



**12<sup>th</sup> Session of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore, February 25 to 29, 2008 in Geneva**

**Report by Konrad Becker, Chairman Q166**

The 12<sup>th</sup> session of the Intergovernmental Committee (IGC) on Genetic Resources, Traditional Knowledge and Folklore (GRTKF) was held from February 25 to 29, 2008 at the WIPO headquarters in Geneva. As usual a substantial numbers of representatives of indigenous groups participated in the session, apart from governmental delegates and delegates from non-governmental organisations dealing with intellectual property aspects, such as AIPPI.

A new chairman (Mr. Jaya Ratna, Singapore) was elected, and the report on implementation of the voluntary fund for financing the participation of representatives of indigenous communities was acknowledged. As usual, delegations started with making general statements concerning their position with regard to the topics of the session. No substantial change of position of the leading countries or group of countries was noted when compared to the previous session in July 2007. Developing countries and representatives of indigenous people insist on developing one or several binding international instruments covering Traditional Cultural Expressions (TCE) / Expressions of Folklore (EoF) and Traditional Knowledge (TK). Many first world countries are ready to elaborate model laws and perhaps non-binding guidelines, but the United States and others insist that the forum should be used for exchange of experience and opinions only.

The discussion on both Folklore (TCE/EoF) and Traditional Knowledge (TK) was again focused on ten particular points that had been singled out as important in previous sessions, but no further substantial progress was made. Many delegations pointed out that now time has come to move forward at least with some conclusions on aspects for which clear majority opinions are noted. The discussion on the first four points for TCE/EoF (Definitions / Who should benefit from protection / What objective is sought by the protection / What forms of behaviour should be considered unacceptable or illegal) was quite extensive and time-consuming. For the remaining six points and aspects of TK and GR not much time was left,

and the discussion was rather unstructured for these subjects and remained mainly at the level of general remarks. The IGC took note of the progress made and further actions expected on access and benefit sharing for TK and GR within the Conference of Parties and particular work groups of the Convention on Biological Diversity.

Developing countries asked for a gap analysis, i.e. a summary of international level protection for TCE/EoF, a description of what gaps exist and whether they need to be addressed, and a description of legal and other options for addressing these gaps at the national, regional or international level. The background work for such a gap analysis is actually already done by the secretariat of the IGC, but the call for the gap analysis just points to the fact that the voluminous high quality documentation prepared by the secretariat has grown to such an extent that a short focused summary is needed. The Committee agreed on such a gap analysis not only for TCE/EoF, but also for traditional knowledge (TK).

For future work the proposal was made that groups of experts should make particular proposals for some basic points, such as definitions. No consensus could yet be reached, but the decision on future work indicates that at the next session of the IGC, terms of reference for the establishment of intersessional mechanisms should be discussed and decided. Furthermore, a call to reverse the agenda points in the next, 13<sup>th</sup> session in order to have more time for discussion of aspects of genetic resources (GR) and traditional knowledge (TK) was blocked by Brazil and others, because these countries insist on having GR and TK dealt with by amendment of TRIPS within the World Trade Organization (WTO). However, it was agreed that at the 13<sup>th</sup> session planned to be on October 13 to 17, 2008, and at intersessional expert meetings equal amounts of time should be allotted to the three substantial items TCE/EoF, TK and GR.

Documents of the 12<sup>th</sup> session of the IGC on GRTKF may be found under:

[http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=14802](http://www.wipo.int/meetings/en/details.jsp?meeting_id=14802).