



**Intergovernmental Committee on Intellectual Property and Genetic Resources (GR),
Traditional Knowledge (TK) and Folklore
26th Session, February 3 to 7, 2014 (Genetic Resources)**

Report by Konrad Becker, Chairman Q166

Based on the renewed mandate of the General Assembly for the biennium 2014/2015, the Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (GRTKF) should now move forward to present an agreed text for an international legal instrument. For that purpose a further session was convened from February 3 to 7, 2014, at the WIPO headquarters in Geneva, to deal with the text proposals as they were laid down at the 23rd session in February 2013, for an instrument dealing with IP and genetic resources.

Ambassador Cook from Jamaica, chairing this IGC now for some years already, distributed an informal document in advance, in order to have a focussed discussion on the main points of disagreement of the member state delegations. In a broader context the negotiations have to be seen as related to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (part of the Convention on Biological Diversity, CBD), as well as the international treaty on Genetic Resources for Food and Agriculture (ITPGRFA) of the United Nations Food and Agriculture Organization (FAO). Two possible main objectives are (1) to comply with international/national laws relating to Access and Benefit Sharing (ABS), and (2) to ensure that patent offices have appropriate information to make proper and informed decisions in granting patents. Agreement should be reached on the proposed disclosure requirement for patent applications related to genetic resources and associated traditional knowledge.

To bring forward the discussions, they were mainly held in a small negotiating group with representatives of the most prominent (and vocal) member states only, together with agreed “facilitators” working on the specific text. This meant that several country delegations were no longer actively involved in the negotiations, but only in the preparations for it within their

regional groups. At the same time this meant that representatives from non-governmental organisations (such as AIPPI, but also the representatives of indigenous groups) did not have direct access to the negotiations, and had to make sure that their views were represented by national delegations.

In practical terms it meant that plenary meetings only took place on Monday afternoon (to deal mainly with administrative aspects) and again on Friday afternoon for the closing session. Apart from that, access was restricted, and the delegates had to listen to voice transmission to the main room, or were offered forum type meetings with general information, panels of speakers, and presentations related to the topic.

In spite of this tightened set-up, the results from a week's discussion could not break the dead-lock. No agreement could be reached on basic questions. However, the number of brackets in the text was reduced and the language clarified. The preamble was further extended, but the policy objectives now streamlined. The article about beneficiaries was deleted. Much improvement was reached in the article on disclosure requirements, including exceptions and limitations, and sanctions and remedies. The defensive measures are now grouped into due diligence, prevention of the erroneous grant of patents, voluntary codes of conduct, and database search systems, including a WIPO portal site.

A break-through would require that the main players would finally show a readiness to enter into true compromises. This did not occur during the week.

The text as it stands now at the end of the 26th Session will be discussed again in a crosscutting/stocktaking session in July (28th Session) before being again submitted to the General Assembly in September 2014.

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