

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,*

*Recognising the need for intersessional work as highlighted at the 12<sup>th</sup> 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*
- *Sui Generis options for protection*

*~~[The sSecond iIntersessional Working Group in — October 2010 shall focus]~~*

*~~Intersessional Working Group on Traditional Knowledge (TK) and to examine the following issuesquestions: , 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*
- *Sui Generis options for protection*

*~~The [Third iIntersessional Working Group — February/March 2011] shall focus]~~*

Intersessional 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 genetic 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 Intersessional Working Group groups: Composition and other matters:

- Each Intersessional 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 w that should represent could 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 Intersessional 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.]<sup>1</sup>

- The participation of representatives 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/GRTKF/IC/1/2), which incorporate the General Rules of Procedures of WIPO, would/will generally apply to the intersessional working groups. question to secretariat

<sup>1</sup> [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 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 540 days (see duration of CBD experts group)-
- The Chair of the three IWG 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 IWG can be revised if needed during IGC-16.

[End of annex and document]