

## 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	Ke KE Maria Carmen de Souza Brito Daisy Machytka-Frank Willem At van Rooy Cristobal Porzio Benedetta Ubertazzi	(China) (Brazil) (Hungary) (South Africa) (Chile) (Italy)
Responsible Reporter	Kazuhiko Yoshida	(Japan)

**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. The SC Q166 chairman attended two out of three sessions of the WIPO Intergovernmental Conference (IGC). The IGC is now engaged in text-based discussions. There are considerable differences of opinion between the delegations, and the negotiations are far from being brought to a reasonable end. The result of these discussions will be presented to the General Assembly of WIPO in September 2014. The Nagoya Protocol on Access and Benefit Sharing of the Biodiversity Convention will soon take effect, since the required minimum number of 50 ratifications has been reached on July 11. Since the discussions on the Doha round are more or less stalled, no news can be reported from the WTO/TRIPS.
- 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 Conference 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) and the Nagoya protocol on Access and Benefit Sharing concerning the same topic.

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

The Special Committee did not meet since the Executive Committee meeting in Helsinki in 2013, but exchanged documents and opinions by e-mail.

AIPPI Q166 was represented at the Intergovernmental Conferences (IGC) on IP and GRTKF, 26<sup>th</sup> session, February 3 to 7, 2014, and at the 28<sup>th</sup> session, July 7 to 9, 2014, by the chairman Konrad Becker. Nobody from Q166 was able to be present at the 27<sup>th</sup> session in April, but part of the meeting could be followed as webcast on the internet. The conferences all took place at the WIPO headquarters in Geneva.

The three sessions of the IGC on IP and GRTKF in 2014 were devoted to text-based discussions based on texts prepared by experts and already under discussion since 2011. The 26<sup>th</sup> session concentrated on Genetic Resources (GR), the 27<sup>th</sup> session on Traditional Knowledge (TK) and Traditional Cultural Expressions (TCE), and the final session (28<sup>th</sup>) on cross-cutting aspects of all three texts and a proposal of the IGC to the General Assembly on how to continue the negotiations.

For each session a group of facilitators was trying to focus the discussions in order to reduce the differences reflected in contradicting, bracketed proposals. Most negotiations were conducted in a group of opinion leaders and experts, with discussions audio-broadcast to the plenary room, or behind closed doors between representatives of large countries and informal country groups. Plenary meetings were set up for the opening statements and on the last day to deal with the outcome of the negotiations.

The texts as available at the end of each of the three sessions are supposed to be submitted to the General Assembly of WIPO. Vast differences in opinion between groups of delegations could not be overlooked. In addition to the differences between developing countries and first world countries, also differences between indigenous groups admitted to the negotiations and state representatives turned out to be substantial. 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" with many contradicting bracketed paragraphs, and without prejudice on the outcome, i.e. binding agreement text or non-binding guideline of a general nature. The texts may be found under [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=276319](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=276319) (GR) [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=276361](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=276361) (TK) and [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=276220](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=276220) (TCE).

In the 28<sup>th</sup> and final session for 2014 the delegations could not even find a common proposal to the General Assembly with respect to continuation of the work of the IGC

in 2015. The proposal submitted to the General Assembly now consist of different options presented by country groups.

The chairman Q166 was also part of the small delegation having a fruitful exchange of information with representatives of the TRIPS secretariat at the WTO in Geneva on July 14, 2014. For the moment no breakthrough is expected in the Doha round discussions at WTO, and no immediate impact (as demanded by developing countries) on Article 27 TRIPS (patentability requirements) are expected.

In the Biodiversity Convention, the Nagoya Protocol on Access and Benefit Sharing is expected to take effect in October 2014 since the required number of 50 signatories having ratified, accepted, approved or accessed the protocol has been reached by the ratification of Switzerland on July 11, 2014.

## **5. Recommendations**

It is recommended that members of Q166 SC follow the IGC GRTKF discussions at WIPO also in 2015.

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