



Report Q166

Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

by Konrad Becker, Chairman

Names and Functions of Committee Members

Chairman	Konrad Becker	(Switzerland)
Co-Chairman	Marlies Allan	(Nigeria)
Secretary	Andrew Bruce Massie	(Australia)
Members	Yong Cheng Maria Carmen de Souza Brito Gabriela Paiva Hantke Daisy Machytka-Frank Benedetta Ubertazzi Michael Edenborough	(China) (Brazil) (Chile) (Hungary) (Italy) (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) and also intersessional Work Group meetings. The IGC has now moved to text-based discussions, and considerable progress is noted. The IGC will need an extension of its mandate for another biennium in order to be ready for a possible Diplomatic Conference.

Working Question Q 232 (to be discussed in South Korea in 2012) 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 Congress in Paris in 2010, but exchanged documents and opinions by e-mail.

As reported in 2010, information from 34 national groups on questions of legal provisions concerning the requirement of indicating the source or country of origin of genetic resources and traditional knowledge connected with it in patent applications had been collected. Efforts were made to complete the list by soliciting answers from further national groups in prominent countries lacking in the list, but no additional information was obtained. The corresponding 2010 questionnaire results Q94/Q166 are available on the website www.aippi.org.

The report on the AIPPI questionnaire was distributed at the 18th Intergovernmental Conference (IGC) in May 2011 and found wide interest.

Two more Committee members, Benedetta Ubertazzi from Italy and Michael Edenborough from the United Kingdom, were welcomed. This will allow distributing the task of representation at the Intergovernmental Conferences (IGC) on Intellectual Property (IP) and Genetic Resources, Traditional Knowledge and Folklore (GRTKF) at the WIPO headquarters in Geneva on more shoulders.

AIPPI Q166 was represented by the chairman in the second intersessional Working Group Meeting (IWG2) on Traditional Knowledge, February 21 to 25, 2011, and the third intersessional Working Group Meeting (IWG3) on Genetic Resources, February 28 to March 4, 2011; by Maria Carmen S. Brito at the 18th session of the IGC on IP and GRTKF, May 9 to 13, 2011; and by Benedetta Ubertazzi at the 19th session of the IGC on IP and GRTKF, July 18 to 22, all at the WIPO headquarters in Geneva. Reports are available on the AIPPI website, Special Committee Q166.

Based on a mandate of the 16th session of the IGC on IP and GRTKF, renewed at the 17th session, the experts from WIPO member states and intergovernmental organisations started text-based discussions preparing a legal international instrument on the topics, centred on the objectives and principles, but also on articles of a possible agreement. The discussions were quite constructive, both in the plenary and the sub-groups, although vast differences in opinion could not be overlooked. The discussions profited from the experience of text-based discussion for traditional cultural expressions (TCE) in the first intersessional Working Group. The texts of the two IWGs on Traditional Knowledge and Genetic Resources were submitted to the 18th session of the IGC in May. Several amendments were proposed, and open-

ended drafting groups worked at night with the aim of reducing the number of options and preparing concise texts. Both the texts on Traditional Knowledge and on Genetic Resources were then again submitted to the 19th session of the IGC. Further simplification of the text proposals were undertaken with the aid of facilitators and open-ended work groups. Furthermore the 19th session worked on a proposal to the General Assembly, asking for an extension of the mandate for the biennium 2012/2013 with the objective of reaching agreement on a text of an international legal instrument which will ensure effective protection of GRs, TK and TCEs, with a clearly defined work program. The hopes are that this will lead to a decision on convening a Diplomatic Conference.

5. Recommendations

Based on more concrete results of the IGC on IP and GRTKF it is now time to deal with Traditional Knowledge within the Working Questions of AIPPI. Q 232 (to be discussed in South Korea 2012) is directed to "The relevance of traditional knowledge to intellectual property law".

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