committee, in accordance with the Committee’s mandate for 2016-2017 and the work program for 2017, as contained in document WO/GA/47/19.

AGENDA ITEM 8: ANY OTHER BUSINESS

Decision on Agenda Item 8:

181. There was no discussion under this item.

AGENDA ITEM 9: CLOSING OF THE SESSION

182. The Chair expressed his appreciation for the African Group having organized a roundtable the week before and for its engagement with other Member States. As he had indicated before, all delegations had to be flexible and pragmatic so as to come up with a solution which took into account the interests of Member States. He encouraged Member States to undertake such Member State driven activities. The Chair believed that the Second Revision contained within it a solution. All delegations needed to take that forward and show political commitment.

The Chair thanked the Vice-Chairs, Ambassador Tene and Mr. Liedes, with whom he had worked closely. He assured that they would engage on a regular basis during the intersessional period and consider carefully the way forward. Recognizing that some procedural issues had caused difficulties during the week, the Chair and two Vice-Chairs would consult with Member States so as to prepare for IGC 31. The Chair thanked the facilitators who had had a very difficult task. Although not everybody agreed with the process, nobody could disagree with their effort and diligence. The facilitators had attempted to present all views in a fair and balanced manner and in good faith. The Chair thanked the Regional Coordinators for their support. He wished to continue to engage with them during the intersessional period. The Chair thanked the Seminar moderators, speakers and rapporteurs who had given excellent presentations. The Chair thanked all delegations for their engagement in a respectful and friendly manner. The Chair thanked key stakeholders such as the Indigenous Caucus, industry representatives and representatives of civil societies. He emphasized the need to replenish the Voluntary Fund. Regarding the industry participation, he had put forward a proposal that industry representatives participate in the informals, but there had not been full support for this suggestion. He asked all Member States to reconsider the proposal. The Chair thanked the interpreters. Finally, the Chair thanked the Secretariat which supported the Committee at all times.

183. The Chair closed the session.

Decision on Agenda Item 9:

184. The Committee adopted its decisions on agenda items 2, 3, 4, 5, 6 and 7 on June 3, 2016. 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 by July 15, 2016. 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.

[Annex follows]

**LISTE DES PARTICIPANTS/
LIST OF PARTICIPANTS**

I. ÉTATS/STATES

(dans l'ordre alphabétique des noms français des États)
(in the alphabetical order of the names in French of the States)

AFRIQUE DU SUD/SOUTH AFRICA

Yonah SELETI, Chief Director, Department of Science and Technology (DST), Pretoria

Tom SUCHANANDAN, Policy Development, Science and Technology, Pretoria
tom.suchanandan@dst.gov.za

Masisange MKETSU, Expert, Companies and Intellectual Property Commission (CIPC), Ministry of Trade and Industry, Pretoria

ALGÉRIE/ALGERIA

Lounes ABDOUN, directeur général adjoint, Office national des droits d'auteurs et droits voisins (ONDA), Ministère de la culture, Alger
dg-onda@onda.dz

Fayssal ALLEK, premier secrétaire, Mission permanente, Genève
allek@mission-algeria.ch

ALLEMAGNE/GERMANY

Pamela WILLE (Ms.), Counsellor, Economic Division, Permanent Mission, Geneva
wi-2-io@genf.diplo.de

ANGOLA

Alberto Samy GUIMARÃES, Second Secretary, Permanent Mission, Geneva

ARABIE SAOUDITE/SAUDI ARABIA

Abdulmuhsen ALJEED, Director, Examination Department, Saudi Patents Office (SPO), King Abdulaziz City for Science and Technology (KACST), Riyadh

Mohammed MAHZARI, Senior Patent Specialist, Saudi Patent Office (SPO), King Abdulaziz City for Science and Technology, Riyadh
mahzari@kacst.edu.sa

Muted ALDOSARI, Patent Examiner, Saudi Patent Office (SPO), King Abdulaziz City for Science and Technology, Riyadh

Munir ALRWAILY, Scientific Research, Saudi Patent Office (SPO), King Abdulaziz City for Science and Technology, Riyadh

ARGENTINE/ARGENTINA

Juan Ignacio CORREA, Asesor Legal, Subsecretaría de Coordinación Institucional, Ministerio de Agroindustria, Buenos Aires

Nicolas Carlos ABAD, Secretario de Embajada, Dirección de Asuntos Económicos Multilaterales, Ministerio de Relaciones Exteriores y Culto, Buenos Aires
nba@mrecic.gov.ar

María Inés RODRÍGUEZ (Sra.), Consejera, Misión Permanente, Ginebra

AUSTRALIE/AUSTRALIA

Gavin LOVIE, Director, International Policy and Cooperation Department, IP Australia, Canberra

Ian GOSS, General Manager, Continuous Improvement Projects, IP Australia, Canberra

Steven BAILIE, Assistant Director, International Policy and Cooperation Department, IP Australia, Canberra

Jo FELDMAN (Ms.), First Secretary, Permanent Mission, Geneva

AZERBAÏDJAN/AZERBAIJAN

Zahir HAJIYEV, Head, Examining and Legal Enforcement Department, State Committee for Standardization, Metrology and Patents, Center of Examination on Industrial Property Objects, Baku
zahir_hajiyev@yahoo.com

BAHAMAS

Bernadette BUTLER (Ms.), Minister-Cousellor, Permanent Mission, Geneva

BHOUTAN/BHUTAN

Kinley WANGCHUK, Minister Counsellor, Permanent Mission, Geneva

BOLIVIE (ÉTAT PLURINATIONAL DE)/BOLIVIA (PLURINATIONAL STATE OF)

