

WIPO General Assembly

Forty-Seventh (22nd Ordinary) Session
Geneva, October 5 to 14, 2015

DRAFT REPORT

prepared by the Secretariat

1. The General Assembly was concerned with the following items of the draft Consolidated Agenda (document A/55/1 Prov.5): 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25, 27, 31 and 32.
2. The reports on the said items, with the exception of items 7, 12, 13, 14, 15, 16, 17, 18, 24, 25 and 27 are contained in the draft General Report (document A/55/13 Prov.).
3. The reports on items 7, 12, 13, 14, 15, 16, 17, 18, 24, 25 and 27 are contained in the present document.
4. Ambassador Gabriel Duque (Colombia) was elected Chair of the General Assembly; Mr. Jānis Kārklīņš (Latvia) and Mr. Mahmoud Esfahani Nejad Iran (Islamic Republic of) were elected Vice-Chairs.

145. The Delegation of the Republic of Korea stated that concrete collaboration among WIPO related organizations was essential for capacity building within IP fields of developing countries. The Delegation highlighted its contribution over the past 12 years of around 7.8 million Swiss francs for the continued operation of the Korean Funds-in-Trust.

146. The Representative of the Third World Network (TWN) pointed out that mainstreaming of the DA in WIPO's activities represented a challenge. The Representative said that the DA was still being implemented in a project mode and that many projects had failed to be translated into WIPO's activities. The Representative stated that the DA was not in line with the needs of developing countries and also raised concern on the WIPO Academy review, which was unavailable.

147. The Representative of Innovation Insight stressed that the CDIP was an important forum for considering the dynamic process of technological advancement, and that the Committee was a key contributor to economic and social development. The Representative said that, within the CDIP, WIPO Members were called upon to analyze how IPRs were used as critical tools to translate ideas and research into concrete solutions, to secure financial resources for Research and Development (R&D), to collaborate and share knowledge, to adapt technology solutions for different needs, and ultimately to get solutions deployed where they were most needed.

148. The Chair of the General Assembly said that, in document WO/GA/47/9, the Chair of the CDIP was requested to undertake, if feasible, informal consultations on the margins of the 2015 General Assembly meeting. The Chair noted that the Chair of the CDIP was conducting those meetings without interfering with other issues before the Assembly.

149. The Chair read out the decision paragraphs in respect of the documents concerned, which were adopted.

150. The WIPO General Assembly:

(a) took note of the "Report on the Committee on Development and Intellectual Property (CDIP) and Review of the Implementation of the Development Agenda Recommendations" (document WO/GA/47/9);

(b) with respect to document WO/GA/47/11 entitled "Decision on the Committee on Development and Intellectual Property (CDIP) Related Matters", allowed the CDIP to continue, during its sixteenth and seventeenth sessions, the discussion on the decision on CDIP related matters adopted at the Forty-Third Session of the WIPO General Assembly (document CDIP/12/5) and to report back and make recommendations on the two matters to the WIPO General Assembly in 2016.

ITEM 17 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC)

151. Discussions were based on documents WO/GA/47/12, WO/GA/47/16, WO/GA/47/17 and WO/GA/47/18.

152. The Chair of the General Assembly opened Agenda Item 17 "Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)" and referred to informal consultations that were taking place on this item. At his request, those consultations were being facilitated by Mr. Ian Goss from

Australia. The Chair invited the Facilitator to update the plenary in respect of those consultations.

153. The Facilitator introduced three proposals on the IGC which had been presented to the General Assembly. Document WO/GA/47/16 was a proposal from the African Group, entitled “Conversion of the World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) into a standing committee: Proposal by the African Group to the 2015 General Assembly”. As the title stated, the proposal recommended the conversion of the IGC into a standing committee with a mandate similar to the current mandate and with some changes to accommodate its conversion into a standing committee. Document WO/GA/47/17 was a proposal from the Delegation of the United States of America, entitled “Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC): Proposal of the United States of America to the WIPO General Assembly”. The proposal recommended that the mandate of the IGC should not be renewed and that Program 4 should continue to organize seminars and conduct studies. An ad hoc, cross regional group of experts should be established to determine what, if any problems, existed and what, if anything, could be done at the international level to address any such problems. Document WO/GA/47/18 was a proposal from Switzerland, Norway, Mozambique, Kenya, the Holy See and New Zealand, entitled “Proposal for a renewed mandate of the IGC for the biennium 2016-2017 submitted to the Fifty-Fifth Series of Meetings of the WIPO Assemblies by the Holy See, Kenya, Mozambique, New Zealand, Norway and Switzerland”. The proposal recommended the renewal of the IGC’s mandate for a further two years along similar lines as the previous mandate with some proposed changes to improve working methods. In addition to those proposals to the General Assembly, the Facilitator had received a large number of comments and proposals as part of his facilitation process. Those included a substantive proposal by the Group of States of Latin America and the Caribbean (GRULAC), a copy of which had been provided to all Member States. That proposal recommended the renewal of the mandate along similar lines as the current mandate. There had also been other proposals along similar lines as the one proposed by the Delegation of the United States of America. Those substantive positions had been reflected in Member States’ opening statements. In order for Member States to achieve a consensus decision on the IGC, informal consultations had been under way since July 2015. All Member States had engaged positively in the process. As part of the process, the Facilitator had issued a first draft of a Facilitator’s text which he had been consulting on. As an outcome of those consultations, he expected to issue a second draft for consideration by Member States.

154. The Chair acknowledged the remarkable work of the Facilitator, and thanked him for his patience and dedication. As delegations required more time, the Chair proposed that the Facilitator continued to hold informal consultations with all interested delegations and that the plenary return to this item later. The Chair encouraged delegations to work constructively with the Facilitator. He then suspended Agenda Item 17.

155. Upon the request of Member States, the Chair reopened Agenda Item 17 to listen to the initial statements that delegations might have.

