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Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

Twenty-Ninth Session
Geneva, February 15 to 19, 2016

DRAFT DECISIONS OF THE TWENTY-NINTH SESSION OF THE COMMITTEE

Adopted by the Committee

DECISION ON AGENDA ITEM 2:

ELECTION OF OFFICERS

Upon the proposal of the Delegation of Switzerland, seconded by the Delegation of India, and the Delegation of Bahamas, on behalf of the Group of Latin American and Caribbean Countries (GRULAC), the Committee elected as its Chair, Mr. Ian Goss of Australia, unanimously and by acclamation, for the 2016-2017 biennium. As Vice-Chairs for the same period, upon the proposal of the Delegation of Austria, seconded by the Delegation of Latvia, on behalf of the Group of Central European and Baltic States (CEBS), the Committee elected Mr. Jukka Liedes of Finland, and upon the proposal of India, seconded by the Delegation of Bahamas, on behalf of GRULAC, the Committee elected Ambassador Robert Matheus Michael Tene of Indonesia.

DECISION ON AGENDA ITEM 3:

ADOPTION OF THE AGENDA

The Chair submitted the draft agenda circulated as WIPO/GRTKF/IC/29/1 Prov. 3 for adoption and it was adopted.

DECISION ON AGENDA ITEM 4:

ADOPTION OF THE REPORT OF THE TWENTY-EIGHTH SESSION

The Chair submitted the revised draft report of the Twenty-Eighth session of the Committee (WIPO/GRTKF/IC/28/11 Prov. 2) for adoption and it was adopted.

DECISION ON AGENDA ITEM 5:

ACCREDITATION OF CERTAIN ORGANIZATIONS

The Committee unanimously approved the accreditation of seventeen organizations listed in the Annex to document WIPO/GRTKF/IC/29/2 as *ad hoc* observers, namely: Action jeunesse pour le développement (AJED-Congo); Actions pour la défense des droits des peuples de la forêt et de l'environnement (ADPE); Agencia Internacional de Prensa Indígena (AIPIN); Associação dos Camponeses para o Desenvolvimento Agro-Peuario e Pescas Tala-Hary (ACDAPTH); CS Consulting; Fondation Makambi pour le développement; Gur A Baradharaw Kod Torres Strait Sea and Land Council (Torres Strait Islander) Corporation International Centre for Environmental Education and Community Development (ICENECDEV) Korea Institute of Oriental Medicine (KIOM); ONG femmes et enfants en détresse (FEED) Phuthadikobo Museum; Rassemblement des Africains Conscients, Intègres, Nationalistes, Engagés et Solidaires : Association (RACINES); Union des jeunes autochtones du Burundi pour le développement communautaire (UJEDECO) Union des peuples autochtones pour le réveil au développement (UPARED); Union nationale des organisations non gouvernementales de développement (UNONGD); Villages unis (United Villages); and White Bridge. The Committee decided to postpone the accreditation of the Bureau of Consultation for West Papua Indigenous Community Development for consideration at the Thirtieth Session of the Committee.

DECISION ON AGENDA ITEM 6:

PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

The Committee took note of documents WIPO/GRTKF/IC/29/3, WIPO/GRTKF/IC/29/INF/4 and WIPO/GRTKF/IC/29/INF/6.

The Committee strongly encouraged and called upon members of the Committee and all interested public or private entities to contribute to the WIPO Voluntary Fund for Accredited Indigenous and Local Communities.

The Chair proposed, and the Committee elected by acclamation, the following eight members of the Advisory Board to serve in an individual capacity: Mr. Fayssal ALLEK, First Secretary, Permanent Mission of Algeria, Geneva; Mr. Parviz EMOMOV, Second Secretary, Permanent Mission of Tajikistan, Geneva; Mr. Nelson DE LEON KANTULE, representative, *Asociación Kunas unidos por Napguana*/Association of Kunas for Mother Earth (KUNA), Panama; Mr. Raymond FRYBERG, representative, Tulalip Tribes of Washington, United States of America; Mr. Carlo Maria MARENGHI, Intellectual Property and Trade Attaché, Permanent Mission of the Holy See, Geneva; Ms. Mary NARFI, Executive Officer, Ministry of Tourism, Trade, Commerce & Ni Vanuatu Business, Port Vila, Vanuatu; Mr. Pita Kalesita NIUBALAVU, Consultant, Pacific Islands Forum Secretariat, Fiji; Mrs. Marcela PAIVA, Counsellor, Permanent Mission of Chile, Geneva.