Luis Fernando POSALES LOZADA, Primer Secretario, Misión Permanente, Ginebra

Carlos Ricardo CRESPO TORRICO, Pasante, Misión Permanente, Ginebra

BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

Sarac JOVAN, Deputy Director, Institute for Intellectual Property of Bosnia and Herzegovina, Mostar

BRÉSIL/BRAZIL

Daniel PINTO, Head, Intellectual Property Division, Ministry of External Relations, Brasilia

Erica LEITE (Ms.), Expert, General Coordination of International Issues Department, National Institute of Industrial Property (INPI), Rio de Janeiro

Rodrigo Mendes ARAÚJO, First Secretary, Permanent Mission to the World Trade Organization (WTO), Geneva

Cauê OLIVEIRA FANHA, First Secretary, Permanent Mission to the World Trade Organization (WTO), Geneva

BURUNDI

Philippe MINANI, deuxième conseiller, Mission permanente, Genève

CAMEROUN/CAMEROON

Beng NDJALI, sous-directeur de la propriété industrielle, Direction du développement technologique et de la propriété industrielle (DDTPI), Ministère des mines, de l'industrie et du développement technologique (MINMIDT), Yaoundé

Roger Noël IROUME, inspecteur général, Département de l'inspection générale, Ministère de la recherche scientifique et de l'innovation (MINRESI), Yaoundé
iroumerog@hotmail.fr

Boubakar LIKIBY, secrétaire permanent, Ministère de la recherche scientifique et de l'innovation (MINRESI), Yaoundé

CANADA

Nadine NICKNER (Ms.), Senior Trade Policy Officer, Intellectual Property Trade Policy Division, Ministry of Global Affairs, Ottawa

Shelley ROWE (Ms.), Senior Leader, Copyright and Trademark Policy Directorate, Ministry of Innovation, Science and Economic Development, Ottawa

Frédérique DELAPRÉE (Ms.), Second Secretary, Permanent Mission, Geneva

CHILI/CHILE

Teresa AGÜERO (Sra.), Encargada, Asuntos Ambientales, Recursos Genéticos y Bioseguridad, Oficina de Estudios y Políticas Agrarias, Ministerio de Agricultura, Santiago
taquero@odepa.gob.cl

Nelson CAMPOS, Asesor Legal, Departamento de Propiedad Intelectual, Dirección General de Relaciones Económicas Internacionales (DIRECON), Ministerio de Relaciones Exteriores, Santiago
ncampos@direcon.gob.cl

Rodrigo PAILLALEF, Agregado Científico, Misión Permanente, Ginebra
rpailalef@minrel.gob.cl

CHINE/CHINA

ZHANG Ling (Ms.), Project Officer, International Cooperation Department, State Intellectual Property Office (SIPO), Beijing

YANG Hongju (Ms.), Director, Legal Affairs Department, State Intellectual Property Office (SIPO), Beijing

LIU Shaoxuan, Second Secretary, Permanent Mission, Geneva

ZHANG Wei, Second Secretary, Permanent Mission, Geneva

SHI Yuefeng, Attaché, Permanent Mission, Geneva

COLOMBIE/COLOMBIA

Gabriel DUQUE M., Embajador, Representante Permanente, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

Beatriz LONDOÑO SOTO (Sra.), Embajadora, Representante Permanente, Misión Permanente, Ginebra

Liliana ARIZA (Sra.), Asesora, Dirección de Inversión Extranjera y Servicios, Ministerio de Comercio, Industria y Turismo, Bogotá D.C.

Manuel Andrés CHACÓN, Consejero Comercial, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

María Catalina GAVIRIA BRAVO (Sra.), Consejera, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

Juan Camilo SARETZKI FORERO, Consejero, Misión Permanente, Ginebra

CONGO

Calixte Auguste BOBOZE, chef, Bureau des brevets et des signes distinctifs, Antenne nationale de la propriété industrielle (ANPI), Brazzaville

CÔTE D'IVOIRE

Mobio Marc LOBA, conseiller, Mission permanente, Genève

CUBA

Madelyn RODRÍGUEZ LARA (Sra.), Primera Secretaria, Misión Permanente, Ginebra

DANEMARK/DENMARK

Roman TSURKAN, Special Legal Adviser, Danish Patent and Trademark Office, Ministry of Business and Growth, Taastrup

ÉGYPTE/EGYPT

Abdelfattah BADR, Professor, Egyptian Patent Office, Academy of Scientific Research and Technology (ASRT), Ministry of Science, Research, Cairo

Heidy SERRY (Mrs.), Second Secretary, Permanent Mission, Geneva

EL SALVADOR

Diana HASBUN (Sra.), Ministra Consejera, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

Gustavo Eduardo PINEDA NOLASCO, Asistente Técnico, Departamento de Pueblos Indígenas, Secretaría de Cultura de la Presidencia (SECULTURA), San Salvador

ÉQUATEUR/ECUADOR

René RAMÍREZ GALLEGOS, Secretario, Secretaría de Educación Superior, Ciencia, Tecnología e Innovación, Ministerio Coordinador de Conocimiento y Talento Humano, Quito

Stephanie Cristina LEÓN CALLE (Sra.), Experta Principal, Unidad de Conocimientos Tradicionales, Instituto Ecuatoriano de la Propiedad Intelectual (IEPI), Quito

Emilio Fernando UZCATÉGUI JIMÉNEZ, Asesor en Conocimientos Tradicionales y Propiedad Intelectual, Secretaría de Educación Superior, Ciencia, Tecnología e Innovación, Ministerio Coordinador de Conocimiento y Talento Humano, Quito

Ñusta MALDONADO (Sra.), Tercera Secretaria, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

ESPAGNE/SPAIN

Ana URRECHA ESPULGA (Sra.), Experta, Departamento de Coordinación Jurídica y Relaciones Internacionales, Oficina Española de Patentes y Marcas (OEPM), Madrid

