

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

## **INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE**

**Fourth Session**

**Geneva, December 9 to 17, 2002**

**PARTICIPATION OF LOCAL AND INDIGENOUS COMMUNITIES  
IN THE WORK OF THE COMMITTEE**

*Document prepared by the Secretariat*

### **I. OVERVIEW**

1. This paper considers the issue of the participation of local and indigenous communities in the work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore ("the Committee"), and reports on the decision of the WIPO General Assembly at its Twenty-Eighth Session, held from September 23 to October 1, 2002, concerning the facilitation of the involvement of representatives of such communities.
2. The paper also provides background to facilitate the consultations on this issue as discussed by the General Assembly, including possible mechanisms to enhance participation of representatives of these communities in the work of the Committee.

## II. BACKGROUND

3. The Committee has, since its inception in 2000, addressed issues of particular interest and concern to local and indigenous communities, to a degree unparalleled in other areas of WIPO's activities, and the Committee has accordingly stressed the need for enhanced input from these communities in its work. In fact, the need for input from these communities had been stressed in WIPO's activities in the area of traditional knowledge and expressions of folklore even before the Committee was established. For instance, the work program on 'Intellectual Property Rights for New Beneficiaries,' initiated in 1998, was intended "to identify and explore the intellectual property needs and expectations of new beneficiaries, including the holders of indigenous knowledge and innovations."<sup>1</sup> A major component of WIPO's work in 1998-99 was the conduct of nine fact-finding missions on the intellectual (IP) needs and expectations of holders of traditional knowledge (TK). Consultations were held in 28 countries, with approximately 3000 people in some 60 cities, towns, villages or communities.

4. The needs and expectations expressed in the course of these consultations were documented in a report<sup>2</sup> which has formed the basis of much of WIPO's subsequent work in this area. WIPO also promoted policy dialogue in this area, for instance in the convening of a Roundtable on Intellectual Property and Indigenous Peoples in 1998.<sup>3</sup>

### *Regional workshops*

5. Based on the extensive consultations with indigenous and local communities in the fact-finding missions, a key need identified was for national and regional workshops to be held for indigenous and local communities together with government officials in order to facilitate widespread understanding and discussion of the issues. This took on a specific character following the establishment of the Committee, when a series of workshops was undertaken to ensure that a diverse range of perspectives and concerns would be taken into account in the work of the Committee.

6. During considerations of proposals for the Committee at the Twenty-Sixth Session (September 26 to October 3, 2000) of the WIPO General Assembly, the Group of Countries of Latin America and the Caribbean (GRULAC) had noted that:

it is necessary to examine and agree on the beginnings of a solution that will satisfy not only Member States and the public at large but also the indigenous and local communities themselves.<sup>4</sup>

<sup>1</sup> "WIPO Program and Budget, 1998-99," document A/32/2(WO/BC/18/2), p.107

<sup>2</sup> "Intellectual Property Needs and Expectations of Traditional Knowledge Holders," WIPO, 2001

<sup>3</sup> See papers at <http://www.wipo.int/eng/meetings/1998/indip/index.htm>

<sup>4</sup> "Traditional Knowledge and the Need to Give it Adequate Intellectual Property Protection," Annex I to document WO/GA/26/9

7. The following workshops have been held or planned to date:

- WIPO Workshop on Intellectual Property and Traditional Knowledge, Paramaribo, Suriname, May 21 to 22, 2001;
- WIPO Workshop on Intellectual Property and Traditional Knowledge, Kingston, Jamaica, May 24 to 25, 2001;
- WIPO International Seminar on the Preservation, Promotion and Protection of Folklore and Traditional Knowledge, São Luís de Maranhão, Brazil, March 11 to 13, 2002;
- Sub-Regional Workshop on Intellectual Property, Genetic Resources and Traditional Knowledge, Brisbane, Australia, June 25 to 27, 2001;
- Regional Meeting on Intellectual Property and the Protection of Expressions of Folklore and Traditional Knowledge for the English-speaking countries in Africa, in Lusaka, Zambia, from May 8 to 10, 2002;
- WIPO - OAPI Regional Symposium on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Abidjan, Coted'Ivoire, April 8- 10, 2002;
- WIPO Expert Group Meeting on Intellectual Property and the Protection of Expressions of Folklore and Traditional Knowledge, Addis Ababa, Ethiopia, May 13 and 14, 2002;
- WIPO Workshop on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore for Nordic Countries, Sigtuna, Sweden, November 6 to 8, 2002; and
- WIPO Asia - Pacific Regional Seminar on Intellectual Property Rights, Genetic Resources, Traditional Knowledge and Folklore, in Cochin, India, from November 11 to 13, 2002.

8. A feature of each of these meetings and associated consultations has been the active participation of many representatives of indigenous and local communities, including as speakers and presenters. An illustrative list of further meetings relevant in this regard is provided in document WIPO/GRTKF/IC/4/4.

### III. PARTICIPATION IN THE INTERGOVERNMENTAL COMMITTEE

9. Following its establishment (document WO/GA/26/6), the Committee has met for three sessions, in April and December 2001, and June 2002. The work of the Committee has been supplemented by an extensive series of regional and national workshops and consultations on traditional knowledge and related issues, which have entailed extensive involvement of representatives of local and indigenous communities.