156. The Delegation of the European Union, speaking on behalf of the European Union and its Member States, recognized the importance of the work carried out by the IGC. The IGC had started its work since 2000. It noted that the purpose of the IGC had been defined as follows: “The Intergovernmental Committee would constitute a forum in which discussions could proceed among Member States on the three primary themes which they identified during the consultations: intellectual property issues that arise in the context of (i) access to genetic resources and benefit sharing; (ii) protection of traditional knowledge, whether or not associated with those resources; and (iii) the protection of expressions of folklore”. Over the last 15 years, the European Union had been actively involved in the IGC’s deliberations and negotiations.

Despite many years of discussion running up to the text-based negotiations which had been held during the last five years, the Delegation took note that no agreement had been found on objectives and principles, the goal to be reached, beneficiaries, scope, definitions of key elements and many other elements in the texts under discussion. In addition, debates on the recognition of the public domain concept, which was a core element of IP law, had demonstrated the difficulty of reaching a consensus in those fields. It had, therefore, become clear that the IGC would not succeed on the basis of text-based negotiations. It drew the appropriate conclusions on the inability of the IGC to reach an agreement within the current framework and parameters. Member States should consider alternatives for the work. The Delegation was unable to envisage consensus on the basis of current proposals. Consequently, it believed that a continuation of the discussions as within the parameters of the working methods of the previous years would not necessarily contribute to the efficient use of WIPO's time and resources, nor those of the delegations to the IGC. Therefore, it believed that the mandate of the IGC should not be renewed in its current form. The Delegation was willing to discuss alternative proposals which could yield a more realistic outcome. In order to take the substantive discussions forward, it would be open to the idea of holding a round of seminars and studies aimed at gathering and exchanging evidence-based information on various regional or national experiences, as well as broadening the common understanding on the nature and scope of public domain and its relationship with genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).

157. The Delegation of Romania, speaking on behalf of the Central European Baltic States (CEBS), supported the continuation of discussions on intellectual property (IP) and GRs, TK and TCEs. The seminars held in March and June had been extremely valuable, as they had addressed various challenges that national policy makers faced in relation to those topics. The Group congratulated the Secretariat on the professional manner in which it had organized those seminars, which had attracted a large number of participants from Member States, including from the Group. Member States needed to decide what the best format was to move the process forward. It thanked all those who had made concrete proposals and extended its special appreciation to the Facilitator for his dedication to achieving a successful outcome. Though the IGC had invested a lot of efforts in achieving the effective protection of GRs, TK and TCEs, the Group was not convinced that the progress made matched the amount of resources allocated to the process. The reality was that fundamental substantive questions had not yet enjoyed a shared understanding, so Member States needed to carefully think about the working methods. The Group fully supported a result-oriented efficient and effective work program. With that in mind, the Group was in favor of having a new round of seminars and studies, as a way to ensure that Member States further enhance the awareness of the challenges that related to the three topics. The Group would engage constructively in discussions and hope to achieve a positive outcome.

158. The Delegation of Nigeria, speaking on behalf of the African Group, understood the complexity and dynamic nature of the discourse on GRs, TK and TCEs. It was regrettable that Member States had been unable to agree on a common objective and outcome in this field. Notwithstanding the Group prioritized fulfillment of negotiations on the protection of GRs, TK and TCEs through an international legally binding instrument(s) that would ensure the effective protection of GRs, TK and TCEs from misappropriation and commercialization of the primordial and natural resources of indigenous peoples and local communities. In light of those considerations, the Group had given careful thought to the IGC's situation. In the interest of providing actionable steps to progress negotiations, it had made a proposal to the General Assembly for the conversion of the IGC into a standing committee. That proposal was contained in document WO/GA/47/16. The transition would not only institutionalize such an important field of discussion, but also permit Member States' focus to remain firmly geared towards finding solutions and forging new means of advancing negotiations. If Member States had had a chance to look at the proposal, there was a list of terms that would provide a soft landing and level of comfort for all Member States to find a place to discuss and move the

process forward under a standing committee format. Nevertheless, the Group was committed to continuing negotiations. There were a lot of similarities from the initial text provided by the Facilitator whom the Group thanked for his time and the text he had provided. As discussed with the Facilitator, there were other elements which the Group would like to see in the revised text.

159. The Delegation of Japan, speaking on behalf of Group B, expressed sincere appreciation to the Facilitator for his tireless efforts. It was regrettable that a reasonable and feasible future work program for the IGC could not be agreed upon at the 2014 General Assembly, but such disagreement might give Member States time to understand the fundamental issues, to further reflect the current situation which Member States faced, and to think what had brought Member States there. The Group felt that the seminars held in March and June had been extremely useful to describe and to further reflect concrete experiences. Lack of shared understanding on key issues had been repeatedly pointed out in the negotiations of the IGC. Such concrete and actual experiences could form an essential basis upon which the direction to shared understanding could be sought. The Group appreciated the Facilitator's effort to try to reconcile those various proposals, but the way forward on IP and GRs, TK and TCEs was a serious challenge. In a sense, such situation reflected a complex nature of those subject matters. In order to find a common ground on the way forward, the complex nature of the subject matter had to be taken into account. The Group was committed to being engaged in the negotiation on this item with a constructive spirit.

160. The Delegation of Brazil, speaking on behalf of GRULAC, thanked the Facilitator for his valuable work related to the renewal of the mandate of the IGC. It believed that the IGC played a central role in normative agenda. The Group was committed to text based negotiations with a view to reaching an agreement on a text or texts of an international legal instrument or instruments which would ensure the effective protection of GRs, TK and TCEs. Having in mind the strong interest it had in this subject, which had been discussed for 15 years at WIPO, the Group had made a proposal for the renewal of the mandate of the IGC, and been ready to continue to participate constructively in the informal consultations. Seminars should not replace text-based negotiations.

