

Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

Eighteenth Session Geneva, May 9 to 13, 2011

DRAFT ARTICLES ON THE PROTECTION OF TRADITIONAL KNOWLEDGE PREPARED AT IWG 2

Document prepared by the Secretariat

INTRODUCTION

1. The Second Intersessional Working Group (IWG 2) met from February 21 to 25, 2011 to discuss traditional knowledge. With reference to document WIPO/GRTKF/IC/18/5 Prov. ("The Protection of Traditional Knowledge: Revised Objectives and Principles"), IWG 2 extensively discussed each of the draft articles contained therein.
2. The results of IWG 2 are reported on in the session's "Summary Report" (WIPO/GRTKF/IWG/2/2), made available at this session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC) as document WIPO/GRTKF/IC/18/6. In particular, after extensive discussions in the plenary of IWG 2, six informal, open-ended drafting groups were established to further discuss, exchange and consolidate the various views expressed in the plenary, and to propose streamlined text, including options, comments and scenarios. Those drafting groups were established to address one or more issues. The work of the drafting groups was coordinated, during a meeting on the evening of Wednesday, February 23, 2011, between the Chair of IWG 2 and the Conveners and Rapporteurs of the drafting groups, as well as the Vice-Chairs of IWG 2, after which, on the morning of Thursday, February 24, 2011, the drafting groups had a further opportunity to review their respective article or articles. Thereafter, each drafting group's article(s) were presented to and discussed by all the experts in the IWG 2 plenary in the afternoon of Thursday,

February 24, 2011 and on Friday, February 25, 2011. The draft articles and comments, including specific texts suggested by experts, were noted by IWG 2 and not adopted as such.

3. IWG 2 requested the Secretariat to prepare, for this session of the IGC, a document (WIPO/GRTKF/IWG/2/3) incorporating the draft articles prepared by the informal drafting groups, as well as the comments and texts proposed by the individual experts in the IWG 2 plenary on February 24 and 25, 2011 as referred to in paragraph 2 above, with attribution and including comments made by experts representing observers. This present document fulfils that request.

Preparation and structure of this document

4. The articles prepared at IWG 2 appear in the annex to this document. In respect of each article, there also appear: (i) the introduction made by the rapporteur of the relevant drafting group; (ii) comments on the proposed articles made by the experts in the IWG 2 plenary in the afternoon of Thursday, February 24, 2011 and on Friday, February 25, 2011; and, (iii) any alternative options presented by experts on the same day. Alternative options were presented in respect of articles 1 and 12.

Related document

5. The "Summary Report of the Second Intersessional Working Group (IWG 2)", which includes the List of Participants of IWG 2 (WIPO/GRTKF/IC/18/6) is also made available at this session of the IGC and is directly related to the present document.

6. *The Committee is invited to review and comment on the articles contained in the Annex towards developing a revised and updated version thereof.*

[Annex follows]

ANNEX

ARTICLE 1

SUBJECT MATTER OF PROTECTION

Definition of traditional knowledge

Option 1

- 1.1 Traditional knowledge means knowledge resulting from intellectual activity in a traditional context including the know-how, skills, innovations, practices and learning that form part of the traditional knowledge systems of an [indigenous people or local community¹].

Option 2

- 1.1 (a) Traditional knowledge is dynamic and evolving. It is the result of the intellectual activities in diverse traditional contexts, including knowledge, skills, innovations, practices and teachings in a collective framework of [indigenous peoples and local communities];
- (b) Traditional knowledge is part of a collective, ancestral, territorial, spiritual, cultural, intellectual and material heritage;
- (c) Traditional knowledge is transmitted from generation to generation in diverse forms and is inalienable, indivisible and imprescriptible;
- (d) Traditional knowledge is intrinsically linked to biodiversity and sustains cultural, social and human diversity embodied in traditional lifestyles.

Criteria for eligibility

Option 1

- 1.2 [Protected traditional knowledge is knowledge that is:] / [Protection extends to traditional knowledge that is:]
- (a) the unique product of or is [distinctively] associated with [an indigenous people or local communities];

Alternative

- (a) distinctively associated with and customarily recognized as belonging to a [local or traditional community];
- (b) collectively generated, preserved and transmitted [from generation to generation] OR [in a traditional and intergenerational context].

¹ The term "indigenous people and local community" is used as a place holder. This term will be addressed by the group considering beneficiaries of protection.