

Open-Ended Drafting Group Rapporteur.

Present the results of our work in revising the Draft Objectives and Principles in WIPO/GRTKF/18/9 for IGC consideration.

This work resulted in a significant reduction in options through deletion and some merging of text, and convergence on the key issues relating to each objective.

We will also provide the Secretariat an analysis of the remaining options, which indicates common issues raised in similar options, directed at providing further opportunities for merging or deleting options.

It also identifies areas where there is a lack of convergence reflected in the different options. The analysis also indicates where issues raised may be more appropriately transferred to other topics areas, specifically TK.

In addition, the analysis indicates support for different options by member states who participated. This may provide an opportunity for member states between now and IG 19 to review their positions. In particular we would recommend that they review options they supported to determine if their particular issue is relevant to the substantive issue identified in the option or is already covered in another option.

In relation to the Objectives there is now greater clarity and convergence on the key issues relating to each of the objectives.

Objective 1

Objective one deals with complying with laws relating to access, use, prior informed consent, benefit sharing and disclosure of origin.

Objective 2

Objective 2 deals with preventing patents and/or IP Rights being granted in error in relation to:

- Novelty and inventiveness; and
- Not complying with requirements related to prior informed consent, mutually agreed terms, benefit sharing and disclosure.

An additional issue raised under this objective related to banning patents on life and life forms.

Objective 3

Objective 3 relates to Patent and/or IP Offices having available the information required to make informed decisions in granting patents and IP rights, and the recognition that some holders of TK may not want their knowledge documented.

Objective 4

Objective 4 deals with the relationship with international agreements.

An additional item raised relates to establishing an international dispute mechanism.

Objective 5

Objective 5 deals with the spirit of Article 7 of TRIPS and the link between GR and TK.

An additional issue raised in this objective was preventing the adverse effects of the IP system on indigenous peoples and their rights to use, develop, create and protect their knowledge and innovation.

Additional Issues

Additional issues raised in the principles, include:

- The inclusion or not of the term derivatives.
- Role of states and indigenous peoples
- Issues relating to self determination of indigenous peoples and local communities.
- Consequences of non compliance with objective 2