

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

**Thirty-Eighth Session  
Geneva, December 10 to 14, 2018**

### **BRIEF SUMMARY OF DOCUMENTS**

*Document prepared by the Secretariat*

#### **I. WORKING DOCUMENTS FOR THE THIRTY-EIGHTH SESSION**

1. The following is a brief summary of the documents prepared for the Thirty-Eighth Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the “Committee” or “IGC”) as at December 6, 2018. Each of these documents, as well as any additional documents, will be posted as soon as they are finalized at: [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=46446](http://www.wipo.int/meetings/en/details.jsp?meeting_id=46446).

#### WIPO/GRTKF/IC/38/1 Prov. 3: Draft Agenda for the Thirty-Eighth Session

2. This document contains the proposed items to be dealt with by the Committee, and is submitted to the Committee for possible adoption.

#### WIPO/GRTKF/IC/38/2 Rev.: Accreditation of Certain Organizations

3. This document sets out the names, contact details and aims and objectives of organizations which have applied to the Committee for accreditation as *ad hoc* observers to the current and future sessions of the Committee.

WIPO/GRTKF/IC/38/3 Rev.: Participation of Indigenous and Local Communities: Voluntary Fund

4. The WIPO General Assembly, in 2005, established the “WIPO Voluntary Fund for Accredited Indigenous and Local Communities”. The decision was taken on the basis of document WO/GA/32/6, subsequently amended by the WIPO General Assembly in September 2010, which sets out the objectives and operation of the Fund. This document refers to the appointment of the Fund’s Advisory Board, and provides information on the fund-raising drive initiated by the Secretariat. The required information note providing details of contributions received and beneficiaries is circulated in parallel as document WIPO/GRTKF/IC/38/INF/4.

WIPO/GRTKF/IC/38/4: The Protection of Traditional Knowledge: Draft Articles

5. At its Thirty-Seventh Session, the IGC developed, on the basis of document WIPO/GRTKF/IC/37/5, a further text, “The Protection of Traditional Knowledge: Draft Articles Rev. 2”, and decided that the text, as at the close of the agenda item on August 31, 2018, be transmitted to the Thirty-Eighth Session of the IGC, in accordance with the Committee’s mandate for 2018-2019 and the work program for 2018, as contained in document WO/GA/49/21. Document WIPO/GRTKF/IC/38/4 has been prepared for this session pursuant to this decision.

WIPO/GRTKF/IC/38/5: The Protection of Traditional Cultural Expressions: Draft Articles

6. At its Thirty-Seventh Session, the IGC developed, on the basis of document WIPO/GRTKF/IC/37/4, a further text, “The Protection of Traditional Cultural Expressions: Draft Articles Rev. 2”, and decided that the text, as at the close of the agenda item on August 31, 2018, be transmitted to the Thirty-Eighth Session of the IGC, in accordance with the Committee’s mandate for 2018-2019 and the work program for 2018, as contained in document WO/GA/49/21. Document WIPO/GRTKF/IC/38/5 has been prepared for this session pursuant to this decision.

WIPO/GRTKF/IC/38/6: The Protection of Traditional Knowledge: Updated Draft Gap Analysis

7. At its Twelfth Session, held in Geneva from February 25 to 29, 2008, the IGC decided that the WIPO Secretariat would, taking into account the previous work of the IGC, prepare a draft of the gap analysis on the protection of traditional knowledge, as a working document for the Thirteenth Session of the IGC. In 2017, the WIPO General Assembly requested the Secretariat to “update the 2008 gap analyses on the existing protection regimes related to TK and TCEs.” Document WIPO/GRTKF/IC/37/6 was prepared for the Thirty-Seventh Session pursuant to this decision. The same document has been re-issued as document WIPO/GRTKF/IC/38/6.

