

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

**Forty-First Session**  
**Geneva, August 30 to September 3, 2021**

**REPORT**

*Adopted by the Committee*

1. Convened by the Director General of the World Intellectual Property Organization (“WIPO”), the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee” or “the IGC”) held its Forty-First Session (“IGC 41”) in a hybrid format, on August 30 and 31, 2021.
2. The following States were represented: Algeria, Angola, Argentina, Armenia, Australia, Austria, Bangladesh, Belarus, Benin, Bolivia (Plurinational State of), Brazil, Burkina Faso, Cabo Verde, Cambodia, Canada, Chile, China, Colombia, Côte D’Ivoire, Czech Republic, Democratic People’s Republic of Korea, Denmark, Djibouti, Egypt, El Salvador, Ecuador, Ethiopia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Kuwait, Lesotho, Lebanon, Lithuania, Madagascar, Malaysia, Malta, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, North Macedonia, Oman, Pakistan, Panama, Paraguay, Republic of Korea, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Zambia and Zimbabwe (96). The European Union (“the EU”) and its Member States were also represented as a member of the Committee.
3. The Permanent Observer Missions of Palestine and South Sudan participated in the meeting in an observer capacity.
4. The following intergovernmental organizations (“IGOs”) took part as observers: South Centre (SC); Eurasian Patent Organization (EAPO); Food and Agriculture Organization of the United Nations (FAO); International Union for the Protection of New Varieties of Plants (UPOV); and World Trade Organization (WTO) (5).
5. Representatives of the following non-governmental organizations (“NGOs”) took part as observers: ADJMOR; Agencia Internacional Prensa Indígena (AIPIN); Assembly of Armenians of Western Armenia; Assembly of First Nations; American Intellectual Property Law Association (AIPLA); Association culturelle et scientifique de khenchela (ACSK); Brazilian Association of Intellectual Property (ABPI); Center for Multidisciplinary Studies Aymara (CEM-Aymara); Indigenous Peoples’ Center for Documentation, Research and Information (DoCip); Christ is Calling You; Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos (CAPAJ); CS Consulting; For Alternative Approaches to Addiction, Think & do tank (FAAAT); Health and Environment Program (HEP); Himalayan Folklore and Biodiversity Study Program IPs Society for Wetland Biodiversity Conservation Nepal; Indian Movement – Tupaj Amaru; Intellectual Property Owners Association (IPO); International Association for the Promotion and Defense of Intellectual Property (AIDPI); International Association for the Protection of Intellectual Property (AIPPI); International Federation of the Phonographic Industry (IFPI); International Indian Treaty Council; Knowledge Ecology International, Inc. (KEI); Métis National Council (MNC); National Intellectual Property Organization (NIPO); Native American Rights Fund (NARF); Secretariat of the Pacific Community (SPC); Solidarity for a Better World (SMM); Tebtebba Foundation - Indigenous Peoples’ International Centre for Policy Research and Education; Tulalip Tribes of Washington Governmental Affairs Department; Union des peuples autochtones pour le réveil au développement (UPARED); and Union internationale des éditeurs (UIE)/International Publishers Association (IPA) (31).
6. The list of participants is annexed to this report.
7. Document WIPO/GRTKF/IC/41/INF/2 provided an overview of the documents distributed for IGC 41.

8. The Secretariat noted the interventions made, and the proceedings of the session were communicated and recorded on webcast. This report summarizes the discussions and provides the essence of interventions, without reflecting all the observations made in detail or necessarily following the chronological order of interventions.

9. Mr. Wend Wendland of WIPO was Secretary to IGC 41.

## **AGENDA ITEM 1: OPENING OF THE SESSION**

10. The Director General, Mr. Daren Tang, opened the session and welcomed the participants. He noted that due to the COVID-19 pandemic, the IGC session was being convened in a hybrid format. He thanked Member States and observers for accommodating the arrangements and for demonstrating their continued commitment to the work of the IGC. As some time had lapsed since the last meeting of the Committee, he took the opportunity to recollect some intervening developments. He noted that in October 2019, the General Assembly (“GA”) had agreed to renew the IGC’s mandate for the 2020-2021 biennium. It set the objective of finalizing an agreement on an international legal instrument(s) without prejudging the nature of the outcomes relating to intellectual property (“IP”), which would ensure the balanced and effective protection of genetic resources (“GRs”), traditional knowledge (“TK”), and traditional cultural expressions (“TCEs”). The GA had also reached an agreement on the work program for the IGC. Unfortunately, as a result of the pandemic, the meetings of the Committee could not be convened. This had severely disrupted the IGC’s deliberations over the biennium. Following consultations in May and June of 2020, Member States had agreed to carry out various activities to facilitate the work of the Committee, even in the absence of the IGC meetings, such as a virtual Seminar on Intellectual Property and Genetic Resources ([https://www.wipo.int/meetings/en/details.jsp?meeting\\_id=60429](https://www.wipo.int/meetings/en/details.jsp?meeting_id=60429)) had been organized in January 2021, and three voluntary online commenting processes, including commenting on the Chair’s Text, reviewing and commenting on the compilation of sui generis regimes on TK and TCEs, and providing more information and updates on Traditional Knowledge Division’s online resources, had been established in 2020. In addition, a series of information sessions had taken place in June 2020 on the history and status of the IGC negotiations. He believed that those activities had kept the work of the IGC alive in the hearts of the participants even in the midst of disruptions to the IGC sessions. The Director General underscored that the work of the Committee formed an important part of WIPO’s mission to develop a balanced effective global IP ecosystem. As outlined in the recently published Medium-Term Strategic Plan of WIPO, it was important to build an inclusive global IP ecosystem. He confirmed that the WIPO Secretariat would continue to support and facilitate the norm-setting activities of WIPO in a neutral, inclusive and transparent manner. He further observed that the issues before the IGC were technically and politically complex and far more concrete outcomes remained undetermined despite many efforts over the years. The two-year hiatus in negotiations had, unfortunately, not been helpful. He encouraged Member States to be steadfast in their participation and confirmed that WIPO would work closely with Member States to facilitate any idea that might energize the negotiation process. The participants were reminded that the work of the Committee was ultimately in support of indigenous peoples and local communities (“IPLCs”) around the world. While those communities were rich sources of traditional innovation and creativity, many groups remained unaware of how they could use IP to leverage those attributes to create jobs for the community, support livelihoods, raise standards of living and, should they desire, bring their heritage to the world. Through WIPO initiatives, such as the Creative Heritage Project, the Indigenous and Local Community Women Entrepreneurship Program, and the recently launched Photography Prize for Indigenous Peoples and Local Community Youth, WIPO was committed to using its expertise and role as the UN agency for IP to support those communities around the world. For example, the Sámi people in Norway, Sweden, Finland, and Russia used registered collective trademarks to identify and preserve traditional and authentic Sámi handicrafts. For the Sámi, IP helped to keep their culture alive.

Likewise, Lucille Anak Awen Jon, a young jewelry designer from the Bidayuh community in Malaysia, was working with WIPO and the International Trademark Association to brand her tradition-based products. Lucille's designs not only sustained her community's heritage, but also provided sustainable income for her people. He advised that IGC 41 would address a range of procedural matters as agreed by Member States. The Group Coordinators ("GCs") and Member States were thanked for their engagement with the Secretariat prior to the present session. One of the main items on the agenda concerned an agreement on the recommendation to the forthcoming GA on the renewal of the IGC's mandate for the 2022-2023 biennium. He was pleased to learn that an informal agreement had been reached. The Director General acknowledged the contribution of IPLCs' experts to the work of the IGC and noted that unfortunately, the current circumstances meant that the WIPO Voluntary Fund had been unable to support the representatives of IPLC to attend IGC 41 in person. He welcomed the representatives who were able to join and participate in the session virtually and encouraged Member States to consult and identify ways to raise further contributions to the WIPO Voluntary Fund. In conclusion, he emphasized that the work of the Committee was critical in helping IPLCs all over the world to use IP to create economic opportunities, sustain livelihoods, and to share their heritage on equitable terms. He wished the participants a fruitful meeting ahead.