161. The Delegation of China believed that the IGC had played an important role in achieving the objective of the international protection of GRs, TK and TCEs. It hoped that the deliberations in the IGC would focus more on the solutions of issues. The extension of the mandate of the IGC every two years was time consuming and impeded the efficiency of the IGC discussions. The proposal by the African Group to convert the IGC into a standing committee could be a substantial solution allowing the IGC deliberations to be more focused and effective. The Delegation supported that proposal and hoped that all Member States would consider it carefully with a view to achieving substantial progress in the IGC.

162. The Delegation of India stated that India was one of the cradles of human civilization with deep rooted traditions, rich ancient culture and prodigious biodiversity. Protection of GRs, TK and TCEs against misappropriation was an issue of priority for India and that it attached great importance to the work of the IGC, which unfortunately had hit a roadblock, having lost one precious year without further progress. As one of the countries that continued to be most affected by misappropriation and biopiracy, the Delegation supported the renewal of the mandate of the IGC, a mandate which would lead to an early finalization of international legal instruments on all three issues and the convening of a diplomatic conference. The Delegation believed that the new mandate should be conducive to build upon the hard work put in during the previous three sessions of the IGC held in 2014. The Delegation appealed to all Member States to show greater political commitment to bring the IGC process back on track. The Delegation was willing to work with all Member States so as to reach a constructive outcome on this important issue.

163. The Delegation of South Africa aligned itself with the statement presented by the Delegation of Nigeria, on behalf of the African Group. The Delegation acknowledged the efforts of the Facilitator and welcomed the draft text on the renewal of the mandate that he had presented, as it provided a basis for further negotiations. The Delegation further applauded the commitment exhibited by the countries that had positively engaged with the draft text on the renewal of the mandate so far. The draft text on the renewal of the mandate was a recycling of the 2013 mandate with two additional paragraphs that accommodated requests from some Member States for seminars to create consensus on some concepts and for a sharing of national experiences. The Delegation expressed concern that, after 15 years of deliberations within the context of WIPO, there was no finality with regard to GRs, TK and TCEs, and pointed out that it was not due to a lack of substantive technical progress but more to a lack of political will to acknowledge the legitimate economic interests of Africa and other demandeurs for the effective protection of GRs, TK and TCEs through legal remedies against misuse and misappropriation. The Delegation had been persistently enthusiastic about achieving the mandate of the IGC, similarly as when the IGC was born in 2001. Having been part of the negotiation process in the IGC for over 15 years, the Delegation wished to reiterate its position that the texts on GRs, TK and TCEs were mature and, with a consented and purposeful engagement of the Member States over the biennium, should lead to a decision by the WIPO General Assembly in 2017 to convene a diplomatic conference. The Delegation committed to engaging in fruitful, vigorous, reflective, constructive and conclusive negotiations. Consistent with the Development Agenda (DA) of WIPO and the just concluded UN's Sustainable Development Goals, the Delegation reiterated the call for a balanced and equitable global IP system that accommodated all the legitimate interests of the WIPO Member States. Progress on finalizing the GRs, TK and TCEs legal instruments would strengthen the Member States' faith and trust in WIPO as a truly transparent and equitable forum for the attainment of all legitimate aspirations of both developed and the developing countries for a better world.

164. The Delegation of Iran (Islamic Republic of) said that WIPO had reached a crucial time in its life, as the credibility of the norm setting side of its activities was at stake. It recalled that almost 15 years ago, Member States took up a task on three important issues, namely, GRs, TK and TCEs. The Delegation observed that this work had not yet produced a desirable outcome, an outcome to be in balance with other norm-setting activities. The time had come to make a careful decision on how to deal with the issue of GRs, TK and TCEs and how to accomplish this task. The Delegation joined many other developing countries in considering that the subject matter under discussion was the most important issue in the agenda of WIPO. The way that the developing countries would interact with WIPO depended, to a large extent, on how WIPO would respond to their needs and concerns on this issue. Developing countries perceived indeed a close link between the issue of GRs, TK and TCEs on the one hand and the overall Development Agenda of WIPO on the other hand, as well as the role the issue might play in filling the existing considerable gaps in the existing legal framework of the international IP regime. The international IP legal system should develop and evolve in a balanced manner in order to ensure its sustainability. Considering the current situation of the international IP legal system and the ongoing normative activities of WIPO, no balance would be struck unless a legally binding instrument or instruments on important issues regarding GRs, TK and TCEs were put in place. The conclusion of such a binding treaty or treaties would efficiently protect GRs, TK, TCEs against misappropriation, as they needed it, and ensure their sustainable and legitimate use in the future. A great number of beneficiaries of the treaty would expectedly be from developing countries. The Delegation was convinced that the international IP system should not only impose obligations on developing countries, but should also be beneficial to them and reward their contribution to human creativity and existing civilization. Undoubtedly, the interest of developing countries in the international IP system would increase, should the IP international system be more balanced. The Delegation recalled that the WIPO General Assembly in 2012 and 2013 mandated the IGC "to continue intensive negotiations and engagement in good faith, with appropriate representation, towards concluding the text(s) of an international legal instrument(s) which will ensure effective protection of GRs, TK and TCEs". It

was deeply concerned about the slow pace of the negotiations in the recent years. This situation jeopardized the objective to be achieved in finalizing those important instrument or instruments. The Delegation was of the view that sound political will on the side of all Member States would allow bridging the divergences of views. It was essential that all Member States showed flexibility and engaged constructively in order to ensure that the mandate that the IGC received from the General Assembly be fulfilled without any undue delay. The Delegation was convinced that by accelerating the process, Member States would be able to fulfill the IGC mandate and hold a diplomatic conference in 2017 or in the first half of 2018. In this regard, it supported the scheduling of three formal thematic sessions of the IGC and two inter-sessional meetings in 2016, with the view to further developing the instruments. The Delegation found it unfortunate that the procedural challenge of renewing the IGC mandate every biennium had diverted much focus and energy from substantive discussions. Despite of that, the General Assembly failed in 2014 to make a decision on the work program of the IGC in 2015. The Delegation recalled that in the past 15 years, Member States had invested time and resources on this subject. Such a hiccup might severely compromise the consistency required for sound norm setting within WIPO. The Delegation supported therefore the proposal put forward by the African Group to convert the IGC into a standing committee. Such conversion would constitute an important step forward and prevent this failure from occurring again in the future. The Delegation wholeheartedly supported the current method in taking decisions in the General Assembly, and shared the preference of all Member States for reaching agreements by consensus. However, it reminded, that an approach based on consensus should not be used as a tool to bring the whole process at a standstill, as it had been the case in 2015. The Delegation was ready to consider ways to take decision in accordance with the WIPO General Rules of Procedure.