WIPO/GRTKF/IC/38/7: The Protection of Traditional Cultural Expressions: Updated Draft Gap Analysis

8. At its Twelfth Session, held in Geneva from February 25 to 29, 2008, the IGC decided that the WIPO Secretariat would, taking into account the previous work of the IGC, prepare a draft of the gap analysis on the protection of traditional cultural expressions, as a working document for the Thirteenth Session of the IGC. In 2017, the WIPO General Assembly requested the Secretariat to “update the 2008 gap analyses on the existing protection regimes related to TK

and TCEs.” Document WIPO/GRTKF/IC/37/7 was prepared for the Thirty-Seventh Session pursuant to this decision. The same document has been re-issued as document WIPO/GRTKF/IC/38/7 for this session.

WIPO/GRTKF/IC/38/8: Report on the Compilation of Materials on Databases Relating to Genetic Resources and Associated Traditional Knowledge

9. The WIPO General Assembly in 2017 requested the Secretariat to “produce a report(s) compiling and updating studies, proposals and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GR and associated TK, with a view to identify any gaps.” Pursuant to this decision, documents WIPO/GRTKF/IC/35/5 were prepared for the Thirty-Fifth Session of the Committee, and WIPO/GRTKF/IC/36/5 and WIPO/GRTKF/IC/37/8 Rev. were prepared with a few updates for the Thirty-Sixth and Thirty-Seventh Sessions of the Committee. The same document with a few updates has been re-issued as document WIPO/GRTKF/IC/38/8.

WIPO/GRTKF/IC/38/9: Report on the Compilation of Materials on Disclosure Regimes Relating to Genetic Resources and Associated Traditional Knowledge

10. The WIPO General Assembly in 2017 requested the Secretariat to “produce a report(s) compiling and updating studies, proposals and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GR and associated TK, with a view to identify any gaps.” Pursuant to this decision, documents WIPO/GRTKF/IC/35/6 were prepared for the Thirty-Fifth Session of the Committee, and WIPO/GRTKF/IC/36/6 and WIPO/GRTKF/IC/37/9 were prepared with a few updates for the Thirty-Sixth and Thirty-Seventh Sessions of the Committee. The same document with a few updates has been re-issued as document WIPO/GRTKF/IC/38/9.

WIPO/GRTKF/IC/38/10: Joint Recommendation on Genetic Resources and Associated Traditional Knowledge

11. During the Twentieth Session of the IGC, which took place in February 2012, the Delegations of Canada, Japan, Norway, the Republic of Korea and the United States of America made available a “Joint Recommendation on Genetic Resources and Associated Traditional Knowledge”. This was contained in document WIPO/GRTKF/IC/20/9 Rev. This document was resubmitted to the Twenty-Third, Twenty-Fourth, Twenty-Sixth, Twenty-Seventh, Twenty-Eighth, Twenty-Ninth, Thirtieth, Thirty-First, Thirty-Second, Thirty-Fourth, Thirty-Fifth, Thirty-Sixth and Thirty-Seventh Sessions of the IGC, and circulated as documents WIPO/GRTKF/IC/23/5, WIPO/GRTKF/24/5, WIPO/GRTKF/IC/26/5, WIPO/GRTKF/IC/27/6, WIPO/GRTKF/IC/28/7, WIPO/GRTKF/IC/29/5, WIPO/GRTKF/IC/30/6, WIPO/GRTKF/IC/31/5, WIPO/GRTKF/IC/32/6, WIPO/GRTKF/IC/34/9, WIPO/GRTKF/IC/35/7, WIPO/GRTKF/IC/36/7 and WIPO/GRTKF/IC/37/12, respectively. The co-sponsors have resubmitted this joint recommendation as a working document for this session.

WIPO/GRTKF/IC/38/11: Joint Recommendation on the Use of Databases for the Defensive Protection of Genetic Resources and Traditional Knowledge Associated with Genetic Resources