## **AGENDA ITEM 2: ELECTION OF OFFICERS**

### *Decision on Agenda Item 2:*

*11. Upon the proposal of the Delegation of the United Kingdom, on behalf of Group B, seconded by the Delegation of South Africa, on behalf of the African Group, and the Delegation of Paraguay, on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC), the Committee elected as its Chair, Mr. Ian Goss of Australia, and as its Vice-Chairs, Ms. Lilyclaire Bellamy of Jamaica, Mr. Jukka Liedes of Finland, and Mr. Yonah Seleti of South Africa, unanimously and by acclamation, for the 2020-2021 biennium.*

12. [Note from the Secretariat: The Chair, Mr. Ian Goss, was chairing the session from this point]. The Chair thanked the Director General for his words and the key points that he had made and the challenges that the Committee faced. He admitted that the last 18 months had been a difficult and long road. He acknowledged and offered his sincere condolences to those individuals across Member States and observers who had suffered as a result of the pandemic, in particular the loss of family members and friends. He thanked Member States for their support and guidance, particularly in dealing with the challenges of the pandemic. The Vice-Chairs, himself and the Secretariat had been working closely with the GCs to address those challenges, in particular, how to maintain the momentum of the work of the IGC in an environment, which was transparent and equitable for all members and stakeholders. He thanked the Vice-Chairs for their sage advice over the past 18 months. He also thanked the Secretariat for the significant contribution to the work related to the Committee, such as the conduct of the seminar and briefings, the continued review and collection of materials relating to GRs, TK and TCEs, and technical assistance activities supporting Member States and observers. Much of the latter work went unseen but was currently in high demand. Lastly, he

thanked the GCs for their support and advice over the past 18 months. Notwithstanding the challenges of the pandemic, he hoped that Member States and observers had taken the opportunity created by the significant hiatus in the normative negotiations to further evaluate policy positions and perspectives on core issues and the different policy interests and priorities of Member States and stakeholders reflected in the working texts and working documents, including Member States' papers, proposals and recommendations, and the Chair's Text. The IGC needed policy interests to balance in order to reach consensus in the negotiations, such as protecting the rights of IPLCs and resource holders; protecting the rights of users, including industry, and research institutions; protection of cultural heritage; the issue of public domain; and supporting innovation and creativity, including knowledge transfer. He hoped that Member States had tried to gain a shared understanding of the key issue which he believed was preventing the IGC from achieving consensus on a number of core issues. The conceptual divide between how indigenous or First Nations peoples viewed the world and the IP system based on a western legal system could at times challenge long-held IP policy positions and legislative approaches. As indigenous or First Nations peoples often said that they lived in two worlds, not their choice but their reality. He emphasized that if the IGC was to move forward, it needed to reconcile those differing worldviews whilst balancing the different policy interests, which all had merit. After consultations with GCs and Member States, IGC 41 was a procedural meeting with decisions informally agreed upon prior to the session. Accordingly, there would be no normative discussions relating to GRs. The primary focus was to agree on procedural decisions, in particular the recommendation relating to the renewal of the IGC's mandate. In addition, as with past meetings, the IGC would provide an opportunity for indigenous stakeholders to make presentations to Member States. He pointed out that the Indigenous Caucus had continued to meet informally in a virtual format over the period of the pandemic, and was supportive of a decision not to hold normative negotiations under the current conditions. In relation to the procedures for the meeting, due to the pandemic, IGC 41 was organized in a hybrid format. As in previous sessions, the session was on live webcast on the WIPO website, which further improved its openness and inclusiveness. He reminded the participants that they were required to comply with the WIPO General Rules of Procedure and that the meeting would be conducted in a spirit of constructive debate and discussion in which all participants were expected to take part with due respect to the order, fairness, and decorum that governed the meeting. As the Chair, he reserved the right, where applicable, to call to order any participant who might fail to observe the WIPO General Rules of Procedure and the usual rules of good conduct, or whose statements were not relevant to the issue specifically before IGC 41. He acknowledged the importance and value of the indigenous representatives as well as other key stakeholders, such as the representatives of industry and civil society. The report of the session would be prepared after the session and circulated to all delegations for comment. It would be presented in all six languages for adoption at the next session of the IGC.

### **AGENDA ITEM 3: ADOPTION OF THE AGENDA**

#### *Decision on Agenda Item 3:*

13. *The Chair submitted the draft agenda circulated as WIPO/GRTKF/IC/41/1 Prov. 2 for adoption and it was adopted.*

14. The Chair opened the floor for opening statements. [Note from the Secretariat: Many delegations that took the floor for the first time congratulated and thanked the Chair, the Vice-Chairs and the Secretariat and expressed their gratitude for the preparation of the session, as well as for the preparation of the documents.]

15. The Delegation of Belarus, speaking on behalf of the Central Asian, Caucasus and Eastern European Countries Group (“CACEEC”), was confident that under the Chair’s leadership, the Committee would achieve results, which would be effective for the Organization. It affirmed its support of the recommendation to the GA with regard to the renewal of the mandate of the IGC. It hoped that the Committee would soon have negotiations and discussions on an international instrument on GRs, TK, and TCEs, and that the IGC in the 2022-2023 biennium would achieve good outcomes. It assured the Group’s willingness to coordinate and cooperate actively during the current session and other upcoming sessions.

16. The Delegation of Paraguay, speaking on behalf of the Group of Latin American and Caribbean Countries (“GRULAC”), stated that the work of the Committee was of utmost importance. It was pleased to see the firm support that the Director General had given to the work of the Committee, and believed that that would lead to positive results at IGC 41. It affirmed its support for the work of the Committee and the recommendation regarding the mandate and the work program, which it believed covered the main aspects that required to be analyzed to be able to achieve the objective. It stressed the importance of the participation of the IPLCs at the IGC, which gave credibility to the IGC’s work. It, therefore, made an appeal for strengthening the support for the WIPO Voluntary Fund.

17. The Delegation of China believed that the session would be fruitful, noting that IGC 41 was the first session under the current mandate due to the pandemic. It was supportive of the work of the IGC and hoped that substantive progress would be made in the protection of GRs, TK and TCEs with the objective of agreeing on an international legally binding instrument(s). It called on the participants to make a common effort to overcome the challenges. With a pragmatic and proactive attitude, the Delegation would participate in the discussions of the IGC. It believed that with the joint efforts of the participants, the work of the IGC would move towards the right direction to push forward the work for an international instrument(s). It affirmed its willingness to work with the other delegations towards achieving substantive progress.