Xavier BELLMONT ROLDAN, Consejero, Ministerio de Asuntos Exteriores y de Cooperación, Misión Permanente, Ginebra

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

Theodore ALLEGRA, Ministry Counsellor, Deputy Permanent Representative, Permanent Mission, Geneva

Dominic KEATING, Director, Intellectual Property Attaché Program, Office of Policy and International Affairs, United States Patent and Trademark Office (USPTO), Alexandria

Karin FERRITER (Ms.), Patent Attorney, Office of Policy and International Affairs, United States Patent and Trademark Office (USPTO), Alexandria

Melissa KEHOE (Ms.), Counsellor, Economic and Science Affairs, Permanent Mission, Geneva

Yasmine FULENA (Ms.), Intellectual Property Attaché, Economic and Science Affairs Section, Permanent Mission, Geneva

Deborah LASHLEY-JOHNSON (Ms.), Intellectual Property Attaché, Permanent Mission to the World Trade Organization (WTO), Geneva

Kristine SCHLEGELMILCH (Ms.), Intellectual Property Attaché, Economic and Science Affairs Section, Permanent Mission, Geneva

ÉTHIOPIE/ETHIOPIA

Negash Kebret BOTORA, Ambassador, Permanent Representative, Permanent Mission, Geneva

Mandefro ESHETE W., Director General, Ethiopian Intellectual Property Office (EIPO), Addis Ababa

Yanit Abera HABTEMARIAM (Ms.), Second Secretary, Permanent Mission, Geneva

EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE/THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Natasha ZDRAVKOVSKA KOLOVSKA (Ms.), Deputy Head, Legal Department, State Office of Industrial Property (SOIP), Skopje

Sonja ZMEJKOSKA (Ms.), Advisor, Department of Patents, State Office of Industrial Property (SOIP), Skopje
sonja.zmejkoska@ippo.gov.mk

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION

Larisa SIMONOVA (Ms.), Researcher, Law Division, Federal Service for Intellectual Property (ROSPATENT), Moscow

FIDJI/FIJI

Ajendra Adarsh PRATAP, First Secretary, Permanent Mission, Geneva

FINLANDE/FINLAND

Jukka LIEDES, Special Adviser to the Government, Helsinki

Anna VUOPALA (Ms.), Government Counsellor, Copyright and Economy of Culture Department, Ministry of Education and Culture, Helsinki

Mika KOTALA, Legal Adviser, Trade and Labour Department, Ministry of Employment and the Economy, Helsinki

Soile KAURANEN (Ms.), Counsellor, Permanent Mission, Geneva

FRANCE

Daphné DE BECO (Mme), chargée de mission, Département juridique et administratif, Institut national de la propriété industrielle (INPI), Courbevoie

Olivier MARTIN, conseiller, Mission permanente, Genève

GHANA

Sammie Pesky EDDICO, Ambassador, Permanent Representative, Permanent Mission, Geneva

Ebenezer APPREKU, Minister, Deputy Permanent Representative, Permanent Mission, Geneva

Paul KURUK, Professor of Law, Institute of African Development (INADEV), Accra

Joseph OWUSU-ANSAH, First Secretary, Permanent Mission, Geneva

GRÈCE/GREECE

Paraskevi NAKIOU (Ms.), Attaché, Permanent Mission, Geneva

GUATEMALA

Silvia Leticia GARCÍA HERNÁNDEZ (Sra.), Profesional II, Registro de la Propiedad Intelectual (RPI), Ministerio de Economía, Guatemala

Flor de María GARCÍA DÍAZ (Sra.), Consejera, Misión Permanente, Ginebra

HONDURAS

Giampaolo RIZZO-ALVARADO, Embajador, Representante Permanente Adjunto, Misión Permanente, Ginebra

Gilliam Noemí GÓMEZ GUIFARRO (Sra.), Primera Secretaria, Misión Permanente, Ginebra

María José MEJÍA HENRRÍQUEZ (Sra.), Tercera Secretaria, Misión Permanente, Ginebra

HONGRIE/HUNGARY

Krisztina KOVÁCS (Ms.), Head, Industrial Property Law Section, Hungarian Intellectual Property Office, Budapest

INDE/INDIA

B.N. REDDY, Deputy Permanent Representative, Permanent Mission, Geneva

Padmapriya BALAKRISHNAN (Ms.), Chief Executive Officer, National Medicinal Plants Board, Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH), New Delhi
padmapriya_ifs@yahoo.com

Sushil Kamlakar SATPUTE, Director, Ministry of Commerce and Industry, New Delhi
sushil.satpute@nic.in

Biswajit DHAR, Professor, Centre for Economic Studies and Planning, School of Social Sciences Jawaharlal Nehru University, New Delhi

Sumit SETH, First Secretary, Permanent Mission, Geneva

INDONÉSIE/INDONESIA

Robert Matheus Michael TENE, Ambassador, Deputy Permanent Representative, Permanent Mission, Geneva

Adi DZULFUAT, Expert, Multilateral Affairs, Ministry of Foreign Affairs, Jakarta

Bianca SIMATUPANG (Ms.), Expert, Law and Treaties Department, Ministry of Foreign Affairs, Jakarta
bianca.simatupang@gmail.com

Epafras SITEPU, Expert, Law and Treaties Department, Ministry of Foreign Affairs, Jakarta
epafras.sehvid@kemlu.go.id

Denny ABDI, Couselor, Permanent Mission, Geneva

Erik MANGAJAYA, Second Secretary, Permanent Mission, Geneva
erik.mangajaya@mission-indonesia.org