12. During the Twenty-Third Session of the IGC, which took place in February 2013, a joint recommendation regarding the use of databases for the defensive protection of genetic resources and traditional knowledge associated with genetic resources was co-sponsored

by the Delegations of Canada, Japan, the Republic of Korea and the United States of America. This proposal was contained in document WIPO/GRTKF/IC/23/7. The Joint Recommendation was resubmitted to the Twenty-Fourth, Twenty-Sixth, Twenty-Seventh, Twenty-Eighth, Twenty-Ninth, Thirtieth, Thirty-First, Thirty-Second, Thirty-Fourth, Thirty-Fifth, Thirty-Sixth and Thirty-Seventh Sessions of the IGC by the co-sponsors as documents WIPO/GRTKF/IC/24/7, WIPO/GRTKF/IC/26/6, WIPO/GRTKF/IC/27/7, WIPO/GRTKF/IC/28/8, WIPO/GRTKF/IC/29/6, WIPO/GRTKF/IC/30/7, WIPO/GRTKF/IC/31/6, WIPO/GRTKF/IC/32/7, WIPO/GRTKF/IC/34/10, WIPO/GRTKF/IC/35/8, WIPO/GRTKF/IC/36/8 and WIPO/GRTKF/IC/37/13, respectively. The co-sponsors have resubmitted this joint recommendation as a working document for this session.

WIPO/GRTKF/IC/38/12: 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

13. During the Twenty-Third Session of the IGC, which took place in February 2013, a proposal for the terms of reference for a study on measures related to the avoidance of the erroneous grant of patents and compliance with existing access and benefit sharing systems, was made available by the Delegations of Canada, Japan, the Republic of Korea and the United States of America. This proposal was contained in document WIPO/GRTKF/IC/23/6. The proposal was resubmitted to the Twenty-Fourth Session of the IGC as document WIPO/GRTKF/IC/24/6 Rev. by the Delegations of Canada, Japan, the Republic of Korea, the Russian Federation and the United States of America, and further resubmitted to the Twenty-Sixth, Twenty-Seventh, Twenty-Eighth, Twenty-Ninth, Thirtieth, Thirty-First, Thirty-Second, Thirty-Fourth, Thirty-Fifth, Thirty-Sixth and Thirty-Seventh Sessions of the IGC by the Delegations of Canada, Japan, Norway, the Republic of Korea, the Russian Federation and the United States of America as documents WIPO/GRTKF/IC/26/7, WIPO/GRTKF/IC/27/8, WIPO/GRTKF/IC/28/9, WIPO/GRTKF/IC/29/7, WIPO/GRTKF/IC/30/8, WIPO/GRTKF/IC/31/7, WIPO/GRTKF/IC/32/8, WIPO/GRTKF/IC/34/11, WIPO/GRTKF/IC/35/9, WIPO/GRTKF/IC/36/9 and WIPO/GRTKF/IC/37/14, respectively. The co-sponsors of documents WIPO/GRTKF/IC/26/7, WIPO/GRTKF/IC/27/8, WIPO/GRTKF/IC/28/9, WIPO/GRTKF/IC/29/7, WIPO/GRTKF/IC/30/8, WIPO/GRTKF/IC/31/7, WIPO/GRTKF/IC/32/8, WIPO/GRTKF/IC/34/11, WIPO/GRTKF/IC/35/9, WIPO/GRTKF/IC/36/9 and WIPO/GRTKF/IC/37/14 have resubmitted this proposal as a working document for this session.

WIPO/GRTKF/IC/38/13: Proposal for a Study by the WIPO Secretariat on Existing *Sui Generis* Systems for the Protection of Traditional Knowledge in WIPO Member States

14. During the Thirty-Seventh Session of the IGC, which took place in August 2018, the Delegations of Japan and the United States of America made available a proposal for a study by the WIPO Secretariat on existing *sui generis* systems for the protection of traditional knowledge in WIPO Member States. This proposal was contained in document WIPO/GRTKF/IC/37/16. The Delegations have resubmitted the updated proposal as a working document for this session.

WIPO/GRTKF/IC/38/14: Identifying Examples of Traditional Knowledge to Stimulate a Discussion of what should be Protectable Subject Matter and what is not Intended to be Protected

15. During the Thirty-Second Session of the IGC, which took place in November 2016, a document identifying examples of traditional knowledge to stimulate a discussion of what should

be protectable subject matter and what is not intended to be protected, was made available by the Delegation of the United States of America. This was contained in document WIPO/GRTKF/IC/32/10. The same document was resubmitted to the Thirty-Forth Session as document WIPO/GRTKF/IC/34/13. The Delegation has resubmitted the updated document as a working document for this session.