18. The Delegation of the United Kingdom, speaking on behalf of Group B, was pleased to finally have the opportunity to come together to discuss the agenda items before the IGC, particularly in light of the continuing pandemic. It regretted that no substantive work could be carried out by the Committee during the current mandate caused by the extraordinary circumstances. However, it appreciated that the Secretariat had organized a seminar on GRs in January 2021, which allowed the exchange of views on important issues addressed by the Committee. The presentations and recordings of that seminar remained available as an important source of information of the further work of the IGC. Moreover, it appreciated the opportunity to provide feedback to the Chair on his text on GRs and to update existing information in the WIPO resources. Further work needed to be done to narrow existing gaps with a view to reaching a common understanding on core issues, and it, therefore, supported the proposed mandate of the IGC for the next biennium. It reiterated its firm belief that the protection of GRs, TK and TCEs should be designed in a manner that both supported innovation and creativity and recognized their valuable nature and importance. It acknowledged the valuable contribution of IPLCs as well as other stakeholders to the work of the Committee and remained committed to contributing constructively to the work of the Committee towards achieving a mutually acceptable outcome.

19. The Delegation of Georgia, speaking on behalf of the Central European and Baltic States Group (“CEBS Group”), noted that the circumstances which affected the work of the Committee were well-known. It was, however, optimistic and believed that the Committee, with the improved epidemiological situation and with joint efforts, would be able to advance its work and witness constructive discussions, which would allow the Committee to narrow the gaps. At the same time, it reiterated its longstanding position on the importance of the evidence-based

approach. It also emphasized that the involvement of IPLCs was crucial for the work of the Committee and encouraged efforts to ensure their participation. It affirmed the CEBS Group's support and constructive engagement in the work of the Committee.

20. The Delegation of South Africa, speaking on behalf of the African Group, noted that the Committee had a crucial role in the efforts to transform the IP ecosystem to be a truly inclusive one that catered for the needs of IPLCs and ensured that their TK was effectively protected, and that they benefitted from the rich GRs found in their jurisdictions as well as the associated TK. To this end, the African Group believed that it was in their collective interest to expedite the work of the Committee so as to realize the goal of finalizing an international legal instrument(s) for the protection of GRs, TK and TCEs. It was highly regrettable that the session would not be able to advance text-based negotiations on GRs as indicated in the current mandate. It was equally aware, however, that the current environment was not conducive for conducting inclusive and transparent substantive discussions and negotiations. It looked forward to the resumption of negotiations as soon as conditions allowed. Despite not holding an IGC session for over two years, there had been some activities organized by the Secretariat, including the seminar on IP and GRs held in January 2021 and the information session on the IGC held in June 2021. It believed that those events had been beneficial to Member States. It further welcomed the consultations undertaken by the Chair on the Chair's Text. The African Group recognized the important procedural issues that IGC 41 needed to consider. In particular, the session had the major task of recommending to the 2021 GA the mandate of the Committee for the 2022-2023 biennium. It thanked the Chair for proposing a practical way forward on the issue of the next mandate of the IGC and looked forward to the session making a positive recommendation to the GA. Finally, it welcomed the participation of IPLCs in the present session and called on all Member States to continue providing the necessary support, including through the WIPO Voluntary Fund, to ensure their participation.

21. The Delegation of Bangladesh, speaking on behalf of the Asia and the Pacific Group ("APG"), conveyed its appreciation to the Chair's efforts as the Chair-elect in advancing the work and objectives of the Committee over the past months despite the unprecedented challenges posed by the pandemic. It affirmed its support for the working methodology and the proposed work program. It regretted that the situation had not allowed the Committee to engage in substantive discussions on the issues under the IGC's mandate in the current biennium. It was, however, hopeful that the Committee would continue in the coming years to expedite its work with the objective of reaching an agreement on an international legal instrument(s), without pre-judging the nature of outcomes, relating to IP which would ensure the balanced and effective protection of GRs, TK and TCEs, as outlined in the IGC's mandate. Although the current session would not engage in any substantive negotiation, it reiterated its position regarding the key issues of the IGC. Most of its members restated that there was need for a legally binding instrument(s) that would provide effective protection of GRs, TK and TCEs. The conclusion of a legally binding treaty or treaties would provide a transparent predictable regime for the effective protection against the misappropriation of GRs, TK and TCEs, thus ensuring sustainable legitimate use of IP in future. Most of its members were of the view that that could be adequately addressed through the establishment of a mechanism for appropriate benefit-sharing of the utilization or exploitation of those resources based on prior informed consent and mutually agreed terms. The IGC could also discuss approaches for an effective disclosure mechanism in accordance with national circumstances or needs that would protect GRs, derivatives and associated TK against misappropriation. It expressed its support for the replication of the current mandate with the technical updates for the 2022-2023 biennium.

22. The Delegation of Indonesia, speaking on behalf of the Like-Minded Countries ("LMCs"), noted the unprecedented difficulties that prevented the Committee from continuing with its work in the usual manner. Therefore, under the circumstance, it understood that the Committee was unable to undertake substantive discussions at the present session. Bearing this in mind, the

Delegation reaffirmed its commitment to continue to work in finalizing a legally binding instrument(s) that provided effective protection of GRs, TK and TCEs. The Delegation was of the view that the instrument(s) was needed to prevent misuse, misappropriation, and exploitation of GRs, TK and TCEs. Furthermore, there was a need to radically address the issues of disclosure and benefit-sharing based on prior informed consent and on mutually agreed terms to ensure the relevance and sustainability of the results of the work of the IGC. Under the able leadership and expertise of the Chair, it was confident that the Committee would narrow the existing gaps and reach a common understanding on the issues at hand. Understandably, innovative approaches were needed to ensure that the Committee continued its work in a balanced, transparent and inclusive manner despite the ongoing pandemic. To this end, it welcomed the proposed terms of the mandate and work program for the 2022-2023 biennium. The LMCs remained committed to engaging constructively in negotiating a mutually acceptable outcome for the benefit of all Member States.

23. The Delegation of the EU, speaking on behalf of the EU and its Member States, welcomed the convening of the present session, noting that it had been rescheduled several times due to the pandemic. Despite difficulties of continuing negotiations according to the work program under the current biennium, the Secretariat had facilitated, with the agreement of Member States, several online commenting processes and other preparatory activities, which had commenced in 2020 and continued into 2021. In the framework of those activities, as proposed by the Chair and in response to the Chair's note circulated in May 2020, the Delegation had submitted comments to the Chair's Text. It took positive note of the further work in addition to the above-mentioned activities, in particular the organization of a virtual seminar held in January 2021, as well as the briefings on the IGC, including background of the IGC, key issues and the status of the negotiations of the IGC, in June 2021. The Delegation reiterated its commitment to engage constructively in the work of the IGC, the continuation of which could only take place under the renewed mandate for the 2022-2023 biennium. Recalling the spirit of cooperation that had prevailed at IGC 40, it supported the renewal of the IGC mandate as it was. It was hopeful that the present session would succeed in making a recommendation to the GA on the renewal of the IGC's mandate for the next biennium.