165. The Delegation of Niger highlighted that the protection of GRs, TK and TCEs was extremely important. The Delegation congratulated the Facilitator for the efforts he had made, encouraged him to continue coming up with a text that would be acceptable to all parties. It believed that reducing the agenda of the IGC and making simple seminars after years of negotiations would constitute a substantial step backwards, which was why the Delegation supported the proposal of the African Group.

166. The Delegation of Côte d'Ivoire attached a great deal of priority to the IGC and supported the statement made by the Delegation of Nigeria, on behalf of the African Group.

167. The Delegation of Peru supported the statement made by the Delegation of Brazil, on behalf of GRULAC. It stressed that, as many developing countries had done, Peru had made great efforts to fight biopiracy and misappropriation. The Delegation recalled that a substantive proposal had been made, namely that, at the end of each committee session, the members should draw up a list of items that were pending, so that the process could continue. It was very important for the Delegation that the IGC was going in some direction towards a conclusion. There were some proposals that were similar, others that were not, and as other members and groups had stated, it would like to continue working on texts, since that was the way to achieve some outcomes. The Delegation was not closed to the idea of seminars and to continue to discuss certain issues, but considered that those could be complementary proposals. Progress had been made by confronting the different groups' ideas. It was prepared to listen to the other side, but needed to get written proposals and not just ideas. The Delegation stressed that a result at the Assembly was needed on this important issue.

168. The Delegation of Chile supported the statement made by the Delegation of Brazil, on behalf of GRULAC as well as the statement made by the Delegation of Peru. The Delegation had very closely, and with great interest, followed the debates in the IGC since its establishment. The reasons why WIPO had created the IGC as a specialized forum were still valid. The lack of a response was not a reason for no longer asking the same questions, quite the contrary. It meant that a lot more work needed to be put into finding a path to consensus.

The lack of a specialized forum would not help in achieving a result. The Delegation called upon the Member States to renew the mandate and use the work that had already been done as a basis, but also take into account the need for efficiency.

169. The Delegation of Nigeria allied itself with the statement delivered on behalf of the African Group. The Delegation recognized the lacuna which existed in the demand for an effective international protection of the knowledge and cultural aspects of indigenous and local communities. It expressed its strong support to the African Group proposal to convert the IGC into a standing committee and resume text based negotiations on the crucial subjects of GRs, TK and TCEs.

170. The Delegation of the Russian Federation pointed out that progress had been made in the negotiations that had taken place in 2014, but, in 2015, the work of the Committee had come to a standstill. It was grateful to the Facilitator for his attempts to seek a solution. The work of the Committee should continue, trying to find mutually acceptable solutions to protecting GRs, TK and TCEs. The Delegation stated that it was necessary to bring the positions closer on a number of points, such as scope of protection, and to find well balanced solutions. It preferred to have separate texts. In any case, any text adopted should be flexible, clear, non-binding and include definitions and limits. The Delegation thanked the Secretariat for a seminar held on the subject.

171. The Delegation of Morocco supported the statement made by the African Group suggesting that the IGC should become a standing committee in order to create a more favorable atmosphere for making progress.

172. The Delegation of Namibia associated itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. The Delegation supported the renewal of the mandate of the IGC and the conversion of the IGC into a standing committee. It was a matter of economic interest. It appealed to Member States to show flexibility and negotiate in good faith. As stated by the Delegation of South Africa, it was a matter of political will and not a technical issue.

173. The Delegation of Switzerland supported the IGC process and the work that had been undertaken within this Committee. It did so although it was not a demandeur on these issues, but because of the systemic importance of the three IGC issues for the IP system as a whole. The Delegation welcomed the developments which had been achieved during the last few years. However, the work of the IGC was not finished yet. Important issues still needed to be resolved. First and foremost, in order to be able to continue work in the coming years, a clear cut mandate for the IGC was needed. This would also be helpful in order to overcome the current impasse. The Delegation was committed to continue to work hard in order to find solutions to these pressing issues for the IGC to resume its work in 2016. The Delegation of Switzerland, together with the Delegations of the Holy See, Kenya, Mozambique, New Zealand and Norway, had tabled a proposal on a way forward. This proposal was contained in document WO/GA/47/18. The Delegation believed that this joint proposal represented a balanced approach and a solid basis for the relaunch of the IGC process in the next biennium. In closing, it reiterated its continued interest in the workings of the IGC and confirmed its support and commitment for the process at hand. The Delegation strongly believed that the successful completion of the negotiation was within reach and that the adoption of an international instrument or instruments on IP which would ensure the effective and balanced protection of GR, TK and TCEs could be achieved.

174. The Delegation of Mexico expressed its appreciation for all the efforts made by the Facilitator. As had been stated by the Delegation of Brazil, on behalf of GRULAC and by the Delegation of Peru, GRULAC had provided the Facilitator with a proposal, the main objective of which was to ensure the renewal of the mandate of the IGC. The Delegation believed that the

Assembly needed to concentrate its efforts so as to allow the IGC to continue its work. If the negotiations remained stagnant, there would be no more normative discussions on TK, TCEs and GRs. It hoped that a decision could be reached which could enable the continuation of the negotiations.

