

WIPO



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AD HOC INTERGOVERNMENTAL MEETING ON GENETIC RESOURCES AND DISCLOSURE REQUIREMENTS

Geneva, June 3, 2005

CORRIGENDUM TO
EXAMINATION OF ISSUES RELATING TO THE INTERRELATION OF ACCESS TO
GENETIC RESOURCES AND DISCLOSURE REQUIREMENTS IN INTELLECTUAL
PROPERTY RIGHTS APPLICATIONS

SECOND DRAFT

Document prepared by the Secretariat

1. In paragraph 6 of document WIPO/IP/GR/05/3, the third sentence should read as follows:

“By May 12, 2005, observations and comments on WIPO/IP/GR/05/1 had been received from five Member States - Brazil, the Islamic Republic of Iran, Japan, Switzerland, and the United States of America - and from two accredited observers - the Berne Declaration and the Centre for International Environmental Law (CIEL).”

2. After paragraph 29, the following paragraph should be introduced:

“29 bis. In particular, the Islamic Republic of Iran stressed that the CBD “is the first initiator of the subject under discussion with the recognized objectives and principles and enjoys the support of big international communities. Any response should thus be supportive and should not run counter to its objectives and principles.” Concerning the manner in which these objectives should be met, the Islamic Republic of Iran commented as follows:

“The interrelation of genetic resources and the disclosure requirement necessitates cross border and overall cooperation of states to be supportive of CBD objectives and could not be limited to the national level. A large number of delegations recognized the necessity of a disclosure requirement in a legally binding and universal manner, although there are other views and arguments in favour of the compulsory national level system. However, the Islamic Republic of Iran is of the view that to fulfill the CBD objectives, and in this case, genetic resources, a compulsory international disclosure requirement system is necessary. Naturally, the national arrangements could play a complementary role.”

“It should be noted that an international compulsory requirement system could encourage the countries of origin to reserve the resources seriously and that in turn would pave the way for more inventions and sustainable reservation of resources. An internationally binding disclosure requirement as well as evidence of compliance with the national access and benefit sharing laws of the country of origin of the genetic resources should therefore be introduced. In the case of an unlawful use of genetic resources and associated TK such as wrongful disclosure or failure to disclose, the proper criminal and civil remediation mechanisms could adjust the system properly in order to prevent and reduce such misappropriation. The regime of disclosure requirements and negotiations on certificates of origin are ongoing subjects in different international fora, we should therefore not assume that this subject is a finished one.”

“As a first step, all works carried out and views exchanged should be reflected with a view of continuing the ongoing trend of the discussion of work in WIPO. The answer to the CBD should not be assumed to be the final one. It should also be noted that the probable insufficiency of laws in existing WIPO administered treaties could not be the reason for not developing the issue in WIPO bodies, such as SCP, IGC, PCT or any other committee in WIPO. The subjects which require further discussion by member states in the related designated WIPO bodies include: options for model provision on proposed disclosure requirements; practical options for intellectual property rights; options for incentive measures for applicants and intellectual property-related issues raised by a proposed international certificate of origin. At this stage, the different views presented in different bodies of WIPO on the above-mentioned items should be generally reflected to CBD. It should also be noted that any response to the CBD

question should be regarded as technical input to facilitate policy discussion and it should not be considered as a formal paper expressing a policy position on the part of WIPO, its secretariat or its member states.”

The Islamic Republic of Iran concluded that “the response to CBD should be supportive of the principles of CBD. Genetic resources and disclosure requirements are an evolving issue. As a first step, WIPO should reflect the diversity of views; the different positions presented in different WIPO bodies generally and also indicate how the work should be continued. As far as the subjects numbered in (a), (b), (c) and (e) of the CBD questions are concerned, while reflecting the present diverse views, the member states need to further develop the work in the proper WIPO committees.”¹

[End of document]

¹ Comments of the Islamic Republic of Iran on WIPO/IP/GR/05/1.