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

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

DECISIONS OF THE FORTY-FIRST SESSION OF THE COMMITTEE

Adopted by the Committee

DECISION ON AGENDA ITEM 2:

ELECTION OF OFFICERS

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 Latin American and Caribbean Countries (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.

DECISION ON AGENDA ITEM 3:

ADOPTION OF THE AGENDA

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

DECISION ON AGENDA ITEM 4:

ADOPTION OF THE REPORT OF THE FORTIETH SESSION

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.

DECISION ON AGENDA ITEM 5:

ACCREDITATION OF CERTAIN ORGANIZATIONS

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.

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.

DECISION ON AGENDA ITEM 6:

PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

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

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.

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

DECISION ON AGENDA ITEM 7:

MAKING A RECOMMENDATION TO THE GENERAL ASSEMBLY

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 issues¹.
- (c) The Committee will follow, as set out in the table below, 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 issue². The 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

¹ 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.

² 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.

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.

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

	<p>addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s)</p> <p>Duration 5 days, plus, if so decided, a one day meeting of an <i>ad hoc</i> expert group.</p>
June/July 2023	<p>(IGC 47)</p> <p>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).</p> <p>Stocktaking on GRs/TK/TCEs and making a recommendation</p> <p>Duration 5 days.</p>
October 2023	<p>WIPO General Assembly will take stock of the progress made, consider the text(s) and make the necessary decision(s).”</p>

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.

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 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.

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