175. The Delegation of Botswana aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. It supported the proposal that the IGC should be converted into a standing committee. The Delegation joined other delegations in emphasizing the fact that the need for a legal instrument could not be replaced by seminars.

176. The Delegation of Egypt highlighted the importance of balance and political will. If there was political will, there would be a balanced program of work in the Organization, and this would lead to the continuation of discussions on the IGC issues which were and should continue to be a principle part of the Organization's work. The Delegation reiterated its support for the statement of the Delegation of Nigeria, on behalf of the African Group, of having a standing committee. This would remove the pressure on delegations by eliminating discussions on the renewal of the IGC's mandate. Delegations would then be able to focus on substantive discussions and carry on with text-based negotiations, taking into account the progress that had been made in the previous years on the current text so as to lead to a legally binding instruments for the protection of TK, TCEs and GRs.

177. The Delegation of the Dominican Republic supported the statement of the Delegation of Brazil, on behalf of GRULAC, as well as the statements of the Delegations of Peru and Mexico. It believed that by renewing the mandate of the IGC, the General Assembly would send an excellent message to indigenous peoples and local communities that their knowledge could be protected in the same way as industrial products.

178. The Delegation of Algeria believed that the issues that were covered by the IGC were very closely related to development which was one of the main objectives of WIPO. For this reason, it regretted that countries had not been able to agree on these issues after many years of negotiations. The Delegation aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group.

179. The Delegation of Tunisia supported the statement made by the Delegation of Nigeria, on behalf of the African Group. It asked that the mandate of the IGC be renewed and that the Committee be converted into a standing committee in order to find a way out of the current stalemate and be able to progress in the future.

180. The Delegation of Zimbabwe supported the position of the African Group. It believed that many years of negotiation could not just be abandoned with no good reason and that it was possible to negotiate in good faith and achieve positive results. The IGC process was not inferior to any other process in the Organization and required due regard by Member States.

181. The Delegation of Sudan aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group, with regard to the work of the IGC and supported its conversion into a standing committee.

182. The Delegation of Cameroon reiterated the importance of the work of the IGC for the economies of Africa and, in particular, for Cameroon. For this reason, it strongly supported the statement made by the Delegation of Nigeria, on behalf of the African Group, with regard to establishing a standing committee. That Committee should use the texts that were already available and bring delegations closer in order to obtain a legal instrument that would be able to protect TK, TCEs and GRs.

183. The Delegation of Uganda aligned itself with the statement made by the Delegation of Nigeria, on behalf of the African Group. It was important to find an appropriate mechanism through which discussions could now be meaningfully pushed forward. The appropriate mechanism for enabling it was the establishment of a standing committee as suggested by the African Group.

184. The Delegation of Trinidad and Tobago aligned itself with the statement delivered by the Delegation of Brazil, on behalf of GRULAC, and supported the draft proposal for a mandate on this subject. The Delegation expressed its gratitude to Ambassador McCook and to the Facilitator for the role he played in harmonizing the mandate. The IGC and the protection of GRs, TK and TCEs were of critical importance in Trinidad and Tobago and the Delegation was ready to resume the stalled negotiations. The current state of play was unsatisfactory. A balanced work program was required for the IGC which provided for text-based negotiations that would ensure the effective protection of GRs, TK and TCEs. The Delegation supported in principle all the proposals on the table that tried to achieve that objective. The future of the protection of global GRs, TK and TCEs rested in the hands of the Member States. It, therefore, encouraged all Member States to work together to renew the mandate of the IGC.

185. The Delegation of Colombia supported the statement delivered by the Delegation of Brazil, on behalf of GRULAC. It was essential to keep a negotiating space for the IGC and to be able to continue discussions while recognizing a diversity of views and approaches. It called upon all Member States to continue to negotiate on the basis of texts.

186. The Delegation of Ukraine supported the work done by the IGC. It said that TK was absolutely vital for the economic development of many regions. It found it of upmost importance to continue working on international legal instruments that would ensure protection of TK, TCEs and GRs and ensure they become proper elements of economic relations. It supported, therefore, the renewal of the mandate of the IGC as well as its eventual conversion into a standing committee.

187. The Delegation of Nepal reiterated what it had said under Agenda Item 5, namely that it supported the renewal of IGC mandate with the view to finalizing the texts on GRs, TK and TCEs that had been developed so far. Such texts would help preventing any potential misappropriation of TK, TCEs and GRs for narrow commercial goals, which constituted a critical issue for LDCs like Nepal. It supported the proposal made by the African Group to convert the IGC into a standing committee. Such change would spare Member States the need to seek the renewal of its mandate every two years and allow for enough time to work on the finalization of the texts.

188. The Delegation of New Zealand expressed support for the proposal submitted by Delegations of the Holy See, Kenya, Mozambique, New Zealand, Norway and Switzerland, and introduced by the Delegation of Switzerland. It considered that the elements of the proposal would best enable the IGC to expedite its work and fulfil its mandate. It supported and thanked the Facilitator of the consultations on the matter for his continued efforts.

189. The Delegation of Honduras supported the statement made by the Delegation of Brazil, on behalf of GRULAC. As the Delegations of Peru and Colombia had stated before, it believed that the position therein expressed was the best way forward.

190. The Delegation of Jamaica thanked the Facilitator for his continued efforts, and supported the statement made by the Delegation of Brazil, on behalf of GRULAC. The Delegation encouraged the Member States to support the renewal of the mandate of the IGC and the continuation of its text-based negotiations. As articulated by other delegations, the issues addressed by the IGC were critical as they related to development and were essential to the mandate of WIPO.

191. The Delegation of Canada supported the resumption of the IGC's work on the basis of shared understanding of the principles and objectives, with a focus on a sharing of concrete examples drawn from national experiences and domestic legislation, all in a way that would not prejudice the outcome, but would inform and guide any further discussion on the work of the draft texts. The Delegation was not convinced that the proposal of converting the IGC into a standing committee submitted by the African Group would help addressing major disagreements and divergent approaches, especially on fundamental issues, such as the objectives of the instruments.