24. The representative of the Native American Rights Fund ("NARF"), speaking on behalf of the Indigenous Caucus, noted that many negative impacts, which the indigenous peoples had suffered during the pandemic, had been documented in the 2020 report of the UN Special Rapporteur on the rights of indigenous peoples, available on the website of the United Nations. The issues associated with the pandemic, including the risk involved in accessing internet connections in public places, had affected the participation of several delegates. Simultaneously, proceedings in other fora had also posed challenges to their participation. With a heavy heart, the Caucus acknowledged the work of Mr. Estebancio Castro-Diaz from Panama, who had passed away due to the COVID-19 virus earlier that year, and Dr. Marika from Arnhem Land, Australia. Both Mr. Castro and Dr. Marika had played a vital role in the early days of the IGC, and had been strong advocates for change in the international instruments to benefit and support indigenous peoples around the world. He urged the Member States to speed up the negotiations on the international instruments before more indigenous elders and leaders passed away. The UN Declaration on the Rights of Indigenous Peoples ("UNDRIP"), ILO Convention No. 169, and all instruments of international, domestic, and indigenous laws recognized that indigenous peoples enjoyed political and cultural self-determination, and the right to maintain indigenous cosmology and life ways. He emphasized that Member States had an obligation, including those contained in existing treaties, to recognize and respect indigenous peoples' rights. The representative observed that the negotiations had been delayed due to the pandemic; however, the pandemic had not disrupted the misappropriation and exploitation of TK, TCEs and GRs without the free, prior and informed consent of indigenous peoples, who were the right holders and guardians of the vital aspects of their cultural heritage. The minimum standards for protection of indigenous peoples'



rights affirmed by the UNDRIP, including the IP rights recognized in Articles 11 and 31, continued to be violated. The need to conclude the negotiations and produce legal instruments that would protect the rights of indigenous peoples remained urgent. Indigenous representatives, however, faced challenges and obstacles that hindered their participation in the present hybrid format. Thus, the Caucus strongly believed that substantive negotiations should be postponed. He urged Member States to recommend to the GA the renewal of the mandate and work program for the new biennium identical to the recommendations made for the 2020-2021 biennium. He also asked Member States in the post-pandemic era to act upon the 2019 recommendations from the UN Permanent Forum on Indigenous Issues (“UNPFII”), that WIPO utilize funds from its core budget to address the ongoing need for effective indigenous participation in the IGC. The representative reminded Member States of the mandate of the IGC, which was to protect indigenous peoples’ rights over TK, available in paragraph 9 of the Report of the Permanent Forum E/2019/43. Indigenous peoples’ rights to control and steward TK, TCEs and GRs must be implemented in a way that maintained their economic, scientific, cultural and spiritual values. The Caucus looked forward to the work of the present session to lay out the groundwork for the substantive negotiations to continue in the next biennium.

25. [Note from the Secretariat: the following opening statements were submitted to the Secretariat in writing only.] The Delegation of the Islamic Republic of Iran expressed its appreciation for the Chair’s efforts to advance the work of IGC and convening different meetings in that regard. It was a long-standing aspiration of the right holders and beneficiaries in many countries to see that their GRs, TK and TCEs were protected against misappropriation and misuse. Doing so would move the IP system in a more balanced direction, that would ensure the legitimate interests of developing countries in the IP system, and provide an enabling environment for the development and enhancement of the contributions of the developing countries to global knowledge and global cultural partnerships. Through that, it would promote creativity and innovation. Therefore, to fill the existing lacuna in the international IP system and to realize all those objectives, the conclusion of international legally binding instrument(s) that would provide effective protection of GRs, TK, and TCEs was essential. It stressed that the issues of disclosure and benefit-sharing based on prior informed consent and on mutually agreed terms should be adequately addressed to ensure sustainability of the results of the IGC.

26. The Delegation of Nigeria aligned itself with the statement delivered by the Delegation of South Africa, on behalf of the African Group. The limited scope of the present session to procedural matters and as such would not be making substantial remarks on the substantive textual work of the Committee. It was fully aware that the task before the present session was strictly to advance the IGC’s collective determination to re-align the work of the Committee in light of the prevailing pandemic, starting with recommending to the 2021 GA on a proposed mandate for the 2022-2023 biennium, which, for all practical purposes, did not deviate from the extant and disrupted 2020-2021 mandate. The next biennium of the Committee would need to constructively explore and agree on flexible, transparent, pragmatic and inclusive working methods to advance the Committee’s work in general and to revive text-based negotiations in particular. Mindful of the time already lost, and cognizant of continued scientific and technological developments that increasingly rendered the Committee’s work preeminent, it remained optimistic that progress was possible in the next biennium to close existing gaps, and advance the Committee’s work towards a diplomatic conference in the realization of the ultimate goal of effective protection of GRs, TK and TCEs. The Delegation affirmed its commitment to working together with all delegations and stakeholders, including IPLCs to ensure that the Committee built upon all its pre-pandemic accomplishments.

27. The Delegation of the Republic of Korea recognized the importance of protecting GRs, TK and TCEs. It, however, believed that their protection should be designated in a balanced manner that did not create adverse effects on innovation and creativity. It stood ready to have constructive discussions with Member States of the Committee.

#### **AGENDA ITEM 4: ADOPTION OF THE REPORT OF THE FORTIETH SESSION**

28. The Chair referred to the draft report of IGC 40 and recalled that it was not a verbatim report, and it summarized the discussion without reflecting all the observations in detail.

*Decision on Agenda Item 4:*

29. *The Chair submitted the draft report of the Fortieth Session of the Committee (WIPO/GRTKF/IC/40/20 Prov. 2) for adoption, and it was adopted.*

#### **AGENDA ITEM 5: ACCREDITATION OF CERTAIN ORGANIZATIONS**

30. The Delegation of Turkey wished to emphasize that it valued the participation of NGOs and other relevant organizations in the work of the IGC. Their contributions were essential. Having said that, it requested for additional time to complete its internal consultations regarding the application of the Association for Indigenous Peoples and Minorities for the Peoples of the World (APPAM) for accreditation, as an observer in the future sessions of the IGC contained in document WIPO/GRTKF/IC/41/2. The Delegation confirmed its approval of the other six organizations that had applied for accreditation.

*Decision on Agenda Item 5:*

31. *The Committee unanimously approved the accreditation of Association pour le Devenir des Autochtones et de leur Connaissance Originelle (ADACO), Association pour la Valorisation du Patrimoine Culturel des Communes du Cameroun (AVP3C), Conseil pour la Terre des Ancêtres (CTA), Fundación Shiwiar Sin Fronteras (FUNSSIF), Kosodum Welfare Private Limited, and Voie éclairée des Enfants Démunis (VED) as ad hoc observers.*

32. *Consideration of the accreditation of Association pour les peuples autochtones et les minorités pour les peuples du monde (APPAM) was deferred to the next Session of the Committee.*

#### **AGENDA ITEM 6: PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES**

33. The Chair noted the sudden passing of Dr. B Marika AO in July 2021, as had been briefly mentioned by the Indigenous Caucus. She was a famed indigenous artist from Australia and a trailblazer in copyright/indigenous art movement. She had been an applicant in the landmark

Australian copyright case, referred to as the Carpets case. Her passing was a great loss. She had been part of WIPO's work on TCEs since the very beginning of the program in 1998.

34. The Delegation of Australia made a short statement in tribute to Dr. B Marika AO. Dr. Marika had been a greatly admired figure in Australia, an acclaimed artist, activist and Yolngu leader, in addition to her important contribution and engagement with the WIPO IGC. Dr. Marika had been the recipient of an Order of Australia in 2019 for her significant contributions to the visual arts, particularly indigenous printmaking and bark painting, and in 2020, she had been recognised as the Northern Territory's Senior Territorian of the Year. Dr. Marika had played a key role in the protection of indigenous knowledge in Australia. She had been a defendant in the "Carpets Case" – a landmark copyright case in Australia against a company that had reproduced her and others artwork without permission on carpets. The case had been key in highlighting the cultural damage from the unauthorised use of imagery. Dr. Marika's many contributions including to art and as a community leader would always be remembered.

