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SEMINAR ON INTELLECTUAL PROPERTY AND TRADITIONAL CULTURAL EXPRESSIONS

organized by
the World Intellectual Property Organization (WIPO)

Geneva, June 8 to 9, 2017

INFORMATION NOTE

prepared by the International Bureau of WIPO

1. The overall objective of the Seminar on Intellectual Property and Traditional Cultural Expressions (“the Seminar”) is, as indicated in the mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“IGC”), to contribute towards building “regional and cross-regional knowledge and consensus” on [issues related to intellectual property (IP) and traditional cultural expressions (TCEs)] “with a focus on unresolved issues”.

2. This Information Note provides some background information on each roundtable of the Seminar and the keynote and closing addresses.

Keynote address: Existing International Intellectual Property Instruments and Traditional Cultural Expressions: Which Gaps Exist and Which, If Any, Should be Filled?

3. The keynote address is expected to outline which provisions and possibilities already exist at the international level to protect TCEs. It will describe which gaps exist, and consider which, if any, of those gaps may need to be filled. It is expected that the keynote address will recall document WIPO/GRTKF/IC/13/4(b) Rev. “The Protection of Traditional Cultural Expressions: Draft Gap Analysis”, which was made available at the Thirteenth Session of the IGC in 2009.

4. In this context, a “gap” implies an unmet economic, cultural or social need. Different stakeholders in the IGC’s negotiations may have different views as to what constitutes a gap. Ultimately, identifying an unmet need as a gap, and determining whether or not it should be filled, is a matter for decision by Member States. This also implies that not all identified gaps would necessarily have to be filled because some gaps may have legitimate policy justifications.

Roundtable 1: Key Policy Issues on Intellectual Property and Traditional Cultural Expressions: Session One

5. In this roundtable, speakers will have the opportunity to identify and address policy issues related to the intellectual property protection of TCEs which they consider to be key. The IGC has so far focused its negotiations on certain key articles and lately on certain core issues which, as indicated in the current IGC mandate, comprise “definition of misappropriation, beneficiaries, subject matter, objectives, and what TK/TCEs subject matter is entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain”. Other policy issues also include, for example, sanctions and remedies, administration of rights, term of protection, formalities, transitional measures, relationship with other international agreements, national treatment and transboundary cooperation.

6. It is recalled that, at its Thirty-Third Session, held from February 27 to March 3, 2017, the IGC decided to transmit to its Thirty-Fourth Session an “Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session”¹.

Roundtable 2: Protection of Traditional Cultural Expressions: Practical Experiences, Initiatives and Projects

7. In this roundtable, speakers will have the opportunity to share experiences and lessons learned from the use of practical tools, initiatives and projects for the protection of TCEs, mainly within the context of conventional intellectual property systems. Different stakeholders might envisage such practical tools, initiatives and projects in place of, or in parallel with, the development and implementation of new policies and legal measures.

¹ See WIPO/GRTKF/IC/34/7, available at: <http://www.wipo.int/tk/en/igc/preparation/>.

They could include, *inter alia*, inventories and catalogues, contracts, labeling and licensing platforms, capacity-building and awareness-raising activities, community consultations, as well as the use of existing intellectual property rights.

Roundtable 3: Key Policy Issues on Intellectual Property and Traditional Cultural Expressions: Session Two

8. This roundtable will be a continuation of Roundtable 1 “Key Policy Issues on Intellectual Property and Traditional Cultural Expressions: Session One”. As in Roundtable 1, speakers will be invited to identify and address those policy issues that they consider to be key.

Roundtable 4: Past International Normative Developments Related to Intellectual Property: What Lessons for Negotiating an International Instrument on Traditional Cultural Expressions?

9. A number of international fora, including WIPO, have adopted legal instruments and/or have conducted normative work in relation to intellectual property and/or in relation to genetic resources, traditional knowledge and TCEs.

10. In this roundtable, speakers will have the opportunity to describe some of the processes that have led to the adoption of these legal instruments. Speakers will be invited to share lessons learned from the negotiations of past international legal instruments which may be relevant for the IGC’s ongoing negotiations.

Closing address: Reflections on the Way Forward

11. As the mandate of the IGC for the 2016/2017 biennium is coming to an end, the closing address will recall some of the key areas where progress has been made by the IGC since its establishment and in this biennium in particular. The speaker will offer some personal reflections on ways forward and outline some of the different options or scenarios that could be envisaged by Member States.

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