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

Seventh Session
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UPDATE ON LEGAL-TECHNICAL ASSISTANCE
AND CAPACITY BUILDING ACTIVITIES

Document prepared by the Secretariat

I. OVERVIEW

1. The Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) approved the provision of regular updates on the legal-technical assistance and capacity-building activities that WIPO undertakes in the field of intellectual property (IP) and genetic resources, traditional knowledge and traditional cultural expressions (TCEs)/expressions of folklore. This document is a further update, reporting on activities undertaken since the previous report, document WIPO/GRTKF/IC/6/7, was issued in November 2003 and considered by the Committee at its sixth session, held from March 15 to 19, 2004.

2. This update provides only those activities undertaken or proposed between March and November 2004. As an illustrative list only, it may not include every relevant activity undertaken by the Secretariat. It does, however, demonstrate the continuing strong interest in practical and policy issues in relation to TCEs/expressions of folklore, TK and IP aspects of genetic resources. While some capacity-building activities cover the full range of these issues, and there is continuing interest in dealing with them in a coordinated manner, a pronounced, and increasing, characteristic of the requests for capacity-building and legal-technical assistance concerns distinct, specific requirements that focus exclusively. This apparently represents a maturing of national and regional legal and policy development

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programs, so that the tools under development and the capacity building needs identified have become increasingly focussed on specific areas, such as the protection of TCEs/expressions of folklore as such, and the protection of TK in particular contexts. A key feature of the support and information provided by WIPO is that it seeks to provide advice that is at once responsive to the specific needs and sectoral factors that apply, for instance, to the protection of TCEs, while also ensuring that it is consistent with a comprehensive policy perspective.

3. Since the sixth session of the Committee many activities on intellectual property (IP) more generally, such as symposiums, seminars, conferences and advisory missions undertaken by the WIPO Secretariat have included TK or TCEs/expressions of folklore as a topic. These more general activities have been the core of the Secretariat work in this period and are reported on in greater detail as they demonstrate the increased interest and importance given to TK and TCEs/folklore within broader policy dialogue and legal and capacity development processes.

II. REPORT ON ACTIVITIES

4. The activities are listed under the following general categories:

- (i) Specific Workshops and Meetings
- (ii) Expert and Fact-finding Missions;
- (iii) Legislative Drafting, Comments and Information;
- (iv) Education and Training.

(i) Specific Consultations, Workshops and Meetings

5. WIPO has continued to receive requests for workshops and meetings that integrate TK and TCE/folklore in its broader programs of technical cooperation and policy dialogue. Apart from continuing activities in the framework of national and regional cooperation, there has also been an increase in requests for consultations and briefings on the substantive issues considered by the Committee with a wider range of stakeholders, including civil society organizations.

6. The increased participation of the WIPO Secretariat in this wider range of consultations affords the Secretariat opportunities to consult more extensively with holders of TCEs and TK, experts and other stakeholders. For example a number of these consultations have been undertaken as a response to suggestions made by several Member States and NGO observers at the sixth session of the IGC¹ that experts in folklore should provide technical and expert input for IGC sessions. The non-exhaustive list below is an illustration of such consultations:

- Conference on “Folklore, Aesthetic Ecologies, and Public Domain”, University of Pennsylvania, Philadelphia, April 2 to 3, 2004;
- *III Congreso de la Asociación de Antiguos Alumnos del Magíster Lvcentinvs* (AAA), Cartagena de Indias, Colombia, April 5 to 7, 2004;
- Fordham University School of Law Annual Conference on International Intellectual Property Law and Policy, New York, April 15 to 16, 2004;

¹ See paragraphs 42 and 52 of WIPO document WIPO/GRTKF/IC/6/14

- 8th Congress of the *Société Internationale d'Ethnologie et de Folklore* (SIEF) and the 3rd Congress of the *Association d'Anthropologie Méditerranéenne* (ADAM), April 26 to May 1, 2004, Marseilles;
- WIPO Comes to Silicon Valley – High Tech IP Issues in a Global Marketplace, Stanford Law School, Stanford, May 17 and 18, 2004; and,
- American Folklore Society Annual General Meeting, Salt Lake City, Utah, October 15 and 16, 2004 (to be confirmed).

7. The main objectives of national and regional workshops continue to be to: (i) provide Member States, Indigenous and local communities, relevant organizations and other stakeholders with a forum where they can consider and reflect on the technical, legal and policy dimensions of the issues that arise in the context of the mandate of the Intergovernmental Committee and, (ii) ensure that States, Indigenous peoples and local communities, and other stakeholders have a clear idea of the work and mandate of the IGC, so that they may contribute to its deliberations in an effective way. Recent activities have been constrained by resource limitations, but workshops currently planned or undertaken include:

- WIPO and US Copyright Symposium, Washington DC, May 6 and 7, 2004;
- WIPO Information Meeting on Intellectual Property and Genetic Resources, Geneva, September 15, 2004; and,
- WIPO and the International Intellectual Property Training Institute (IIPTI) Regional Seminar on TK and Folklore, Daejeon, Republic of Korea, October 13 to 15, 2004;

8. A wide range of additional regional and sub-regional consultations, workshops and other forums addressing these issues have been held or are in various stages of planning and implementation. These include diverse proposals for activities to be held in countries in each of the regional groups of WIPO Member States. An example of such workshops include the following:

- South African Developing Country (SADC) Workshop on Indigenous Knowledge Systems Policy Development and Capacity Building, Pretoria, June 7 to 9, 2004;
- 43rd Session of the Asian-African Legal Consultative Organization (AALCO) on “Expressions of Folklore and its International Protection” Bali, June 21 to 25, 2004.