IRAN (RÉPUBLIQUE ISLAMIQUE D')/IRAN (ISLAMIC REPUBLIC OF)

Javad MOZAFARI, Director General, Academic Relations and International Affairs, Agricultural Research, Education and Extension Organization (AREEO), Tehran

Nabiollah AZAMI SARDOUEI, First Secretary, Permanent Mission, Geneva

IRAQ

Jaber AL-JABERI, Senior Undersecretary, Undersecretary Office, Ministry of Culture, Baghdad
henda84.com@gmail.com

Baqir RASHEED, Second Secretary, Permanent Mission, Geneva

ITALIE/ITALY

Vittorio RAGONESI, Legal Adviser, Ministry of Foreign Affairs, Rome
vragonesi@libero.it

Matteo EVANGELISTA, First Secretary, Permanent Mission, Geneva

Alessandro MANDANICI, First Secretary, Permanent Mission, Geneva

JAMAÏQUE/JAMAICA

Lilyclaire Elaine BELLAMY (Ms.), Executive Director, Jamaica Intellectual Property Office (JIPO), Kingston

Simara HOWELL (Ms.), First Secretary, Permanent Mission, Geneva

JAPON/JAPAN

Taizo HARA, Director, International Intellectual Property Policy Planning, International Policy Division, General Affairs Department, Japan Patent Office (JPO), Tokyo

Hirohisa OHSE, Deputy Director, Intellectual Property Affairs Division, Japan Patent Office (JPO), Ministry of Foreign Affairs, Tokyo
pa0800@jpo.go.jp

Hiroki UEJIMA, Deputy Director, International Policy Division, General Affairs Department, Japan Patent Office (JPO), Tokyo

Kenji SAITO, First Secretary, Permanent Mission, Geneva

JORDANIE/JORDAN

Hana' AL-BITAR (Ms.), Head, Post Office Registration Section, Ministry of Industry, Trade and Supply, Amman
hana.b@mit.gov.jo

KAZAKHSTAN

Madina SMANKULOVA (Ms.), Second Secretary, Permanent Mission, Geneva

KENYA

Catherine BUNYASSI KAHURIA (Ms.), Senior Principal State Counsel, International Law Division, Office of Attorney General and Department of Justice, Nairobi
kahurianyassi@yahoo.com

Peter KAMAU, Counsellor, Permanent Mission, Geneva

LETTONIE/LATVIA

Janis KARKLINS, Ambassador, Permanent Representative, Permanent Mission, Geneva

Mara ROZENBLATE (Ms.), Principal Patent Expert, Patent Office of the Republic of Latvia, Riga
mara.rozenblate@lrv.gov.lv

Liene GRIKE (Ms.), Advisor, Economic and Intellectual Property Affairs, Permanent Mission, Geneva

LIBAN/LEBANON

Charbel SAADE, Responsible of Legal Affairs, Ministry of Culture, Beirut

LITUANIE/LITHUANIA

Dovile TEBELSKYTE (Ms.), Head, Law and International Affairs Division, State Patent Bureau of the Republic of Lithuania, Vilnius

KOWEÏT/KUWAIT

Abdulaziz TAQI, Commercial Attaché, Permanent Mission, Geneva

MALAWI

Chifwayi CHIRAMBO, Principal Assistant Registrar General, Industrial Property Registry, Ministry of Justice and Constitutional Affairs, Blantyre
chifchirambo@gmail.com

MAROC/MOROCCO

Mounir EL JIRARI, chef, Division des médias audiovisuels du cinéma et des nouvelles technologies et de l'information (NTI), Direction des études et du développement des médias, Ministère de la communication, Rabat
m.eljirari@mincom.gov.ma

MEXIQUE/MEXICO

Jorge LOMÓNACO, Embajador, Representante Permanente, Misión Permanente, Ginebra

Raúl HEREDIA ACOSTA, Embajador, Representante Permanente Alterno, Misión Permanente, Ginebra

Emelia HERNÁNDEZ PRIEGO (Sra.), Subdirectora Divisional de Examen de Fondo de Patentes, Instituto Mexicano de la Propiedad Industrial (IMPI), Ciudad de México

Juan Carlos MORALES VARGAS, Subdirector Divisional de Asuntos Multilaterales y Cooperación Técnica Internacional, Instituto Mexicano de la Propiedad Industrial (IMPI), Ciudad de México

Pilar ESCOBAR BAUTISTA (Sra.), Consejera, Misión Permanente, Ginebra

Sara MANZANO MERINO (Sra.), Asesora, Misión Permanente, Ginebra

MOZAMBIQUE

Pedro COMISSARIO, Ambassador, Permanent Representative, Permanent Mission, Geneva

Felisbela Maria de Oliveira GASPAR (Ms.), Director, Traditional Medicine Institute, Ministry of Health, Maputo

Margo BAGLEY (Ms.), Professor of Law, University of Virginia, Virginia
margo.bagley@gmail.com

Olga MUNGUAMBE (Ms.), Commercial Counsellor, Permanent Mission, Geneva

NAMIBIE/NAMIBIA

Pierre DU PLESSIS, Senior Consultant, Centre for Research Information Action in Africa-Southern Africa Development and Consulting, Windhoek
pierre.sadc@gmail.com

NÉPAL/NEPAL

Lakshuman KHANAL, Second Secretary, Permanent Mission, Geneva

NICARAGUA

Hernán ESTRADA ROMÁN, Embajador, Representante Permanente, Misión Permanente, Ginebra

Jenny ARANA VIZCAYA (Sra.), Primera Secretaria, Misión Permanente, Ginebra

NIGER

Amadou TANKOANO, professeur de droit de propriété industrielle, Faculté des sciences économiques et juridiques, Université Abdou Moumouni de Niamey, Niamey

