



**A I P P I**

**ASSOCIATION INTERNATIONALE  
POUR LA PROTECTION DE LA PROPRIETE INTELLECTUELLE**

**INTERNATIONAL ASSOCIATION  
FOR THE PROTECTION OF INTELLECTUAL PROPERTY**

**INTERNATIONALE VEREINIGUNG  
FÜR DEN SCHUTZ DES GEISTIGEN EIGENTUMS**

**Congress**

**Seoul**

**October 20 to 23, 2012**

**Report  
Special Committee Q166**

**IP and Genetic Resources / Traditional Knowledge**

**PI relative aux ressources génétiques/saviers  
traditionnels**

**IP und genetische Ressourcen/traditionelles Wissen**



## Report Q166

### Intellectual Property and Genetic Resources / Traditional Knowledge

#### Names and Functions of Committee Members

Chair	Konrad Becker	(Switzerland)
Co-Chair	Marlies Allan	(Nigeria)
Secretary	Andrew Bruce Massie	(Australia)
Members	Yong Cheng María Carmen de Souza Brito Gabriela Paíva Hantke Daisy Machytka-Frank Michael Edenborough	(China) (Brazil) (Chile) (Hungary) (United Kingdom)
Responsible Reporter	Sara Ulfsdotter	(Sweden)

**1. Annual Report of Special Committee Q 166. – "Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore" by Konrad Becker.**

**2. Summary:**

2.1. Special Committee Q166 has the task of following developments concerning Genetic Resources, Traditional Knowledge and Folklore (GRTKF) in relation to Intellectual Property. SC Q166 members attended corresponding sessions of the WIPO Intergovernmental Conferences (IGC). The IGC is now engaged in text-based discussions, but far from reaching consensus, and chances are low that a Diplomatic Conference can be convened in the near future.

Working Question Q 232 (to be discussed in Seoul) deals with a particular aspect of the Q166 topic, namely "The relevance of traditional knowledge to intellectual property law".

2.2. There are no deadlines to be followed presently.

2.3. No further action is recommended presently.

### **3. Introduction**

Special Committee Q166 has the task of following developments concerning Genetic Resources, Traditional Knowledge and Folklore (GRTKF) in relation to Intellectual Property. Sources of information are primarily WIPO (Intergovernmental Conferences on IP and GRTKF and documents prepared by the WIPO secretariat for the conference, to some extent also sessions of the Committee on Development and Intellectual Property, CDIP, the PCT and other WIPO legal instruments and conferences), WTO/TRIPS (TRIPS Council documents and personal meetings with members of the TRIPS secretariat), the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA), and the Conference of the Parties of the Convention on Biological Diversity (CBD) concerning the same topic.

### **4. Report of Committee's activities**

The Special Committee did not meet since the Executive Committee Meeting in Hyderabad in 2011, but exchanged documents and opinions by e-mail.

AIPPI Q166 was represented at the Intergovernmental Conferences (IGC) on IP and GRTKF by the chairman at the 20<sup>th</sup> session, February 14 to 22, 2012, by Maria Carmen S. Brito at the 21<sup>st</sup> session, April 16 to 20, 2012, and again by the chairman at the 22<sup>nd</sup> session, July 9 to 13, 2012, all at the WIPO headquarters in Geneva. Reports are available on the AIPPI website.

The three sessions of the IGC on IP and GRTKF in 2012 were devoted to text-based discussions based on texts prepared by experts and already under discussion in 2011, for the three sub-topics Genetic Resources (GR), Traditional Knowledge (TK), and Traditional Cultural Expressions (TCE), respectively. For each session a group of facilitators was designated with the task of preparing a consolidated paper taking into account all proposals and combine them into a single text. Plenary meetings were then set up to deal with the consolidated text, and to shorten it as far as possible.

The texts as available at the end of each of the three sessions are supposed to be submitted to the General Assembly of WIPO. Although the discussions were quite constructive, vast differences in opinion between groups of delegations could not be overlooked. Furthermore tension between governmental delegations and representatives of indigenous peoples complicated the discussions. The sessions clearly failed in reaching agreement on a text of an international legal instrument which will ensure effective protection of GRs, TK and TCEs. As the texts stand now they are still "work in progress", and without prejudice on the outcome, i.e. binding agreement text or non-binding guideline of a general nature.

Members of Q166 were involved in preparing Working Guidelines and Group Reports of Working Question Q 232 to be discussed in Seoul 2012 directed to "The relevance of traditional knowledge to intellectual property law". The most recent texts as available from the WIPO IGC on IP and GRTKF are indeed of high importance for this Working Question.

## **5. Recommendations**

Based on the results of Working Question Q 232 and the Resolution to be discussed in Seoul 2012 directed to "The relevance of traditional knowledge to intellectual property law", special tasks may be assigned to the Committee in future years.

September 15, 2012