9. Apart from these consultations and workshops, genetic resources, TK and TCEs have also been a primary or principal focus of other workshops, seminars, forums and meetings, such as:

- Centre-Commissioned External Review of Work on Policy and Legal Aspects of Genetic Resources of the International Plant Genetic Resources Institute (IPGRI) March 11, 2004;
- 60th Session of the Commission on Human Rights, Geneva, March 15 to April 23, 2004;
- World Trade Organization (WTO) Regional Workshop on Certain Topical Issues related to Intellectual Property, Kuala Lumpur, April 27 to 29, 2004;
- Permanent Forum, New York, May 10 to 14, 2004;
- Working Group on Indigenous Populations, Geneva, July 19 to 23, 2004
- International Seed Federation: Seminar on the Protection of Intellectual Property and Access to Plant Genetic Resources, Berlin, May 27 to 28, 2004;
- World Trade Organization (WTO) Regional Workshop for African Countries, Sandton, South Africa, June 2 to 4, 2004;

- Conference in honor of Dr Reinhold Cohn: The New IP Order: A Global Trade-Off, Haifa University, Haifa, Israel, June 13 to 14, 2004;
- Contribution to an “EPO/WIPO Seminar on International IP Agreements & Negotiations: Chances and Risks of Implementation” of a session entitled “WIPO Negotiations: The Patent Agenda, Traditional Knowledge and Genetic Resources”, Geneva, July 5 to 9, 2004;
- Technical Seminar to evaluate the United Nation’s Voluntary Fund for Indigenous Populations and the Voluntary Fund for the International Decade of the World’s Indigenous People, Geneva, July 15 to 16, 2004;
- Fifty-sixth session of the Sub Commission on the Promotion and Protection of Human Rights, Geneva, July 26 to August 13, 2004;
- UNESCO Intergovernmental Meeting of experts, Paris, September 20 to 25, 2004;
- The TransAtlantic Consumer Dialogue (TACD) Workshop: The Future of WIPO, Geneva, September 13 to 14, 2004.

(ii) Legislative Drafting, Comments and Information

10. Within the context of the Secretariat’s normal and ongoing Economic Development operations, the WIPO Secretariat has provided comments and information on the protection of expressions of folklore and traditional knowledge to several countries which have requested this as part of their drafting of IP laws or review of existing laws, as well as concerning provisions dealing with genetic resources within the patent system and IP aspects of licensing access to genetic resources and TK. Requests for such assistance continue to be received by the Secretariat. They are also received from regional intergovernmental organizations.

(iii) Education and Training

11. The topics of TK and TCEs/folklore continue to be included, at the request of Member States, in many training workshops, seminars or briefings organized by WIPO, both within its program of cooperation for development (including the WIPO Worldwide Academy), and in its outreach programs dealing with industry and civil society. The numerous relevant activities are not listed in this document.

- Indigenous Fellow Program, Geneva, June 10, 2004;
- African Regional Industrial Property Organization (ARIPO) Study visit concerning Traditional Knowledge Digital Libraries to Council of Scientific and Industrial Research of India, New Delhi, May 31 to June 4, 2004.

(iv) Practical Guides, Studies and Awareness-Raising Publications

12. At the request of several Least Developed Countries (LDCs) and in order to provide concrete and practical advice in the form of guidelines and strategies, WIPO launched a project consisting of a series of guides on the identification, recording, valuation and IP protection of TCEs. Each guide is to enable Member State countries to develop and formulate appropriate national IP strategies for the legal protection of TCEs.

13. WIPO continues to carry out extensive work on a Practical Guides on Traditional Cultural Expressions (TCEs)/Folklore.

14. Consultations and preparations also continued on the development of a draft toolkit for use by holders of traditional knowledge in identifying and protecting their interests in the context of proposals for the documentation of TK, drawing on materials contained in documents WIPO/GRTKF/IC/4/5 and WIPO/GRTKF/IC/5/5, and continuing the processes of stakeholder consultation outlined in those documents.

15. A series of background publications on the issues under consideration by the Committee and which are also the subjects of parallel debates in other international forums are in the process of being published. These make maximum use of the existing IGC materials already distributed at the IGC sessions. They are developed at two levels – brief introductory booklets for a general audience and more extended briefing papers for a more specialist policy audience. These are supplemented by a series of studies, which provide specific analysis of cases of protection of TCEs by indigenous communities, broader approaches to folklore protection, and the interaction between the patent system and regimes governing equitable benefit-sharing relating to genetic resources.

16. The Committee is invited to take note of the contents of this document.

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