NIGÉRIA/NIGERIA

Peters EMUZE, Minister, Deputy Permanent Representative, Permanent Mission, Geneva

Ruth OKEDJI (Ms.), Professor of Law, University of Minnesota, Minneapolis

Chidi OGUAMANAM, Professor of Law, University of Ottawa, Ottawa

Chichi UMESI (Ms.), First Secretary, Permanent Mission, Geneva

NORVÈGE/NORWAY

Marthe Kristine Fjeld DYSTLAND (Ms.), Acting Legislative Adviser, Legislation Department, Ministry of Justice and Public Security, Oslo
marthe.dystland@jd.dep.no

NOUVELLE-ZÉLANDE/NEW ZEALAND

Ema HAO'ULI (Ms.), Policy Advisor, Business Law Department, Ministry of Business, Innovation and Employment, Wellington
ema.haouli@mbie.govt.nz

Kate Lin SWAN (Ms.), Second Secretary, Permanent Mission, Geneva

OUGANDA/UGANDA

George NGOBI, Junior International Trade Consultant, Permanent Mission, Geneva

OUZBÉKISTAN/UZBEKISTAN

Jakhongir MANSUROV, Head, Agency on Intellectual Property of the Republic of Uzbekistan, Tashkent

PANAMA

Leonardo URIBE COMBE, Director General, Dirección General del Registro de la Propiedad Industrial (DIGERPI), Ministerio de Comercio e Industrias, Panamá

Krizia MATTHEWS (Sra.), Consejera Legal, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

PARAGUAY

Walter RECALDE BRITOS, Director de Conocimientos Tradicionales, Dirección Nacional de Propiedad Intelectual (DNPI), Asunción

Roberto RECALDE, Segundo Secretario, Misión Permanente, Ginebra

PÉROU/PERU

Judith ESTRELLA (Sra.), Examinadora de Patentes, Dirección de Invenciones y Nuevas Tecnologías, Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (INDECOPÍ), Lima
jestrella@indecopi.gob.pe

Luis MAYAUTE, Ministro Consejero, Misión Permanente, Ginebra
lmayaute@onuperu.org

PHILIPPINES

Rachelle Ann MAYUGA (Ms.), Executive Assistant IV, Office of the Director General, Intellectual Property Office of the Philippines (IPOPHIL), Taguig City
rachelle.mayuga@ipophil.gov.ph

Arnel TALISAYON, First Secretary, Permanent Mission, Geneva

Jayroma BAYOTAS (Ms.), Attaché, Permanent Mission, Geneva

POLOGNE/POLAND

Wojciech PIATKOWSKI, Minister Counsellor, Permanent Mission, Geneva

PORTUGAL

João PINA DE MORAIS, First Secretary, Permanent Mission, Geneva

RÉPUBLIQUE CENTRAFRICAINE/CENTRAL AFRICAN REPUBLIC

Aline Gisèle PANA (Mme), ministre, Ministère des arts, du tourisme, de la culture et de la francophonie, Bangui

Georges Davy GUIGUIKEMBI TOUCKIA, conseiller technique en matière des arts et de la culture, Cabinet du ministre, Ministère des arts, du tourisme, de la culture et de la francophonie, Bangui
geotouckia@gmail.com

RÉPUBLIQUE DE CORÉE/REPUBLIC OF KOREA

LEE Soo-Jung (Ms.), Deputy Director, Biotechnology Examination Division, Korean Intellectual Property Office (KIPO), Daejeon
sjl2009@korea.kr

KWAK Choong Mok, Research Specialist, Korea Institute of Intellectual Property (KIIP), Seoul
cmkwak@kiip.re.kr

JUNG Dae Soon, Intellectual Property Attaché, Permanent Mission, Geneva

KIM Shi-Hyeong, Intellectual Property Attaché, Permanent Mission, Geneva

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

Evžen MARTÍNEK, Lawyer, International Department, Industrial Property Office, Prague
emartinek@upv.cz

ROUMANIE/ROMANIA

Irina LUCAN-ARJOCA (Ms.), Acting Director General, Romanian Copyright Office (ORDA),
Bucharest
irinalucanarjoca@yahoo.com

Cătălin NIȚU, Director, Legal Affairs Department, State Office for Inventions and Trademarks
(OSIM), Bucharest

Cristian FLORESCU (Ms.), Head, International Relations Department, Romanian Copyright
Office (ORDA), Bucharest
florescucristiann@yahoo.com

Mirela GEORGESCU (Ms.), Head, Chemistry and Pharmaceutical Division, State Office for
Inventions and Trademarks (OSIM), Bucharest

ROYAUME-UNI/UNITED KINGDOM

Beverly PERRY (Ms.), Policy Officer, International Policy Directorate, Intellectual Property Office
(IPO), Newport

Grega KUMER, Senior Intellectual Property Adviser, Permanent Mission, Geneva

SÉNÉGAL/SENEGAL

Lamine Ka MBAYE, premier secrétaire, Mission permanente, Genève

SLOVAQUIE/SLOVAKIA

[Jakub SLOVÁK, Third Secretary, Permanent Mission, Geneva](#)

SOUDAN/SUDAN

Azza MOHAMMED ABDALLAHASSAN (Ms.), Second Secretary, Permanent Mission, Geneva

SRI LANKA

Ravinatha P. ARYASINHA, Ambassador, Permanent Representative, Permanent Mission,
Geneva

Rathnapulli H. Mynattuge Pathmalatha ABEYKOON. (Ms.), Director, Biodiversity Division,
Ministry of Mahaweli Development and Environment, Colombo

Dilini GUNASEKERA (Ms.), Second Secretary, Permanent Mission, Geneva

SUÈDE/SWEDEN

Patrick ANDERSSON, Senior Adviser International Affairs, Swedish Patent and Registration Office (SPRO), Stockholm