35. The Chair thanked the Delegation of Australia for the tribute and extended his deepest sympathies to Dr. Marika's family and the peoples of the Northeast Arnhem and her many friends and colleagues spread across Australia and the wider international community. He also informed the Committee of the passing of Mr. Estebancio Castro-Diaz, who had partnered with WIPO as an indigenous expert on numerous occasions for almost 20 years. His passing was a great loss for the Committee as well as the indigenous peoples network and organizations around the globe. The Chair invited all participants to observe a minute's silence in honor of Dr. Marika and Mr. Castro-Diaz.

36. The Chair noted that the Twentieth Session of the United Nations Permanent Forum on Indigenous Issues had taken place virtually in April 2021. He drew participants' attention to a specific recommendation to WIPO: "Acknowledging the normative work of the Intergovernmental Committee on GRTKF of WIPO, the Permanent Forum recommends that Member States and WIPO ensure protection against the misappropriation of the intellectual property of indigenous peoples. Member States must also enact laws and adopt policies and mechanisms to protect indigenous peoples' intellectual property from misappropriation, including the wrongful use of their cultural heritage and traditional knowledge (including traditional knowledge of nature) and traditional cultural expressions (such as oral traditions, rites, literatures, graphic designs, textile designs, traditional sports and games, and visual and performing arts) and the manifestation of indigenous science and technology (including human and genetic resources, seeds and medicines)." With respect to the Voluntary Fund, the Chair recalled the decision of the 2020 GA, recognizing the importance of the participation of IPLCs in the work of the IGC. Noting that the Voluntary Fund was depleted, he encouraged Member States to consider contributing to the Voluntary Fund and to also consider other alternative funding arrangements. Due to travel restrictions, no indigenous representatives had been funded for the present session. They would be funded for the following physical session. Therefore, there would be no Advisory Board at the present session. He called upon delegations to consult internally and contribute to the Voluntary Fund, and in parallel, consider alternative funding arrangements, noting that the current arrangements had often fallen short of expectations, with inconsistent outcomes limiting the ability of indigenous stakeholders to participate in the negotiations. The importance of funding for indigenous observers could not be overemphasized.

37. [Note from the Secretariat]: The Indigenous Panel at IGC 41 addressed the following topic: "Intellectual Property and Genetic Resources/Traditional Knowledge/Traditional Cultural Expressions: Indigenous Peoples' and Local Communities' Perspectives". The speakers were Mr. Steven Benally of the United States of America; Ms. Bibi Barba of Australia; and Ms. Jennifer Tauli Corpuz of the Philippines. The Chair of the Panel was Mr. Frank Ettawageshik from the Native American Rights Fund (NARF). The presentations were made

according to the program (WIPO/GRTKF/IC/41/INF/5) and are available on the TK website as received. The Chair of the Panel submitted a written report on the Panel to the WIPO Secretariat which is reproduced, as summarized, below:

“Ms. Bibi Barba recounted in 2010 her paintings were exhibited in a gallery in Australia. The images were uploaded to the gallery’s website. In 2011, she googled herself for reference and discovered to her discomfort that her artwork had been copied from the internet images and used commercially as the design theme for a hotel in Europe, without her knowledge or consent. As she researched her options, she discovered there are no international protections for Indigenous artists and their work. The incident inspired her to study law. She was later able to pay a visit in disguise to the hotel. Seeing her artwork designs used extensively throughout the hotel made her even more determined to work to protect Aboriginal artists. She is using her own experiences to energize her work domestically in Australia, and worldwide, to help protect Indigenous artists and their work.

Mr. Steven Benally said that ‘nature is the order, the protocol that gives us life. Within Nature is our language, our way of life, our culture, and our prayer. All life in creation has purpose and has responsibilities. Our responsibility is to recognize and respect the gifts of Nature. Nature gives to us all regardless of status, and Nature can take from us all. This indigenous knowledge is not patented by human beings. It is patented by Nature. The Creator has the trademark for all life forms. We have the responsibility to protect our relationships with Nature.’

Ms. Jennifer Tauli Corpuz stressed the importance for Indigenous Peoples to have the IGC process continue despite the pandemic. Indigenous Knowledge is being considered in several other UN processes such as the CBD, its Nagoya Protocol, UNFAO, UNFCCC, EMRIP, UNPFII, and UNESCO to name only a few. However, there are no instruments involved in these other discussions that could legally protect indigenous knowledge. The WIPO IGC is unique as it is the only UN body in which a legally binding international agreement may be possible, one that guards against the misappropriation of TK. IPLCs’ participation in the IGC has been supported by the Secretariat. During the COVID pandemic, Indigenous Peoples have held online meetings to prepare in the months leading up to an IGC session. The Secretariat’s support for these organizational meeting arrangements has been essential, especially for interpretation, without which successful Caucus meetings could not have been held. Challenges for virtual Indigenous Peoples’ participation include their locations in multiple time zones, reliable internet connectivity, and the lack of opportunity in a virtual setting to have informal meetings with IGC parties. Indigenous Peoples agree with statements by parties that it is important to continue meeting virtually, but that formal adoption of decisions should be postponed until face-to-face meetings can take place. Ms. Tauli Corpuz closed by noting that IGC 41 was scheduled at the same time as other UN meetings that Indigenous Peoples attend at the CBD. At those meetings, digital sequencing is being discussed. This technology was not yet developed at the onset of the CBD or the WIPO process. The possibility of misappropriation of indigenous GRs has increased exponentially with the advent of digital sequencing. This new technology is now being incorporated in the CBD Nagoya Protocol discussion and should be included at WIPO as well.

Following the statements from the panelists, the Chair of the Panel opened the floor for questions or comments. As there were none, he posed a question to each of the panelists who were online in person for this discussion.”

*Decisions on Agenda Item 6:*

38. *The Committee took note of documents WIPO/GRTKF/IC/41/3 and WIPO/GRTKF/IC/41/INF/4.*

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

40. *Recalling the Decisions of the 2019 WIPO General Assembly, the Committee also encouraged members of the Committee to consider other alternative funding arrangements.*

**AGENDA ITEM 7: MAKING A RECOMMENDATION TO THE GENERAL ASSEMBLY**

41. [Note from the Secretariat: This part of the session took place on August 31, 2021.] The Chair recalled that he had consulted with the GCs and interested delegations in July 2021. He also noted that the opening statements by all GCs reiterated their support for the renewal of the mandate as detailed in the draft decisions circulated by the Secretariat, which was most welcomed. He invited Member States to review and consider the draft decisions.

42. The Delegation of Georgia, speaking on behalf of CEBS, supported the proposed renewal of the IGC's mandate for the 2022-2023 biennium on the same terms as those of the current biennium with only updates related to the numbering of the documents and the dates of the sessions.

43. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Chair for proposing a way forward on the recommendation regarding the IGC's mandate for the 2022-2023 biennium, without prejudice to other WIPO bodies. The IGC had not been able to carry out its mandate in the course of the current biennium. It was, therefore, reasonable to carry out that mandate in the next biennium. Accordingly, it agreed to recommend to the GA a mandate that was the same as the mandate for the 2020-2021 biennium with technical and timing updates. It remained committed to carrying out such mandate in the 2022-2023 biennium.

44. The Delegation of Bangladesh, speaking on behalf of APG, expressed its appreciation to the Chair for his hard work and efforts. The Chair's wise leadership had successfully brought the GCs and Member States on the same page regarding the IGC matters over the last 18 months. It was pleased to see that the GCs had agreed to replicate the 2020-2021 mandate with the same terms for the upcoming biennium with some technical updates. It hoped that the IGC would be able to carry out fruitful work and outcomes in the 2022-2023 biennium. Keeping in mind the reality of the global health crisis as well as its possible consequences, it advised the IGC to put in place precautionary measures or alternative plans to effectively implement the new mandate.

