Capacity-building on IP and TK/TCEs – What Resources are Available?

FICCI International Conference on Traditional Knowledge, New Delhi, November 13, 2009

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A complex conceptual, policy, legal, political and operational challenge . . .
What options are there for addressing the challenge?

1. Policy/legislative
   - Existing IP law
   - Adapted or new (sui generis) IP law
   - Customary law, and/or
   - Non-IP law

2. Practical measures and tools
   - TK databases/inventories (eg., Indian TKDL)
   - Guidelines (eg., WIPO patent examination guidelines)
   - Contracts/licensing
   - Community protocols

3. Capacity-building
   - Training programs for communities, officials, the legal profession and others
Responses at the international level – WIPO

- Development of “international legal instrument”
  - WIPO Intergovernmental Committee (IGC)
  - “Rights”

- Development of practical measure and tools
  - WIPO capacity-building program
  - “Behaviour”
I. New IGC mandate 2010-2011

- **text-based negotiations** with the objective of reaching agreement on a text of an **international legal instrument** (or instruments) which will ensure the effective protection of GRs, TK and TCEs

- four sessions of the IGC and three **inter-sessional working groups**, in the 2010-2011 biennium

- use all WIPO working documents, **including** WIPO/GRTKF/IC/9/4, WIPO/GRTKF/IC/9/5 and WIPO/GRTKF/IC/11/8A

- the Committee is requested to submit to the 2011 General Assembly the text of an international legal instrument (or instruments). The General Assembly in 2011 will decide on convening a Diplomatic Conference

- “without prejudice to the work pursued in other fora”

- “bearing in mind the Development Agenda recommendations”
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<tr>
<td>December 7 to 11, 2009</td>
<td>IGC 15</td>
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<td>February/March 2010</td>
<td>First Intersessional Working Group</td>
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<td>May/June 2010</td>
<td>IGC 16</td>
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<td>September 2010</td>
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<td>February/March 2011</td>
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<td>May/June 2011</td>
<td>IGC 18</td>
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<td>Early September 2011</td>
<td>IGC 19</td>
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<td>September 2011</td>
<td>WIPO General Assembly</td>
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IGC-related resources

- **Draft provisions** on TK and TCEs and comments on them
  - WIPO/GRTKF/IC/9/4 and 9/5

- Lists of key policy **issues** and comments on them
  - WIPO/GRTKF/IC/11/4(a) and 11/5(a)

- **Gap analyses**
  - WIPO/GRTKF/IC/13/4(b) and 13/5(b)
Organizational arrangements for work under the new mandate

- Organizing the **substantive work** of the IGC and the IWG, including:
  - Relationship between the IGC and the IWG;
  - Documentation

- **Methods of work** of the IWG:
  - Rules of procedure;
  - Duration of IWG sessions;
  - Participation and representation:
    - Open/restricted?
    - Funding of Member States?
    - Funding of indigenous participants by WIPO Voluntary Fund?

WIPO/GRTKF/IC/15/4 (forthcoming)
II. WIPO’s TK capacity-building program

- General awareness-raising
  - case-studies; surveys of national experiences; conferences and missions

- Facilitating national and regional consultations
  - questionnaires; options papers; working groups

- Legislative and policy development
  - laws database; drafting and commenting on laws; advisory missions

- Practical training programs and tools
  - WIPO Creative Heritage Training Program on Cultural Documentation; WIPO Training Program on Licensing of TK; guidelines for recording and digitizing TCEs; TK documentation toolkit; standards for documenting medicinal knowledge; database of GR contractual terms; patent examination guidelines
SELECTED ISSUES

Documentation of TK and TCEs

Establishing effective laws and policies

Patent examination and the protection of TK

WIPO RESOURCES

WIPO Creative Heritage Training Program on Cultural Documentation
TK Toolkit (forthcoming)
Guide for Museums and Archives
Technical standards for TK databases

Step-by-step options paper
Draft legal provisions and laws database
Surveys of national and regional experiences
Legal and policy analyses
Gap analyses

Guidelines for patent examiners
How to keep up to date

- Sign up for the GRTKF Newsletter and Updates – send an email to grtkf@wipo.int

- See WIPO Traditional Knowledge Division’s web site at www.wipo.int/tk/eng
End

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