John BÄCKNÄS, First Secretary, Permanent Mission, Geneva

SUISSE/SWITZERLAND

Martin GIRSBERGER, chef, Développement durable et coopération internationale, Division droit et affaires internationales, Institut fédéral de la propriété intellectuelle (IPI), Berne

Georges André BAUER, conseiller juridique, Division droit et affaires internationales, Institut fédéral de la propriété intellectuelle (IPI), Berne

Marco D'ALESSANDRO, conseiller juridique, Division droit et affaires internationales, Institut fédéral de la propriété intellectuelle (IPI), Berne

Sanaz JAVADI (Mme), stagiaire, Division droit et affaires internationales, Institut fédéral de la propriété intellectuelle (IPI), Berne

Reynald VEILLARD, conseiller, Mission permanente, Genève

TADJIKISTAN/TAJIKISTAN

Parviz MIRALIEV, Head, Department of International Registration of Trademarks, State Institution National Center for Patent Information, Ministry of Economy Development and Trade of the Republic of Tajikistan, Dushanbe

Parviz EMOMOV, Second Secretary, Permanent Mission, Geneva

THAÏLANDE/THAILAND

Navarat TANKAMALAS (Ms.), Minister Counsellor, Permanent Mission to the World Trade Organization (WTO), Geneva

Veerapong MALAI, Director General, Biodiversity Based Economy Development Office, Ministry of Natural Resources and Environment, Bangkok

Suriya WONGKONGKATHEP, Director General, Department for Development of Thai Traditional and Alternative Medicine, Ministry of Public Health, Nonthaburi
suriya@health.moph.go.th

Waraporn PROMPOJ (Ms.), Deputy Director General, Department of Agriculture Thailand, Bangkok

Nunthasak CHOTICHANADECHAWONG, Director, Department for Development of Thai Traditional and Alternative Medicine, Ministry of Public Health, Nonthaburi

Krithpaka BOONFUENG (Ms.), Director, Legal and Intellectual Property Department, Ministry of Natural Resources and Environment, Bangkok

Tossaporn SRISAKDI, Head, Bureau of Animal Husbandry and Genetic Improvement, Department of Livestock Development, Ministry of Agriculture and Cooperatives, Bangkok
tossaporn.dld@gmail.com

Bongtmas HONGTHONG (Ms.), Senior Legal Officer, Department of Intellectual Property, Ministry of Commerce, Bangkok

Thananya WONGCHAN (Ms.), Legal Counsel, International Trade and Intellectual Property Law Division, Office of the Council of State, Bangkok
thananyah@gmail.com

Pan PANKHAO, Agricultural Officer, Department of Agriculture, Bangkok

Varapote CHENSAVASDIJAI, Counsellor, Permanent Mission, Geneva

Sudkhet BORIBOONSRI, Counsellor, Permanent Mission to the World Trade Organization (WTO), Geneva

TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

Justin SOBION, First Secretary, Permanent Mission, Geneva

TUNISIE/TUNISIA

Walid DOUDCH, ambassadeur, représentant permanent, Mission permanente, Genève

Mokhtar M. HAMDY, directeur, Département de la propriété industrielle, Institut national de la normalisation et de la propriété industrielle (INNORPI), Ministère de l'industrie et de la technologie, Tunis

Raja YOUSFI MNASRI, conseiller, Mission permanente, Genève

TURKMÉNISTAN/TURKMENISTAN

Orazmyrat SAPARMYRADOV, Head, Examination Department, State Service on Intellectual Property under the Ministry of Economy and Development of Turkmenistan, Ashgabat

TURQUIE/TURKEY

Kemal Demir ERALP, Patent Examiner, Patent Department, Turkish Patent Institute, Ankara

Osman GOKTURK, Second Secretary, Permanent Mission to the World Trade Organization (WTO), Geneva

UKRAINE

Andrew KUDIN, Director General, State Intellectual Property Service of Ukraine (SIPS), Ukrainian Intellectual Property Institute (Ukrpatent), Ministry of Economic Development and Trade of Ukraine, Kyiv
a.kudin@ukrpatent.org

Oleksii SKUBKO, Deputy Head, Public Relations and Protocol Events Department, State Intellectual Property Service of Ukraine (SIPS), Ukrainian Intellectual Property Institute (Ukrpatent), Ministry of Economic Development and Trade of Ukraine, Kyiv
yk@ukrpatent.org

Sergii TORIANIK, Deputy Head, State Intellectual Property Service of Ukraine (SIPS), Ukrainian Intellectual Property Institute (Ukrpatent), Ministry of Economic Development and Trade of Ukraine, Kyiv
s.toryanik@ukrpatent.org

VANUATU

John Stephen HURI, Traditional Knowledge and Trademark Officer, Intellectual Property Officer of the Republic of Vanuatu, Port Vila

VENEZUELA (RÉPUBLIQUE BOLIVARIENNE DU)/VENEZUELA (BOLIVARIAN REPUBLIC OF)

Anny ROJAS MATA (Sra.), Segunda Secretaria, Misión Permanente, Ginebra

VIET NAM

NGUYEN Thanh Tu (Ms.), Director, Patent Division No. 3, National Office of Intellectual Property (NOIP), Hanoi

ZAMBIE/ZAMBIA

Margret M. KAEMBA (Ms.), Minister Counsellor, Permanent Mission, Geneva

ZIMBABWE

Taonga MUSHAYAVANHU, Ambassador, Permanent Representative, Permanent Mission, Geneva