45. The Delegation of South Africa, speaking on behalf of the African Group, thanked the Chair for the wise approach that he had proposed relating to the 2022-2023 mandate. It noted with regret that no work had been done during the 2020-2021 biennium, with the present session being the first and the only one to be held under the present mandate. Whilst it had deliberated and considered whether a more ambitious mandate could be recommended to the GA for the next biennium, it was clear that the renewal of the mandate on the same terms as the current mandate was the more viable option. Therefore, it lent its support to the proposed mandate for the 2022-2023 biennium. Although it did not have the perfect solution at that moment, it believed that the delay, that had been witnessed on the IGC's work because of the pandemic, compelled the IGC to find creative and sustainable ways to advance the work of the IGC, when faced with similar challenges in the future with due regard to the need for transparency and inclusiveness. It hoped that there would not be further disruptions to the 2022-2023 mandate and the work program, and that Member States would demonstrate a genuine commitment and strong-will to expedite the work of the Committee.

46. The Delegation of China expressed its support for the renewal of the mandate of the 2022-2023 biennium and the work program. It would continue to support the text-based negotiations on GRs, TK and TCEs. It hoped that all delegations could actively participate in the negotiations, show flexibility and focus on unsolved issues, so as to adopt an international legally binding instrument(s).

47. The Delegation of Indonesia, speaking on behalf of the LMCs, was pleased to note that consensus on the renewal of the IGC's mandate for the 2022-2023 biennium had been reached. It recognized the Chair's efforts, including through the numerous informal consultations to ensure that the work of the Committee would continue. The pandemic had created such an unprecedented disruption over the world, and the Committee had been unable to conduct any formal sessions in the last 18 months. Therefore, it welcomed the extension of the current mandate into the next biennium. Mindful of the disruptive nature of the pandemic and considering the significance of the discussion, it hoped that the work of the IGC would continue, and that creative ways to conduct balanced, transparent, and inclusive meetings would be implemented. The members of the LMCs were ready to engage constructively for a mutually agreeable solution with regard to the modalities of the Committee, including exploring possible new working methods that would allow Member States to have a more effective and efficient use of the Committee. It hoped that in the next biennium, the Committee would move closer towards convening a diplomatic conference with a view to adopting a legally binding instrument(s), providing effective protection of GRs, TK and TCEs.

48. The Delegation of the EU, speaking on behalf of the EU and its Member States, expressed its appreciation for the informal consultations in the preparation of IGC 41 and addressing issues concerning the renewal of the IGC's mandate for the 2022-2023 biennium. The proposed renewal of the mandate was based on an exact replication of the mandate for the 2020-2021 biennium with one technical update related to document numbering and with the numbering and the dates of the session updated. It supported the renewal of the IGC's mandate as proposed. It was hopeful that IGC 41 would succeed in making a recommendation to the 2021 GA. It stood ready to continue substantive work in the IGC under its renewed mandate for the 2022-2023 biennium and reiterated its commitment to engage constructively in negotiations in the next biennium.

49. The representative of NARF, speaking on behalf of the Indigenous Caucus, supported the renewal of the mandate. He underscored the importance of the continuation of the work of the IGC, which had so far been hindered by the pandemic.

50. [Note from the Secretariat: the following statement was submitted to the Secretariat in writing only.] The Delegation of the Republic of Korea conveyed its support for the replication of the current mandate with the technical updates for the 2022-2023 biennium.

51. The Chair thanked the participants for their commitment to continue the work of the Committee, particularly noting the significant hiatus in the IGC's normative negotiations. He hoped that those negotiations would continue in the first quarter of 2022, though as some of the delegations had already indicated, there might be some challenges in relation to the pandemic. Accordingly, the Vice-Chairs, himself and the Secretariat would endeavor to develop practical solutions in a timely manner in consultation with Member States through the GCs. Whilst the mandate itself was not open for negotiation, the Chair believed that the IGC should, as far as practical, avoid further delays in conducting its normative negotiations. This might require the IGC to be more innovative in relation to the IGC's working methods, which would maintain transparency and an equitable negotiating environment, taking into consideration the digital divide. He was very conscious that in any negotiation, building relationships among parties was critical, particularly in developing trust and gaining a shared understanding on key issues.

*Decision on Agenda Item 7:*

52. *The Committee agreed to recommend to the 2021 WIPO General Assembly that the mandate of the Committee be renewed for the 2022-2023 biennium. The Committee further agreed to recommend to the 2021 General Assembly that the terms of the mandate and work program for 2022-2023 be as follows:*

*“Bearing in mind the Development Agenda recommendations, reaffirming the importance of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Committee), noting the different nature of these issues and acknowledging the progress made, the WIPO General Assembly agrees that the mandate of the Committee be renewed, without prejudice to the work pursued in other fora, as follows:*

*(a) The Committee will, during the next budgetary biennium 2022/2023, continue to expedite its work, with the objective of finalizing an agreement on an international legal*

*instrument(s), without prejudging the nature of outcome(s), relating to intellectual property, which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).*

*(b) The Committee's work in the 2022/2023 biennium will build on the existing work carried out by the Committee, including text-based negotiations, with a primary focus on narrowing existing gaps and reaching a common understanding on core issues<sup>1</sup>.*

*(c) The Committee will follow, as set out in the table below [Annex II of this report], a work program based on open and inclusive working methods for the 2022/2023 biennium, including an evidence-based approach as set out in paragraph (d). This work program will make provision for 6 sessions of the Committee in 2022/2023, including thematic, cross-cutting, and stocktaking sessions. The Committee may establish ad hoc expert group(s) to address a specific legal, policy, or technical issue<sup>2</sup>. The*

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<sup>1</sup> Core issues include, as applicable, inter alia, definitions, beneficiaries, subject matter, objectives, scope of protection, and what TK/TCEs are entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.

<sup>2</sup> The expert group(s) will have a balanced regional representation and use an efficient working methodology. The expert group(s) will work during the weeks of the sessions of the IGC.



*results of the work of such group(s) will be submitted to the Committee for consideration.*

*(d) The Committee will use all WIPO working documents, including WIPO/GRTKF/IC/40/6, WIPO/GRTKF/IC/40/18, WIPO/GRTKF/IC/40/19 and the Chair's Text on a Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, as well as any other contributions of Member States, such as conducting/updating studies covering, inter alia, examples of national experiences, including domestic legislation, impact assessments, databases, and examples of protectable subject matter and subject matter that is not intended to be protected; and outputs of any expert group(s) established by the Committee and related activities conducted under Program 4. The Secretariat is requested to continue to update studies and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GRs and associated TK, with a view to identifying any gaps and continuing to collect, compile and make available online information on national and regional sui generis regimes for the*

*intellectual property protection of TK and TCEs. Studies or additional activities are not to delay progress or establish any preconditions for the negotiations.*

*(e) In 2022, the Committee is requested to provide to the General Assembly a factual report along with the most recent texts available of its work up to that time with recommendations, and in 2023, submit to the General Assembly the results of its work in accordance with the objective reflected in paragraph (a). The General Assembly in 2023 will take stock of progress made, and based on the maturity of the texts, including levels of agreement on objectives, scope, and nature of the instrument(s), decide on whether to convene a diplomatic conference and/or continue negotiations.*

*(f) The General Assembly requests the Secretariat to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula for the IGC.”*

53. *Recalling the decisions of the 2019 WIPO General Assembly in this regard, the Committee also*

