



11th Session of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore, July 3 to 12, 2007 in Geneva

Report by Konrad Becker, Chairman Q166

The 11th session of the Intergovernmental Committee (IGC) on Genetic Resources, Traditional Knowledge and Folklore (GRTKF) was held from July 3 to 12, 2007 at the WIPO headquarters in Geneva. As usual a substantial number of representatives of indigenous groups participated in the session, apart from the governmental delegates and some delegates from non-governmental organisations dealing with intellectual property aspects, such as AIPPI.

The first two days were reserved for introductory statements and the administration of the voluntary fund for financing the participation of representatives of indigenous communities. Delegations made general statements concerning their position with regard to the topics of the session. Developing countries and representatives of indigenous people still insist on developing one or several binding international instruments covering Traditional Cultural Expressions (TCE) / Expressions of Folklore (EoF) and Traditional Knowledge (TK), whereas many first world countries are of the firm opinion that at first a consensus on the objectives and guiding principles should be found.

The discussions of the particular agenda points were much more focused on factual questions than in preceding sessions, in which extensive time had been spent on formal and political matters. Points discussed for both Folklore (TCE/EoF) and Traditional Knowledge (TK) were:

- 1) Definitions of TCE/EoF and TK, respectively.
- 2) Who should benefit from protection and who should hold the rights?
- 3) What objective is sought by the protection?
- 4) What forms of behaviour should be considered unacceptable/illegal?
- 5) Should there be any exceptions or limitations to the rights?
- 6) For how long should protection be accorded?

- 7) To what extent do existing IP rights already afford protection and what gaps need to be filled?
- 8) What sanctions or penalties should apply for unacceptable/illegal behaviour?
- 9) Which issues should be dealt with internationally and which nationally?
- 10) How should foreign right holders and beneficiaries be treated?

Also considered were draft sets of objectives and principles, and the interplay of national legal systems and the international dimension for TCE/EoF and for TK.

The discussion revealed substantive differences concerning the particular questions, and no consensus is in sight except for minor points.

The discussion on Genetic Resources (GR) and TK connected with it were directed on one hand on national and regional database(s) for the purpose of determining prior art (“defensive protection” of GR), the disclosure of country of origin, prior informed consent and benefit sharing agreements in patent applications, alternative proposals for dealing with the relationship between IP and genetic resources, and the relationship to the Bonn Guidelines of the Convention on Biological Diversity (CBD), the results of the Working Group on Access and Benefit Sharing of the CBD, and corresponding discussions in the Food and Agricultural Organization (FAO), the PCT Assembly and the TRIPs Council.

The participants finally agreed that the secretariat should be asked to prepare a document listing the viewpoints of the Members on the list of issues discussed concerning Folklore (TCE/EoF) and Traditional Knowledge (TK), and prepare an update on international developments relevant to intellectual property and Genetic Resources (GR). Furthermore, it was decided to ask the 34th General Assembly of WIPO (meeting on September 25 to October 3, 2007) to extend the mandate of the IGC for another two years. The next session of the IGC is anticipated to take place in February 2008.

Documents of the 11th session of the IGC on GRTKF may be found under:
http://www.wipo.int/meetings/en/details.jsp?meeting_id=12522