Rhoda Tafadzwa NGARANDE (Ms.), Counsellor, Permanent Mission, Geneva

Julia MAPUNGWANA (Ms.), Attaché, Permanent Mission, Geneva

II. DÉLÉGATION SPÉCIALE/SPECIAL DELEGATION

UNION EUROPÉENNE (UE)/EUROPEAN UNION (EU)

Oliver HALL-ALLEN, First Counselor, Permanent Delegation to the United Nations, Geneva

Michael KOENING, Deputy Head, Industrial Property Unit, Directorate General for Internal Market and Services, Brussels

Margreet GROENENBOOM (Ms.), Policy Officer, Industrial Property, Directorate General for Internal Market, Industry, Entrepreneurship and Small and Medium-Sized Enterprises, European Commission, Brussels

Barna POSTA, Intern, Permanent Delegation to the United Nations, Geneva

Andrea TANG (Ms.), Intern, Permanent Delegation to the United Nations, Geneva

III. OBSERVATEURS/OBSERVERS

PALESTINE

Ibrahim KHRAISHI, Ambassador, Permanent Observer, Permanent Mission, Geneva

Sami M. K. BATRAWI, Director General, Intellectual Property Unit, Ministry of Culture, Ramallah City

Ibrahim MUSA, Counsellor, Permanent Observer, Permanent Mission, Geneva

IV. ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES/ INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

CENTRE SUD (CS)/SOUTH CENTRE (SC)

Carlos M. CORREA, Special Adviser, Trade and Intellectual Property, Geneva

Viviana MUNOZ TELLEZ (Ms.), Coordinator, Development, Innovation and Intellectual Property Programme, Geneva

Nirmalya SYAM, Programme Officer, Development, Innovation and Intellectual Property Programme, Geneva

GENERAL SECRETARIAT OF THE ANDEAN COMMUNITY

Elmer SCHIALER, Director General, Lima
eschialer@comunidadandina.org

Deyanira CAMACHO (Sra.), Funcionaria Internacional en Propiedad Intelectual, Lima
dcamacho@comunidadandina.org

HAUT-COMMISSARIAT DES NATIONS UNIES AUX DROITS DE L'HOMME (HCDH)/OFFICE
OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR)

Hannah McGLADE (Ms.), Senior Indigenous Fellow, Geneva

ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET L'AGRICULTURE
(FAO)/FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

Dan LESKIEN, Senior Liaison Officer, Secretariat of the Commission on Genetic Resources for Food and Agriculture, Rome

ORGANISATION EUROPÉENNE DES BREVETS (OEB)/EUROPEAN PATENT
ORGANISATION (EPO)

Alessia VOLPE (Ms.), Coordinator, International Cooperation, Munich
avolpe@epo.org

Anna BACCHIN (Ms.), Lawyer, Directorate Patent Law, Munich

ORGANISATION RÉGIONALE AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE
(ARIPO)/AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

Emmanuel SACKEY, Intellectual Property Development Executive, Industrial Property Department, Harare

SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY (SCBD)

Valerie NORMAND (Ms.), Senior Programme Officer, Access and Benefit Sharing, Nagoya Protocol Unit, Montreal

V. ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES/
INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

ADJMOR

Hamadi AG MOHAMED ABBA, Member, Essakane

Assembly of Armenians of Western Armenia, The
Renik AVETISYAN, représentant officiel, Bagneux
Simon DARONIAN, représentant officiel, Bagneux
Lydia MARGOSSIAN (Mme), représentant officiel, Bagneux
Sarin TAVAITIAN (Mme), représentant officiel, Bagneux

Association américaine du droit de la propriété intellectuelle (AIPLA)/American Intellectual
Property Law Association (AIPLA)

Debora PLEHN-DUJOWICH (Ms.), Chair, Biotechnology Committee, Washington D.C.
deboraplehn@prismaticlaw.com

Association européenne des étudiants en droit (ELSA International)/European Law Students' Association (ELSA International)

Rowena Melissa Sylvanna PALIJAMA (Ms.), Delegate, Brussels

Association of Kunas United for Mother Earth (KUNA)

Nelson DE LEÓN KANTULE, Vocal Directivo, Panamá
duleigar@gmail.com

Biodiversity

Isabel LÓPEZ NORIEGA (Ms.), Policy Specialist, Geneva
i.lopez@cgiar.org

Centre de documentation, de recherche et d'information des peuples autochtones (DoCip)/Indigenous Peoples' Center for Documentation, Research and Information (DoCip)

David MATTHEY-DORET, directeur, Genève
Pierrette BIRRAUX (Mme), conseillère scientifique, Genève
María BAILE RUBIO (Mme), interprète, Genève
Bianca SUAREZ-PHILLIPS (Mme), interprète, Genève
Fabrice PERRIN, assistant, Genève
Juvenal Andrés DEL CASTILLO VARGAS, membre, Genève
Karen PFEFFERLI (Mme), membre, Genève
Claire MORETTO (Mme), membre, Genève
Le Tuyet Trinh TO, membre, Genève
Ellen WALKER (Mme), membre, Genève

Centre du commerce international pour le développement (CECIDE)/International Trade Center for Development (CECIDE)

Biro DIAWARA, représentant, chef du bureau, Genève

Centre international pour le commerce et le développement durable (ICTSD)/International Center for Trade and Sustainable Development (ICTSD)

Pedro ROFFE, Senior Associate, Innovation Programme, Geneva
David CHAPMAN, Junior Associate, Innovation and Intellectual Property Programme, Geneva
dchapman@ictsd.ch
Jimena SOTELO (Ms.), Junior Programme Officer, Innovation Programme, Geneva

Chambre de commerce internationale (CCI)/International Chamber of Commerce (ICC)

Timothy ROBERTS, Commission on Intellectual Property, Bracknell
tim.twr@gmail.com