*recommended that the 2021 WIPO General Assembly recognize the importance of the participation of indigenous peoples and local communities in the work of the Committee, note that the WIPO Voluntary Fund for Accredited Indigenous and Local Communities is depleted, encourage Member States to consider contributing to the Fund and invite Member States to consider other alternate funding arrangements.*

#### **AGENDA ITEM 8: ANY OTHER BUSINESS**

*Decision on Agenda Item 8:*

*54. There was no discussion under this item.*

#### **AGENDA ITEM 9: CLOSING OF THE SESSION**

55. The Chair thanked the Vice-Chairs for their efforts, support and advice over the past 18 months. As he had always indicated, they worked as a team. He also thanked the GCs who played a critical role in advising him and providing an essential conduit to Member States to ensure that the work of the Committee took account of all Member States' interests. He offered his strong support for the Indigenous Caucus who met virtually at the present session, noting that the indigenous representatives were critical in contributing to the discussions and it was vital that they were represented, even if it was remotely. He emphasized the importance of funding to support their involvement in the IGC. He also noted the important participation of industry representatives and members of civil society. The Chair thanked the Secretariat for making the meeting possible and for supporting the large number of related IGC activities conducted over the past 18 months in a constructive and positive manner. He expressed his appreciation to Member States for their perseverance over the past months and for their strong commitment to expediting the work reflected in the recommendation to renew the mandate for the 2022-2023 biennium. As an eternal optimist, he was hopeful that the conditions would be suitable for the IGC to recommence its normative work. He asked Member States to take the time between that moment and IGC 42 to review their policy positions and approach to core issues reflected in the working documents and related documents submitted by Member States, including the Chair's Text. Member States needed to shift from an approach that nothing was agreed until everything was agreed. Most international instruments started as foundation instruments, which were built on over time. Member States might need to lower their initial expectations and consider an incremental approach to the work of the IGC, making progress on issues where there was consensus, and which pose the key threats to the protection of GRs, TK and TCEs within the IP system while balancing the broad policy outcomes and interests, taking into account the development in related fora, such as the WTO, CBD and UNESCO. International IP instruments were principle-based, establishing minimum and maximum standards. The onus was on Member States to implement the instruments at the national level, utilizing their relevant national legislative frameworks, which might vary considerably across Member States. The IGC at times struggled within those negotiations to avoid an overly prescriptive text. He believed it was time for the IGC to finalize its GR negotiations, particularly noting the increasing regional and national regimes being implemented in relation to disclosure requirements, many of which varied in scope and technical detail. This should be within the

IGC's means, reflecting a significant convergence of views amongst Member States in relation to disclosure requirements. He also believed that the IGC should start addressing activities parallel to the negotiations which the Secretariat could progress whilst those negotiations continued, particularly around defensive measures, such as the use of databases and learning from practical experiences at national levels. He reminded participants that the IGC had a significant amount of national and regional experience that could be utilized, including national and regional regimes, such as the Indian TKDL, the South African TK frameworks, the ARIPO Protocol, and the Andean Community's work. New Zealand and Australia were currently conducting wide consultations in that area. In relation to TK and TCEs, he recognized that the negotiations were challenging, and encouraged Member States to focus on gaining consensus on core issues and developing a single framework, which removed a significant number of alternative options within the working text. The Chair believed that that was within the IGC's grasp, reflecting the recent convergence on critical core issues, such as policy objectives, subject matter, and eligibility criteria for protection. Obviously, the scope of protection remained the greatest challenge. However, he believed that establishing a single framework would give the IGC an ability to focus on those challenging elements, such as the scope of protection, exceptions and limitations, and sanctions and remedies. It would also ensure that the IGC maintained a clear line of sight and linkage between the core elements of the text. Those were his personal views without prejudice to any Member State's position.

56. The Vice-Chair, Ms. Lilyclaire Bellamy, reiterated her appreciation to the Secretariat for all the support, and to those delegations who had supported their nomination. She hoped that Member States could find a common ground, so that the IGC could move the process forward. The Committee needed to be mindful of the fact that the pandemic did not seem to be going away. Therefore, Member States needed to find a creative way to work together, even though this was not the best or the perfect way. She also expressed her appreciation for all the work that had so far been done at the present session. In her view, the issues that Member States faced as a result of the pandemic had been replicated globally, and the digital divide issues were quite common to a number of Member States globally. Therefore, it would be good for the Committee to work towards finding some consensus.

57. The Vice-Chair, Mr. Jukka Liedes, thanked all the members for their confidence, and reaffirmed his commitment to working for a positive and concrete outcome in all the three substantive areas. He echoed the comments made by the Chair and one of the Vice-Chairs, Ms. Lilyclaire Bellamy.

58. The Vice Chair, Mr. Yonah Seleti, wished to thank the Chair for his skillful leadership and the Secretariat for its commitment to this process. He also thanked Member States for the nominations to serve as one of the Vice-Chairs. He thanked the GCs for their commitment to the process and their availability in support of the process.

59. The Delegation of the United Kingdom, speaking on behalf of Group B, acknowledged the efforts made by all delegates that participated virtually outside the normal working hours. Special thanks went to the contribution of the indigenous panel, for their continuous important input to the work of the Committee. Group B was pleased to conclude with the recommendation to the GA, including the renewal of the IGC's mandate for the 2022-2023 biennium. It reiterated that the working methods would continue to be open and inclusive, and allow engagement with all texts, ideas and concepts, all in a spirit of mutual trust. It reaffirmed the importance of the consensus-based decision-making process at WIPO, through which all Member States participated in order to reach a common understanding.

60. The Delegation of South Africa, speaking on behalf of the African Group, was glad that the session had successfully completed the tasks before it. Although it had been a very short session, a lot of work had gone into organizing it. It thanked the Secretariat who had worked very hard to ensure a successful session. It thanked the indigenous panelists for the insights

that they had shared with the IGC, which enriched its understanding of their perspectives and aspirations. The GCs and Member States were appreciated for their constructive engagements. The Delegation was pleased that IGC 41 had agreed on the recommendation to the GA with regard to the mandate of the Committee for the 2022-2023 biennium. It looked forward to the recommendation being endorsed by the GA and reaffirmed its commitment to the IGC's work.

61. The Delegation of Chile noted that the renewal of the IGC's mandate was a demonstration of the importance which Member States assigned to the topic, and presented an opportunity to continue dialogue and seek a consensus which would enable the Committee to deal with the relationship between IP and GRs, TK and TCEs so as to conclude an agreement on one or various international legal instruments without pre-judging the nature of the outcomes. It welcomed any initiatives which enabled the IGC to continue the dialogue amongst the delegations in seeking a consensus in an intersectional manner. The Delegation expressed its confidence in the Chair's leadership and affirmed its support to the work of the Committee.

62. The Delegation of Bangladesh, speaking on behalf of APG, remarked that the session was procedural, but useful. It thanked the Chair, the Vice-Chairs and the Secretariat for their excellent work in supporting the IGC. It looked forward to continuing constructive discussion.

63. The Delegation of China appreciated the leadership of the Chair and the work done by the Secretariat. It thanked Member States for their participation. It welcomed the results of the present session. It looked forward to positive results coming from the GA and hoped that the work of the IGC would continue in a successful manner.

64. The Delegation of Paraguay, speaking on behalf of GRULAC, congratulated Member States for the constructive spirit, which had led to a consensus on the future work of the IGC for the consideration by the GA. It hoped that the Committee would make progress with the objective of finalizing an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to IP which would ensure the balanced and effective protection of GRs, TK and TCEs. It confirmed its continued commitment in the work of the Committee in the forthcoming sessions.