192. The Delegation of Indonesia extended its appreciation to the Facilitator of the consultations and also for his first draft decision of the General Assembly that he had circulated the day before. The Delegation welcomed many elements in this draft, like the possibility to hold seminars, collect examples and conduct studies. As already stated under Agenda Item 5, the Delegation supported a renewal of the mandate of the IGC. It was important to guarantee legal certainty and clarity with regard to the protection of GRs, TK and TCEs. It urged, therefore, that the text based negotiations on texts regarding the protection of GRs, TK and TCEs be continued. The Delegation took note of the proposal made by the African Group regarding the conversion of the IGC into a standing committee and looked forward to discussing it further with delegations. It noted the discrepancy of positions among the Member States, but asked for a compromise to be found, in good spirit. On its part, the Delegation expressed its readiness to engage constructively in solving the issues at hand.

193. The Delegation of the Republic of Korea stated that Member States should concentrate on substantive issues regarding the proper protection of GRs, TK and TCEs. Regarding the proposal made by the African Group to convert the IGC into a standing committee, it was worried about the lack of practical benefits that could be drawn from it. The Delegation believed that Member States should try to find a solution for the efficient protection of GRs, TK and TCEs.

194. The Representative of the Andean Community recalled that the Andean Community was made up of Bolivia, Colombia, Ecuador and Peru. He was concerned that the IGC had not been able to meet in 2015 and hoped that the General Assembly would put an end to this situation. Should it not happen, WIPO, as the most important international organization dealing with IP, would no longer be the main forum in building a truly multilateral framework ensuring the protection of GRs, TK and TCEs, which was one of the key IP areas for today and tomorrow. The Representative urged delegations to redouble their efforts in order to ensure that an agreement be reached at the General Assembly on the renewal of the IGC, so that its substantive work could continue.

195. The Representative of the Third World Network (TWN) stated that it was very important to put an end to the misappropriation of GRs, TK and TCEs through IP protection. Regarding GRs and associated TK, there was an urgent need to address the conflict between the biodiversity regime and the IP regime. The biodiversity regime under the Convention on Biological Diversity (CBD) and its Nagoya Protocol clearly set norms for sharing benefits in a fair and equitable manner. However, the current IP regime was silent on such mandatory benefit-sharing. The IP regime needed to have effective checks against the misappropriation of GRs, TK and TCEs. While some national patent laws already required the mandatory disclosure of country of origin, that was not adequate, given the transboundary activities of research on and commercialization of GRs, TK and TCEs. Therefore, it was of utmost importance to ensure the effective protection of GRs, TK and TCEs. For that reason, the representative called on Member States to strengthen the normative work by renewing the current mandate of the IGC and to ensure that the work of the IGC was consistent with the CBD and its Nagoya Protocol.

196. The Chair observed that the views that had been expressed confirmed previous positions on the subject. Those views also illustrated great importance of this agenda item for Member States. The Chair encouraged Member States to further engage in the facilitation process that was being conducted by the Facilitator in a pro-active, pragmatic and constructive way, and consider the draft decision that the Facilitator had circulated the day before. He then suspended Agenda Item 17.

197. The Chair of the General Assembly and the Facilitator provided regular updates to the plenary, over the different days of the Assemblies, on the status of such informal consultations. The updates includes as follows.

198. The Facilitator informed that he had issued a second draft text which had been discussed at an informal meeting. The meeting was useful in enabling Member States to share views, and there was, importantly, consensus that discussions on IGC-related subject matter should continue. However, unfortunately, there was still a deadlock on the central issues of the objectives of those discussions and the form they should take. The majority of Member States supported the renewal of the mandate of the IGC on similar terms as the current mandate. Positions were reflected in three substantive proposals. One of those included the proposal to convert the IGC into a standing committee. However, there remained a group of Member States which believed that the current mandate of the IGC should not be renewed and that another approach should be considered, including ad hoc experts groups, seminars and studies, aimed at resolving the significant number of outstanding issues that were on the table in relation to the current negotiations. The Facilitator explained that, as a next step, he had asked Member States who had indicated that they did not support the renewal of the mandate in its current form to clarify their positions on the objective of future discussions on IGC-related matters and what governance arrangements would be established to support this work, so that they could be included in the deliberations. He pointed out that he would allow until Monday morning for those Member States to deliberate on those issues. Over the weekend, he might attempt to draft a third facilitator's text based on the discussions on Friday that focused solely on the minimum substantive issues that needed to be agreed to achieve consensus. The Facilitator indicated that he would advise Member States on the next steps in the facilitation process in due course, though he anticipated that he would hold meetings on Monday with groups and key Member States individually to take additional feedback on the second draft and to discuss positions and opportunities for compromise.

199. The Chair stressed that there would be bilaterals and small group discussions on Monday, and that a new text would be distributed.

200. The Delegation of Brazil, speaking on behalf of GRULAC, the African Group, the Like Minded Countries (LMCs) and the majority of the Asia Pacific Group, thanked the Facilitator for having prepared a second version of the draft text of the mandate. The Delegation pointed out that, in their view, the protection of GRs, TK and TCEs played a central role in the normative agenda of the Organization and the mandate to continue text-based negotiations had to be approved. The Delegation reaffirmed that their priority was the continuation of text-based negotiations. It stressed that the voice of more than two thirds of the membership of WIPO should not be ignored.

201. The Delegation of Nigeria, speaking on behalf of the African Group, fully endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries. The Delegation believed that the Member States of WIPO should take the necessary steps and exert the political will needed to protect the economic and socio-cultural assets of indigenous and local communities through the effective protection of GRs, TK and TCEs. It endorsed the renewal of a mandate for text-based negotiations and encouraged Member States to agree on that proposal.

