

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

Thirtieth Session
Geneva, May 30 to June 3, 2016

INDICATIVE LIST OF OUTSTANDING/PENDING ISSUES TO BE TACKLED/SOLVED

Document prepared by the Secretariat

1. At its Twenty-Ninth Session, held from February 15 to 19, 2016, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) decided to transmit to its Thirtieth Session an “Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session” (“the List”), which was annexed to the Decisions of the Twenty-Ninth Session of the Committee.
2. Pursuant to the decision above, the List is annexed to the present document.
3. *The Committee is invited to take note of the List contained in the Annex.*

[Annex follows]

ANNEX

Indicative List of Outstanding/Pending Issues to be Tackled/Solved

1. List of terms

2. Preamble

3. Policy objectives

- Efficacy and transparency
- Whether misappropriation should be retained in the text (and if so, how it should be defined)
- Complementarity/mutual supportiveness with international agreements
- Prevention/minimization of “erroneous” patents (what is appropriate term)

4. Subject matter

- Should the instrument apply to:
 - o Any IP rights or only patent right
- In addition to GRs, should the instrument also apply to:
 - o Derivatives
 - o Associated TK/TK associated with GRs

5. Disclosure requirement

- Content of disclosure
 - o Origin and/or source of the GRs
 - o Information regarding compliance with ABS requirements including PIC
- Exceptions and limitations
 - o Type of exceptions
 - o Public interest related exceptions only
- IP/patent subject matter eligibility for GRs and/or derivative as found in nature or isolated therefrom
- Consequence of non-compliance
 - o Minimum and/or maximum standard agreement
 - o Measures/sanctions within and/or outside patent system
 - o Permissible conditions for revocation
- Trigger
 - o Claimed invention directly based on subject matter
 - o Utilization of subject matter
 - o Need for physical access or access to non-tangible subject matter
- Relationship with national and domestic ABS regimes
 - o Role of the IP/patent office in relation to notification of disclosure-related information to the Clearing House Mechanism of the CBD/NP/ITPGRFA

6. Defensive measures/No Disclosure

- Consideration of the need for additional due diligence measures/systems

7. Databases

- Databases as defensive measures or supplementary measures to a disclosure requirement
- Safeguards for TK that is widely held and/or publicly available
- Burden on traditional knowledge holders and member states

- 8. Relationship with International Agreements, including PCT and PLT**
- 9. Transboundary Cooperation**
- 10. Technical Assistance, Cooperation and Capacity-Building**

[End of Annex and of document]