WIPO/GRTKF/IC/38/15: The Economic Impact of Patent Delays and Uncertainty: U.S. Concerns about Proposals for New Patent Disclosure Requirements

16. During the Thirty-Sixth Session of the IGC, which took place in June 2018, the Delegation of the United States of America made available “The Economic Impact of Patent Delays and Uncertainty: U.S. Concerns about Proposals for New Patent Disclosure Requirements”. This was contained in document WIPO/GRTKF/IC/36/10. The document was resubmitted to the Thirty-Seventh Session of the Committee as document WIPO/GRTKF/IC/37/15. The Delegation has resubmitted the updated document as a working document for this session.

II. INFORMATION DOCUMENTS FOR THE THIRTY-EIGHTH SESSION

WIPO/GRTKF/IC/38/INF/1 Prov.: List of Participants

17. A draft list of participants will be circulated at the Thirty-Eighth Session of the Committee.

WIPO/GRTKF/IC/38/INF/2 Rev.: Brief Summary of Documents

18. The present document has been prepared as an informal guide to the Committee’s documentation.

WIPO/GRTKF/IC/38/INF/3 Rev.: Draft Program for the Thirty-Eighth Session

19. In line with the Committee’s request at its Tenth Session, this document sets out a suggested program and identifies a possible timing for each agenda item. This draft program is indicative only, and the actual organization of work of the Committee would be determined by the Chair and its members in line with the rules of procedure.

WIPO/GRTKF/IC/38/INF/4: Voluntary Fund for Accredited Indigenous and Local Communities: Information Note on Contributions and Applications for Support

20. This document sets out information required to be reported to the Committee on the operation of the Voluntary Fund for Accredited Indigenous and Local Communities. The rules are set out in the Annex to document WO/GA/32/6, as approved by the WIPO General Assembly at its Thirty-Second Session and subsequently amended by the WIPO General Assembly in September 2010. In particular, it gives information on contributions received or pledged, and actual support provided to representatives of accredited indigenous and local communities.

WIPO/GRTKF/IC/38/INF/5: Information Note for the Panel of Indigenous and Local Communities

21. Following a decision of the Committee at its Seventh Session, each subsequent session of the Committee has commenced with a panel chaired by a member of an indigenous community. The panel has been held at the commencement of the previous 30 sessions of the Committee. On each occasion, representatives of indigenous and local communities gave presentations on a specific theme related to the IGC's negotiations. The presentations are available on WIPO's site at: <http://wipo.int/tk/en/igc/panels.html> and may also be accessed through the Indigenous Portal on the WIPO website. This document sets out the proposed practical arrangements for the panel at the Thirty-Eighth Session of the Committee.

WIPO/GRTKF/IC/38/INF/6: Voluntary Fund for Accredited Indigenous and Local Communities: Decisions taken by the Director General in accordance with the Recommendations adopted by the Advisory Board

22. This information note will inform the Committee on the decisions on funding that the Director General will take in accordance with the recommendation that the Advisory Board of the Voluntary Fund for Accredited Indigenous and Local Communities may adopt in the margins of the Thirty-Eighth Session of the Committee.

WIPO/GRTKF/IC/38/INF/7: Glossary of Key Terms Related to Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions

23. At its Nineteenth Session, "the Committee invited the Secretariat to update the glossaries available in documents WIPO/GRTKF/IC/19/INF/7 ('Glossary of Key Terms Related to Intellectual Property and Traditional Cultural Expressions'), WIPO/GRTKF/IC/19/INF/8 ('Glossary of Key Terms Related to Intellectual Property and Traditional Knowledge') and WIPO/GRTKF/IC/19/INF/9 ('Glossary of Key Terms Related to Intellectual Property and Genetic Resources'), to combine them in a single document and to publish the consolidated glossary as an information document for the next session of the Committee". This document is made available the same version of the consolidated glossary for the session.

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