Observation on

PROPOSAL OF THE AFRICAN GROUP
FOR INTERSESSIONAL WORKING GROUPS FOR THE WIPO IGC

Bearing in mind the decision of General Assembly at its session of September 2009,

Recognizing the need for intersessional work as highlighted at the 12th Session of the IGC and in view of the mandate to decide on a date for the Diplomatic Conference in 2011, the following three (3) Intersessional Working Groups are proposed:

First Intersessional Working Group in February/March 2010 shall focus on Traditional Knowledge (TK), Traditional Cultural Expressions (TCEs) and Genetic Resources (GR) and examine the following questions:

- Definitions and Object of Protection

The IGC/16 will determine the issues to be addressed for Traditional Knowledge (TK), Traditional Cultural Expressions (TCEs) and Genetic Resources (GR) by the second IWG.

The IGC/17 will determine the issues to be addressed for Traditional Knowledge (TK), Traditional Cultural Expressions (TCEs) and Genetic Resources (GR) by the third IWG.

- Exceptions, Limitations and Duration
- Prior Informed Consent (PIC), Rights — Moral/Economic
- Beneficiaries
- Sub-Generics options for protection

The Second Intersessional Working Group in October 2010 shall focus on:

Intersessional Working Group on Traditional Knowledge (TK) and to examine the following issues/questions, without prejudice to the work in the other international fora:

- Definitions and Object of Protection
- Exceptions, Limitations and Duration
- Prior Informed Consent (PIC), Rights — Moral/Economic
- Beneficiaries
- Sub-Generics options for protection

The Third Intersessional Working Group in February/March 2011 shall focus on
Inter-sessional Working Group on Genetic Resources to examine the following issues:
without prejudice to the work in the other international fora:

• Developing a range of options for the IP-related aspects of PIC and ABS, and consider a structured and focused menu of options to guide custodians of

generic resources to facilitate their decision-making process.

• Developing alternative proposals for dealing with the relationship between IP

and genetic resources as requested by the Convention on Biological

Diversity (CBD).

• Developing guidelines and procedures with regards to dealing effectively

with the IP aspects of access and benefit-sharing arrangements.

[Proposed Terms of Reference for the 3 Inter-sessional Working Group

groups: Composition and other matters:]

• Each Inter-sessional Working Group shall be regionally-balanced and will

be composed of technical 27 representatives: experts acting in their

individual capacity, nominated by Member States on a regional basis,

• Representatives from Indigenous and local communities and other and 10

experts nominated by Accredited Observers. Accredited Observers who

should represent shall include 7 expert observers from Indigenous and

local communities and all other interests involved observers accredited to

the IGC are invited to attend as observers in the Inter-sessional Working

group nominated by them, and the remaining expert observers from, inter alia, international

organizations and agreements, industry, research institutions, academia and non-

governmental organizations."

• The participation of representatives from developing countries and LDCs shall be funded by WIPO according to the formula generally used in the IGC.

• The participation of representatives from indigenous representatives shall

be funded by the WIPO Voluntary Fund for accredited Indigenous and

Local Communities.

• The Rules of Procedure of the IGC (as contained in

WIPO/GR/TKF/IC/1/2), which incorporate the General Rules of

Procedures of WIPO, will generally apply to the inter-sessional

working groups. Questions to secretariat.

[Africa (5), Asia (5), Latin American and Caribbean Countries (5), Group B (5), Central

European and Baltic States (3), Central Asian Caucasus and Eastern European States (3),

China (1), Indigenous representatives (7), Other Accredited Observers (3).]
• The working languages of the intersessional working groups are the six official UN languages.

• The IGC would give the intersessional working groups its mandate
  
  — The Intersessional Working Groups shall provide legal and technical advice and analysis including where appropriate options and scenarios for consideration of the Committee on all aforementioned issues without prejudice to any outcome.

• The Intersessional Working Groups shall submit report to the IGC on the outcomes of its work, highlighting consensus views and/or specific areas of divergence, as well as any draft recommendations or texts for consideration by the IGC for its text-based negotiations of international instrument (or instruments) and report to the IGC.

• [The Intersessional Working Groups will take as a basis of its work, all WIPO working documents, including WIPO/GRTKF/IC/9/5, WIPO/GRTKF/IC/9/4, WIPO/GRTKF/IC/11/8(a) in line with the WIPO GA mandate.]

Frequency and venue of the meetings:

• The three Intersessional Working Groups shall meet according to the work plan annexed to the General Assembly 2009 decision.

• The duration of each meeting shall be 5+0 days (see duration of CBD experts group).

• The Chair of the three JWG is to be determined by the IGC Chair in consultations with regional coordinators and will be an IGC member with relevant technical expertise. [Each Intersessional Working Group shall appoint its Chair].

• The meetings shall take place in Geneva at WIPO Headquarters.

• The format of the JWG can be revised if needed during IGC-16.

[End of annex and document]