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SEMINAR ON INTELLECTUAL PROPERTY AND TRADITIONAL KNOWLEDGE

organized by
the World Intellectual Property Organization (WIPO)

Geneva, November 24 and 25, 2016

INFORMATION NOTE

prepared by the International Bureau of WIPO

1. The overall objective of the Seminar on Intellectual Property and Traditional Knowledge (“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 knowledge (TK)] “with a focus on unresolved issues”.
2. At its Thirty-First Session, held from September 19 to 23, 2016, the IGC decided to transmit to its Thirty-Second Session an “Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session”¹.
3. This Information Note provides some background information on each roundtable of the Seminar and the keynote address.

Roundtable 1: Regional, National and Community Experiences Relevant to Identifying “Protectable Traditional Knowledge” at an International Level

4. It is expected that this Roundtable will address the issues of subject matter (including eligibility criteria) and, indirectly, beneficiaries. These issues are related to another outstanding/pending issue, which is the use and meanings of certain terms and concepts, among others, the references to “protection” and “protected” TK.
5. This Roundtable is expected to provide examples of the diversity of forms in which TK can be found throughout the world (and the diversity of holders of TK throughout the world) and how TK is protected in practice, and also distill the essential characteristics of TK that could be reflected in a definition of the subject matter in an international instrument.

Roundtable 2: Perspectives on and Experiences with a “Tiered Approach” to the Protection of Traditional Knowledge - Scope of Protection and Exceptions and Limitations

6. It is expected that this Roundtable will address the issues of scope of protection and exceptions and limitations, with a focus on a “tiered approach”. These issues are also related to another outstanding/pending issue, which is the concept of “public domain”.
7. As set out in the IGC Chair’s Information Note for IGC 32², the “tiered approach” suggests differentiated protection along a spectrum from TK that is available to the general public to TK that is secret/not known outside the community and is controlled by the beneficiaries.
8. This Roundtable is also expected to address the use and meanings of terms describing or relevant to the extent of diffusion of TK, such as “public domain”, “publicly available”, “secret”, “sacred”, “narrowly diffused” and “widely diffused”.

Keynote address: Why and How to Protect Traditional Knowledge Internationally?

9. It is expected that the keynote address will:
 - enable participants to reflect on whether and why it is important to protect TK at an international level, as well as on the objectives that an international instrument on the protection of TK could pursue; and
 - clarify the key provisions/measures that would be needed to achieve the protection of TK at an international level, such as national treatment and reciprocity.

¹ See WIPO/GRTKF/IC/32/5, available at: <http://www.wipo.int/tk/en/igc/preparation/>.

² Available at: <http://www.wipo.int/tk/en/igc/preparation/>.

Roundtable 3: Complementary Measures and Customary Law for the Protection of Traditional Knowledge: Examples and Lessons Learned

10. It is expected that this Roundtable will address the unresolved issue of the roles, nature and design of “complementary measures”, including databases, opposition measures, voluntary codes of conduct, and guidelines for the purpose of conducting search and examination of patent applications relating to TK by patent offices. The use of other complementary measures, such as contracts or protocols, will also be addressed.

11. This Roundtable will shed light on a “measures-based” approach, in general, as opposed to a “rights-based” approach.

12. It is also expected that this Roundtable will address a cross-cutting issue, which is the role that customary law could play in the protection of TK.

Roundtable 4: Perspectives on and Experiences with Other Issues: Sanctions and Remedies, Management of Rights, Term of Protection, Formalities, Transitional Measures, Relationship with other International Agreements, National Treatment and Transboundary Cooperation

13. The IGC has focused its negotiations on the so-called key articles, key issues and lately on the so-called core issues (which, as indicated in the current IGC mandate, include “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 issues, such as sanctions and remedies, management of rights, term of protection, formalities, transitional measures, relationship with other international agreements, national treatment and transboundary cooperation, have not been discussed directly or in detail since 2011.

14. It is expected that this Roundtable briefly addresses all those outstanding/pending issues (sanctions and remedies, management of rights, term of protection, formalities, transitional measures, relationship with other international agreements, national treatment and transboundary cooperation) so as to refresh the memories of participants in advance of the Thirty-Second Session of the IGC.

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