202. The Delegation of Malawi endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries.

203. The Delegation of India confirmed that the majority of the countries in the Asia Pacific Group aligned themselves with the statement that had been made by the Delegation of Brazil. The Delegation pointed out that individual countries in the Asia Pacific Group who were at variance with that could make individual statements. The Delegation, in its national capacity, fully endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries.

204. The Delegation of South Africa aligned itself with the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries. The Delegation noted that the principles for which the groups represented by the Delegation of Brazil were standing for had been mainstreamed since 2009 for text-based negotiations. To that extent, explanations why that should be abandoned had to be clear, as that would require new traditions.

205. The Delegation of Indonesia appreciated the work done by the Facilitator. It supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It emphasized the need for text-based negotiations. There had been a progress since 2009 when the IGC had started text-based negotiations, as stated by the Delegation of South Africa. The Delegation emphasized that the negotiations in the IGC could not and should not move backward. The failure of the renewal of the mandate and the negotiations in the IGC would undervalue the reputation of WIPO.

206. The Delegation of Uganda aligned itself with the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It supported the renewal of the mandate of the IGC.

207. The Delegation of Cameroon supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group, and the statement made by the Delegation of Nigeria, on behalf of the African Group. It reiterated its wish that Member States work on the texts that had already been elaborated, in order to become a legal framework which would enable GRs, TK and TCEs to be protected.

208. The Delegation of Paraguay supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group, with regard to the renewal of the mandate of the IGC.

209. The Delegation of China thanked the Facilitator for his efforts. It supported the position of the African Group, and hoped that the mandate of the IGC would be renewed.

210. The Delegation of Pakistan aligned itself with the statement made by the Delegation of India.

211. The Delegation of Namibia supported the statement made by the Delegation of Nigeria, on behalf of the African Group, and the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

212. The Delegation of Peru supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. Many countries supported the renewal of the mandate. Member States needed to concentrate not on the differences, but on what brought them together, so that Member States could arrive at coherent results.

213. The Delegation of El Salvador fully supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

214. The Delegation of Guatemala fully supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

215. The Delegation of Trinidad and Tobago fully aligned itself with the joint declaration made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It supported the continuation of the mandate and continuation of the text-based negotiations.

216. The Delegation of Cuba supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

217. The Delegation of Nigeria supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

218. The Delegation of Chile supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group. It wished to work constructively to ensure consensus and to renew the mandate of the IGC.

219. The Delegation of Panama fully supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group.

220. The Delegation of Colombia strongly supported the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group.

221. The Delegation of Algeria expressed its support for the work done by the Facilitator. It supported the statements made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group and the statement made by the Delegation of Nigeria, on behalf of the African Group. This was a vital matter in order to take into account the concerns of over two thirds of the Members States of the Organization.

222. The Delegation of the United States of America wished to make two brief points. Firstly, in response to the question raised by the Delegation of Paraguay, it wished to clarify that the ongoing consultations that the Chair had organized seemed to be bringing forward flexibility on all sides. The Delegation was hopeful that consensus could be reached. Secondly, it wished to thank the Chair for organizing these consultations and the Facilitator for his strenuous efforts in this area. It also thanked the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific countries for their statement and all those who had spoken in support of it. It assured delegations that it did support ongoing work on the issues that were of importance to so many WIPO Member States.

223. The Delegation of Brazil supported the statement that had been delivered on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group, as well as the statements delivered by the Delegations of Nigeria, India, Malawi, South Africa and many others. The Delegation referred to the Chair's comment that having these statements in the plenary was perhaps not efficient. It recalled that discussions that were a priority to a small part of the membership of the Organization had been prioritized in the plenary. However, the majority of the membership of the Organization saw the IGC as one of their priorities. Even though discussions on the IGC had not been taking place in the plenary, the IGC was a priority

and should be taken into account by the smaller part of the membership. The Delegation supported the process undertaken by the Facilitator.

224. The Chair reminded all delegations that a discussion on the IGC had taken place in the plenary. The item had been opened and the plenary had listened to the positions of Member States. It had been made clear that this was a very important issue for two thirds of WIPO Member States. The Chair had allowed for all the interventions, but had asked Member States to reflect on the use and productivity of having these statements apart from restating what everybody knew at that stage. There were some signs of flexibility and that flexibility had to be reflected in the discussion and facilitation process. Statements regarding dissatisfaction or lack of satisfaction regarding the progress made had to be constructive and productive. It was important to be mindful of time. There were other issues pending in addition to the IGC, such as the Standing Committee on Copyright and Related Rights (SCCR), the Standing Committee on Law of Trademarks, Industrial Designs and Geographical Indications (SCT), and WIPO External Offices. The WIPO External Offices, in particular, had been highlighted by some delegations as being the most important issue. Sufficient time had to be allocated for all of them and the plenary had to be used wisely.

225. The Delegation of Indonesia supported flexibility of negotiations regarding the Program and Budget Committee (PBC), the Design Law Treaty (DLT) and, of course, the IGC. It requested clarification with respect to the statement made by the Delegation of the United States of America, in which it had expressed its support for these issues. As informal meetings were not recorded formally, clarification on that would be helpful.

226. The Delegation of the United States of America responded to the question asked by the Delegation of Indonesia that the position of the United States of America was reflected in its proposal to the General Assembly. The current working method had not been successful. During the informal consultations, the Delegation had signaled its flexibility as to the format of the IGC, and had also indicated its willingness to continue the work of the IGC with a new working method that was better than what had been in existence, because the current texts were unworkable.

227. The Delegation of Luxembourg supported the statement made by the Delegation of the United States of America.

228. The Delegation of South Africa stated that the mandate would be a clear demonstration of political will on where the IGC was going. The focus on methodologies, such as expert meetings and the number of meetings, was not the centerpiece. The willingness to proceed should be focused on what constituted the mandate. So far what was being placed on the table was expert meetings. The IGC was a normative body and it had to contribute towards norm setting and not be an academic institution where seminars were continuing. The Delegation would like to know why those texts were unworkable.