65. The Delegation of Georgia, speaking on behalf of CEBS, looked forward to a constructive and inclusive dialogue in the future. At the same time, it noted the importance of the Committee working towards reaching a common understanding on cross-cutting issues. The Delegation was ready to continue active engagement to ensure progress in the future.

66. The Delegation of Indonesia, speaking on behalf of the LMCs, stated that the work of the Committee formed an important part of WIPO's mission in creating a balanced and effective global IP system. The two-year hiatus of the Committee was unfortunate. However, as the Committee continued to adapt to the current situation, it had many lessons to draw from and to move forward in the next two years. The Delegation looked forward to the adoption of the new mandate of the IGC at the 2021 GA. The members of the LMCs believed that despite the ongoing challenges posed by the pandemic, the Committee could continue its work in finalizing a legally binding instrument(s) that would provide effective protection of GRs, TK and TCEs. It hoped that at the next sessions of the IGC, the Committee would be able to carry out more substantive work to narrow the existing gaps and reach a common understanding on the various outstanding issues at hand. It remained committed to supporting the work of the Committee guided by the renewed mandate.

67. The Representative of the Native American Rights Fund (NARF), speaking on behalf of the Indigenous Caucus, thanked Member States for moving ahead with a recommendation to the 2021 GA on the mandate for the 2022-2023 biennium. He urged that substantive

negotiations be postponed until it was possible to ensure meaningful participation of IPLCs, noting that the present hybrid model was not a sufficient solution for IPLCs. Accessibility of technology and adequate internet connections issues hindered indigenous participation in the discussions. The Representative noted that indigenous nations had been severely impacted so that their focus was to provide essential health support to their communities. While that had reduced the momentum of work of the Committee, the Indigenous Caucus hoped to continue making progress in the near future. Since the process involved the protection of TK, TCEs and GRs, consistent participation of IPLCs was critical. He respectfully requested more Member States to contribute to the Voluntary Fund, as well as support permanent sources of funding to support meaningful indigenous participation. The minimum standards for protection of indigenous peoples' rights recognized by Member States in the UNDRIP, including their IP rights recognized in Articles 11 and 31, continued to be violated. He reiterated that the work of the IGC was essential to advance rights to self-determination as contained in Article 3 of the UNDRIP. As the Committee moved forward its work, the Indigenous Caucus maintained that the instruments must respect their rights and protect GRs, TK and TCEs for their future generations. The Representative further hoped that the pandemic would end and the Indigenous Caucus would join together in the future to complete the work in a way that maintained their economic, scientific, cultural and spiritual values as indigenous peoples.

68. The Chair closed the session.

*Decision on Agenda Item 9:*

*69. The Committee adopted its decisions on agenda items 2, 3, 4, 5, 6, and 7 on August 31, 2021. 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 October 15, 2021. 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.*

[Annexes follow]

**LISTE DES PARTICIPANTS/  
LIST OF PARTICIPANTS**

**I. ÉTATS/STATES**

(dans l'ordre alphabétique des noms français des États)  
(in the alphabetical order of the names in French of the States)

**AFRIQUE DU SUD/SOUTH AFRICA**

Yonah SELETI (Mr.), Chief Director, Department of Science and Technology (DST), Ministry of Science and Technology, Pretoria

Tom SUCHANANDAN (Mr.), Director, Indigenous Knowledge Systems, Department of Science and Innovation, Pretoria

Shumi PANGO (Ms.), Deputy Director, Department of Science and Innovation, Pretoria

Mandla NKABENI (Mr.), First Secretary, Permanent Mission, Geneva

**ALGÉRIE/ALGERIA**

Mohamed BAKIR (M.), premier secrétaire, Mission permanente, Genève

**ALLEMAGNE/GERMANY**

Axel JACOBI (Mr.), Legal Officer, Patent Law Unit, Federal Ministry of Justice and for Consumer Protection, Berlin

Jan TECHERT (Mr.), Counsellor, Permanent Mission, Geneva

**ANGOLA**

Ana Paula PEREIRA MIGUEL (Ms.), Director General, Angolan Institute of Industrial Property (IAPI), Ministry of Industry and Trade, Luanda

Carla Luísa LOURO PEREIRA DE CARVALHO (Ms.), Deputy Director, Angolan Institute of Industrial Property (IAPI), Ministry of Industry and Trade, Luanda

**ARABIE SAOUDITE/SAUDI ARABIA**

Alhanoof ALDEBASI (Ms.), Executive Director, Copyright Department, Saudi Authority for Intellectual Property (SAIP), Riyadh

Majed ALGHAMDI (Mr.), Patent Expert, Saudi Authority for Intellectual Property (SAIP), Riyadh

ARGENTINE/ARGENTINA

Walter WAISMAN (Sr.), Director Nacional, Dirección Nacional de Derecho de Autor, Ministerio de Justicia y Derechos Humanos, Buenos Aires

Micaela BONAFINA (Sra.), Coordinadora, Proyecto ARG 16/G54, Ministerio de Ambiente y Desarrollo Sostenible, Buenos Aires

Nadia SOCOLOFF (Sra.), Primera Secretaria, Dirección Nacional de Negociaciones Económicas Multilaterales, Ministerio de Relaciones Exteriores, Comercio Internacional y Culto, Buenos Aires

Betina FABBIETTI (Sra.), Segunda Secretaria, Misión Permanente, Ginebra

ARMÉNIE/ARMENIA

Shushik MKHITARYAN (Ms.), Acting Deputy Head, Intellectual Property Office, Ministry of Economy, Yerevan

Elen HAMBARDZUMYAN (Ms.), Senior Specialist, Intellectual Property Office, Ministry of Economy, Yerevan

Emma HARUTYUNYAN (Ms.), Attaché, Permanent Mission, Geneva

AUSTRALIE/AUSTRALIA

Patricia HOLMES (Ms.), Deputy Permanent Representative, Permanent Mission, Geneva

Thea SEFEROVIC (Ms.), Assistant Director, Policy and International Affairs, IP Australia, Canberra

Emily GLEESON (Ms.), Policy Officer, Policy and International Affairs, IP Australia, Canberra

Oscar GROSSER-KENNEDY (Mr.), Second Secretary, Permanent Mission, Geneva

AUTRICHE/AUSTRIA

Johannes WERNER (Mr.), Head, International Relations Department, Austrian Patent Office, Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology, Vienna

BANGLADESH

Shanchita HAQUE (Ms.), Minister, Deputy Permanent Representative, Permanent Mission, Geneva

Mahabubur RAHMAN (Mr.), First Secretary, Permanent Mission, Geneva



BÉLARUS/BELARUS

Dmitry DOROSHEVICH (Mr.), Counsellor, Permanent Mission, Geneva

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[Annex II follows]



**WORK PROGRAM – 6 SESSIONS**

Indicative Dates	Activity
February/March 2022	(IGC 42) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument  Duration 5 days.
May/June 2022	(IGC 43) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument.  Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
September 2022	(IGC 44) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Possible recommendations as mentioned in paragraph (e)  Duration 5 days.
October 2022	WIPO General Assembly Factual report and consider recommendations
November/December 2022	(IGC 45) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s).  Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
March/April 2023	(IGC 46) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s)  Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.
June/July 2023	(IGC 47) Undertake negotiations on TK and/or TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s).  Stocktaking on GRs/TK/TCEs and making a recommendation  Duration 5 days.
October 2023	WIPO General Assembly will take stock of the progress made, consider the text(s) and make the necessary decision(s).

[End of Annex II and of document]