10. One theme that has recurred in IGC discussions at each session has been the need to encourage a diverse range of stakeholder to take part in the IGC's work – especially since the work activities mandated to the IGC touch on a range of interest groups that have hitherto not been active in the work of WIPO. The IGC has granted *ad hoc* observer status to a wide range of non-governmental organizations (NGOs), at their request, including many with a focus on indigenous and local communities. *Ad hoc* observers can participate in the work of the IGC and make interventions on the issues under discussion. To date 85 NGOs have either been granted observer status or participated in the IGC; of these, 27 *ad hoc* NGO observers have not actually attended the IGC. In addition, several national delegations have included individuals who are representatives of indigenous communities.

11. In the context of ongoing discussions about promoting participation of indigenous and local communities, the Delegation of Belgium (speaking on behalf of the European Community and its Member States) raised a proposal at the second session of the IGC concerning the possibility of 'financial assistance in order to ensure the participation of indigenous and local communities at the session of the [IGC].'<sup>5</sup> It had remarked that a prerequisite for active participation of indigenous and local communities was the availability of financial assistance, whether from Member States or a general mechanism for financial assistance, possibly using WIPO funds. This proposal was supported by a number of Member States, and the IGC adopted the recommendation that 'the Program and Budget Committee should further consider the possible financing by WIPO of the participation of indigenous and local communities.'<sup>6</sup>

12. The third session of the IGC, in June 2002, saw further discussion of this proposal and there was a related discussion of the need for enhanced cooperation with the recently established Permanent Forum on Indigenous Issues (a subsidiary body of ECOSOC, comprising 16 members serving in their personal capacities as independent experts, the mandate of which includes to "promote the integration and coordination of activities relating to indigenous issues within the UN system." The IGC Chair concluded that the IGC encouraged close cooperation with the Permanent Forum, and noted that the Program and Budget Committee would be taking up the issue of financing the participation of indigenous and local communities. At its meeting in September 2002, the Program and Budget Committee referred the matter to regional group coordinators for further consideration. The matter was subsequently considered by the WIPO General Assembly at its Twenty-Eighth Session, held from September 23 to October 1, 2002, leading to the decision that:

(i) the Permanent Forum on Indigenous Issues should be invited to participate in the December 2002 session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore;

(ii) Member States should be encouraged to include representatives of indigenous and local communities on their delegations to the Intergovernmental Committee;

(iii) following consultations including the Secretariat and regional groups, the Intergovernmental Committee should consider suitable further mechanisms, as appropriate,

<sup>5</sup> WIPO/GRTKF/IC/2/16, paragraph 188

<sup>6</sup> WIPO/GRTKF/IC/2/16, paragraph 194

for facilitating the involvement of representatives of indigenous and local communities in its work for the 2003 meetings and to be reflected in its report to the General Assembly in 2003.

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#### IV. MECHANISMS FOR FACILITATING INVOLVEMENT

13. The possible mechanisms for facilitating the involvement of representatives of indigenous and local communities in the work of the Committee include:

- increased and more regular cooperation with the Permanent Forum, in view of its function of promoting ‘the integration and coordination of activities relating to indigenous issues within the UN system’;
- greater participation of representatives of indigenous and local communities on national delegations;
- direct financial support for the participation of representatives of indigenous and local communities in the Committee, either on national delegations or representatives of accredited *ad hoc* observers;
- specific briefings and consultations for NGO representatives, particularly representatives of indigenous and local communities, in the framework of Committee meetings ;
- consulting with interested representatives of indigenous and local communities on draft documents and other materials being developed for the Committee; and
- involvement of indigenous and local communities in regional and national consultations and workshops aimed at developing focussed input for the Committee, including funding or otherwise supporting their involvement in these meetings.

14. This list does not, of course, exhaust the possibilities, and the proposed consultation on this issue may develop further or amend ways of facilitating involvement. To the extent that these proposals are considered useful, it is worth noting that all but one of them (namely direct funding of participation in the IGC itself) have already been implemented or are in the process of being implemented. For instance, the Permanent Forum has been invited to participate, Member States have been encouraged to enhance their delegations in this way, a briefing session and consultation for indigenous and local community NGOs is planned for the fourth session of the Committee, and the involvement of such communities in regional workshops continues (for instance, in the Nordic workshop planned for November 2002).

15. If the consultations and the Committee’s considerations address the question of direct funding of relevant NGOs, then it may be necessary to consider

- the need to amend the general policy of using WIPO funds to support the participation of Member States in its formal meetings
- the scale of support that may be given to support such participation, in particular the number of participants, noting that this may be partly determined by the geographic range of supported participants, and the areas of interest and expertise that are covered; and
- the mechanism or criteria used to nominate or select funded participants related to this question is the capacity in which they participate (on national delegations, as representatives of *ad hoc* observers, or as representatives of intergovernmental organizations which are observers).

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A/37/14 Prov., paragraph 288

*16. The Intergovernmental Committee is invited to note the contents of this document and to consider the appropriate mechanisms for facilitating involvement of representatives of indigenous and local communities in its work*

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