Chamber of Commerce and Industry of the Russian Federation (CCIRF)

Elena KOLOKOLOVA (Ms.), Representative, Geneva

Civil Society Coalition (CSC)

Marc PERLMAN, Fellow, Providence

CropLife International (CROPLIFE)

Tatjana SACHSE (Ms.), Legal Adviser, Geneva

CS Consulting

Louis VAN WYK, Director, Pretoria

Culture of Afro-indigenous Solidarity (Afro-Indigène)

Ana LEURINDA (Mme), présidente, Genève

Fédération internationale de la vidéo (IFV)/International Video Federation (IVF)
Benoît MÜLLER, Legal Advisor, Brussels

Fédération internationale de l'industrie du médicament (FIIM)/International Federation of Pharmaceutical Manufacturers Associations (IFPMA)
Andrew JENNER, Executive Director, Cardiff

Fridtjof Nansen Institute, The (NFI)
Morten Walloe TVEDT, Senior Research Fellow, Oslo
Tarje ULSET, Researcher, Oslo
tau@fni.no

Health and Environment Program (HEP)
Pierre SCHERB, conseiller juridique, Genève
avocat@pierrescherb.ch
Madeleine SCHERB (Mme), économiste, Genève
madeleine@health-environment-program.org

Indian Movement - Tupaj Amaru
Lázaro PARY, Coordinador, Potosi

Indigenous ICT Task Force (IITF)
Ann-Kristin HAKANSSON (Ms.), Chair, Solna
Niskua IGUALIKINYA (Ms.), Member, Solna

International Seed Federation (ISF)
Hélène GUILLOT (Ms.), International Agricultural Manager, Nyon
h.quillot@worldseed.org

Japan Intellectual Property Organization (JIPA)
Yasuhisa KIKUCHI, Member, Tokyo
Hiromi MANABE (Ms.), Member, Tokyo
Masahiko MIYATAKE, Member, Tokyo

Knowledge Ecology International, Inc. (KEI)
Thiru BALASUBRAMANIAM, Representative, Geneva
Sophia SIMON (Ms.), Intern, Geneva

MALOCA Internationale
Omeima ABDESLAM (Ms.), Member, Geneva
Leonardo RODRÍGUEZ, International Representative, Bogotá D.C.

Massai Experience
Zohra AIT KACI ALI (Mme), présidente, Genève

Pacific Islands Forum Secretariat (PIFS)
Joe Pakoa LUI, Senior Trade Officer, External Trade, Port Vila

Third World Network (TWN)
Gopakumar KAPPOORI, Legal Advisor, New Delhi
kumargopakm@gmail.com

Traditions pour demain/Traditions for Tomorrow
Claire LAURANT (Mme), Déléguée, Rolle
tradi@tradi.info

Tulalip Tribes of Washington Governmental Affairs Department
Preston HARDISON, Policy Analyst, Washington D.C.

Union internationale pour la conservation de la nature (UICN)/International Union for Conservation of Nature (IUCN)

Aroha Te Pareake MEAD (Ms.), Chair, Economic and Social Policy, Commission on Environmental, Wellington

University of Minnesota

Sheryl D. Breen (Ms.), Associate Professor of Political Science, Minnesota

Villages unis (United Villages)

Guillaume EICHENBERGER, gestionnaire administratif, Genève

V. GRUPE DES COMMUNAUTÉS AUTOCHTONES ET LOCALES/ INDIGENOUS PANEL

Aroha Te Pareake MEAD (Ms.), Chair, Commission on Environmental, Economic and Social Policy International Union for Conservation of Nature (IUCN), Wellington

Willem Collin LOUW, Secretary, Khomani San Council, Upington

Alancay MORALES GARRO, Member, Brunka peoples, San Jose

VI. BUREAU/OFFICERS

Président/Chair: Ian GOSS (Australie/Australia)

Vice-présidents/Vice-Chairs: Jukka LIEDES (Finlande/Finland)

Robert Matheus Michael TENE (Indonésie/Indonesia)

Secrétaire/Secretary: Wend WENDLAND (OMPI/WIPO)

VII. BUREAU INTERNATIONAL DE L'ORGANISATION MONDIALE
DE LA PROPRIÉTÉ INTELLECTUELLE (OMPI)/
INTERNATIONAL BUREAU OF THE
WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Francis GURRY, directeur général/Director General

Minelik Alemu GETAHUN, sous-directeur général/Assistant Director General

Wend WENDLAND, directeur, Division des savoirs traditionnels/Director, Traditional Knowledge Division

Begoña VENERO AGUIRRE (Mme/Ms.), conseillère principale, Division des savoirs traditionnels/Senior Counsellor, Traditional Knowledge Division

Simon LEGRAND, conseiller, Division des savoirs traditionnels/Counsellor, Traditional Knowledge Division

Claudio CHIAROLLA, juriste, Division des savoirs traditionnels/Legal Officer, Traditional Knowledge Division

Daphne ZOGRAFOS JOHNSON (Mme/Ms.), juriste, Division des savoirs traditionnels/Legal Officer, Traditional Knowledge Division

Fei JIAO (Mlle/Ms.), administratrice adjointe de programme, Division des savoirs traditionnels/Associate Program Officer, Traditional Knowledge Division

Hai-Yuean TUALIMA (Mlle/Ms.), boursier à l'intention des peuples autochtones, Division des savoirs traditionnels/WIPO Indigenous Fellow, Traditional Knowledge Division

Alice MANERO (Mlle/Ms.), stagiaire, Division des savoirs traditionnels/Intern, Traditional Knowledge Division

Olivier TALPAIN, collaborateur SYNI, Division des savoirs traditionnels/SYNY Collaborator, Traditional Knowledge Division

[End of Annex and of document]