The Chair of the Committee nominated Ambassador Robert Matheus Michael Tene, Vice-Chair of the Committee, to serve as Chair of the Advisory Board.

DECISION ON AGENDA ITEM 7:

GENETIC RESOURCES

The Committee discussed core issues, on the basis of documents WIPO/GRTKF/IC/29/4, WIPO/GRTKF/IC/29/5 and WIPO/GRTKF/IC/29/6, and decided to transmit the text in the annex to document WIPO/GRTKF/IC/29/4, with the deletion of Article 2, to the next session of the Committee. The articles as prepared by the facilitators will be referred to within the body of the report of the session. The Committee also transmitted to the next session of the Committee an "Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session", copy annexed.

With regard to resources that Committee participants may wish to use as reference materials in their preparations for Committee sessions: (a) The Secretariat is requested to establish, well before the Thirtieth Session of the Committee, a new webpage consolidating all existing resources on regional, national, local and communities experiences (such as studies, collections of laws, submissions, databases, voluntary codes and protocols, and presentations) prepared by the WIPO Secretariat or submitted by Member States and observers for purposes of the Committee to date, and to report on this in an information document to the Thirtieth Session of the Committee; and (b) Member States and observers are invited to send to the Secretariat by March 31, 2016 references for any other resources that may be relevant for Committee participants as reference materials, and the Secretariat shall communicate a list of such references, as provided, to the Thirtieth Session of the Committee in an information document.

The Committee noted the Secretariat's ongoing updating and improvement, with a focus on practical experiences, of the WIPO Technical Study on Disclosure Requirements in Patent Systems Related to Genetic Resources and Traditional Knowledge prepared in 2004, invites Member States and observers to contribute information to this exercise and requests that the Secretariat complete the exercise as soon as possible.

The Committee also took note of documents WIPO/GRTKF/IC/29/7, WIPO/GRTKF/IC/29/INF/7, WIPO/GRTKF/IC/29/INF/8, WIPO/GRTKF/IC/29/INF/9 and WIPO/GRTKF/IC/29/INF/10.

DECISION ON AGENDA ITEM 8:

ANY OTHER BUSINESS

There was no discussion under this item.

DECISION ON AGENDA ITEM 9:

CLOSING OF THE SESSION

The Committee adopted its decisions on agenda items 2, 3, 4, 5, 6 and 7 on February 19, 2016. It agreed that a draft written report, containing the agreed text of these decisions and all interventions made to the Committee, would be prepared and circulated by March 29, 2016. Committee participants would be invited to submit written corrections to their interventions as included in the draft report before a final version of the draft report would then be circulated to Committee participants for adoption at the next session of the Committee.

[Annex follows]

ANNEX

**Indicative List of Outstanding/Pending Issues
to be Tackled/Solved at the Next Session**

1. List of terms**2. Preamble****3. Policy objectives**

- Efficacy and transparency
- Whether misappropriation should be retained in the text (and if so, how it should be defined)
- Complementarity/mutual supportiveness with international agreements
- Prevention/minimization of "erroneous" patents (what is appropriate term)

4. Subject matter

- Should the instrument apply to:
 - o Any IP rights or only patent right
- In addition to GRs, should the instrument also apply to:
 - o Derivatives
 - o Associated TK/TK associated with GRs

5. Disclosure requirement

- Content of disclosure
 - o Origin and/or source of the GRs
 - o Information regarding compliance with ABS requirements including PIC
- Exceptions and limitations
 - o Type of exceptions
 - o Public interest related exceptions only
- IP/patent subject matter eligibility for GRs and/or derivative as found in nature or isolated therefrom
- Consequence of non-compliance
 - o Minimum and/or maximum standard agreement
 - o Measures/sanctions within and/or outside patent system
 - o Permissible conditions for revocation
- Trigger
 - o Claimed invention directly based on subject matter
 - o Utilization of subject matter
 - o Need for physical access or access to non-tangible subject matter
- Relationship with national and domestic ABS regimes
 - o Role of the IP/patent office in relation to notification of disclosure-related information to the Clearing House Mechanism of the CBD/NP/ITPGRFA

6. Defensive measures/No Disclosure

- Consideration of the need for additional due diligence measures/systems

7. Databases

- Databases as defensive measures or supplementary measures to a disclosure requirement
- Safeguards for TK that is widely held and/or publicly available
- Burden on traditional knowledge holders and member states

8. Relationship with International Agreements, including PCT and PLT

9. Transboundary Cooperation

10. Technical Assistance, Cooperation and Capacity-Building

[End of Annex and of document]