229. The Delegation of Switzerland appreciated the work of the Facilitator and his efforts during the IGC informal consultations. As it had already mentioned, the Delegations of Switzerland, the Holy See, Norway, New Zealand, Kenya and Mozambique had proposed a draft renewed mandate for the biennium 2016-2017. They had tried to put something on the table that was well balanced and could obtain consensus among the various parties. The Delegation would continue to work constructively with all interested parties in order to come up with a solution that could be acceptable for all Member States.

230. The Delegation of Brazil stated that, since the Delegations of the United States of America and the European Union, on behalf of the European Union and its member states, had found a common ground, there might be a promising way through the negotiations in the General Assembly. The Delegation requested that the IGC be decided in the General Assembly before

the other items that were still open, as this was a priority for the majority of Member States. It reiterated that the decision on the renewal of the mandate of the IGC be taken before decisions on other agenda items.

231. The Delegation of the United States of America supported the intervention made by the Delegation of Switzerland. However, it was not willing to give any specific language at this point.

232. The Delegation of Egypt appreciated efforts of the Facilitator. However, the atmosphere did not appear to be conducive to results. The majority of Member States had indicated their willingness to renew the mandate of the IGC. Regardless of the format, the mandate should focus on text-based negotiations, so that the work of the last 10 to 15 years would not be thrown away.

233. The Delegation of South Africa supported the proposal made by the Delegation of Brazil that the decision on the IGC would be made ahead of decisions on other agenda items.

234. The Delegation of Nigeria, speaking in its national capacity, highlighted that the problem was that delegations did not have time to discuss the decision on the IGC in plenary, as an equally important issue for a large number of Member States. It wished to have this issue discussed in plenary, especially to hear the views of Member States who did not want the renewal of the mandate for text-based negotiations on GRs, TK and TCEs. It called upon them to provide their ideas on how to move forward concretely. The Delegation emphasized that the proposal from the African Group and other groups provided clear direction on how the discussions on GRs, TK and TCEs should progress. It wished to see the same kind of document from the groups who did not want to continue discussions and to have a discussion in plenary for the record.

235. The Delegation of Indonesia aligned itself with the statement made by the Delegation of Nigeria. It stressed that it was time for Member States to discuss this issue in plenary.

236. The Delegation of Australia emphasized that all the above issues were very important to Australia. It noted that the informal consultations were ongoing and that it would not be very useful or helpful to try and sequence any decision-making around these issues. The Delegation expressed its preference for continuing the informal consultations with the view to developing compromise solutions on each of these issues, on their own merits, while avoiding to formally sequence the decisions on these issues.

237. The Delegation of Romania, speaking on behalf of the the CEBS Group, supported the position expressed by the Delegation of Australia. It added that all matters discussed in WIPO were of equal importance and affirmed its commitment to be constructive on all items, including on the IGC. It also expected the same commitment on all issues.

238. The Delegation of Jamaica thanked the Facilitator for his work and expressed its concern that, in 2014, discussions had stalled or had been delayed because Member States could not arrive at an agreement on the way forward and in terms of whether or not a diplomatic conference should be convened. The Delegation asked for a clear articulation of what the problem was with text-based negotiations. If Member States could have that clearly articulated, they might be able to move forward and reach a conclusion on how to renew the mandate.

239. The Delegation of Japan, speaking on behalf of Group B, underlined that WIPO was a consensus based Organization. The Group attached equal importance to all items and was making efforts to find a solution to all issues. Taking account of the character of the Organization and the efforts conducted by Member States, it stressed that delegates should focus on the respective facilitation processes to find a concrete solution. The Group also

strongly believed that artificial linkages between the different issues should not be undertaken and all issues had to be considered on their merits. The Group believed that any kind of artificial linkage or artificial sequencing should not be undertaken, since this would have an adverse effect on all discussions. It also recalled that there was not a Lisbon issue as such, but the issue was the Program and Budget which was important for all Member States. Since nothing could be done without the budget, it emphasized that there was a clear justification that Member States had to give importance to the discussion on the Program and Budget.

240. The Delegation of Namibia recognized that all the issues were of equal importance and should receive equal attention. However, it felt that Member States needed to conclude on certain issues that had been on the agenda for too long. It wished, therefore, to support the statement made by the Delegation of Brazil, on behalf of GRULAC, the African Group, the LMCs and the majority of the Asia Pacific Group, and endorsed inter alia by the Delegations of Nigeria, on behalf of the African Group.

241. The Delegation of Montenegro associated itself with the statement made by the Delegation of Romania, on behalf of the the CEBS Group.

242. The Delegation of the European Union, speaking on behalf of the European Union and its member states, expressed its support for the statement made by the Delegation of Japan, on behalf of Group B. Indeed all issues at hand deserved equal treatment at this stage. It added, though, that if any issue stood out particularly, it was undoubtedly the question of the Program and Budget and resolving outstanding issues that related to it. The Delegation supported the idea of all the issues that were undergoing informal consultation processes moving forward simultaneously. It believed that this would be the best approach. The Delegation was not sure to what extent the time of the General Assembly was best served by a succession of statements reiterating positions that were already well known and well entrenched. The Delegation said that the European Union and its member states were engaged in a dialogue with all Member States. It hoped that the facilitation process conducted by the Facilitator would make progress and that Member States would be able to report on progress in due course. Unless Member States had new elements to put forward at this juncture, the focus should shift to the facilitation process.

243. The Chair observed that the statements made emphasized again that the protection of GRs, TK and TCEs constituted a long-standing, relevant and important issue. He recalled that a text-based facilitation process regarding the way forward on this issue had been started before the beginning of the General Assembly and was still going on. He referred to the second draft that had been circulated by the Facilitator and to the report he had just made in plenary. He reminded delegations of the need to be efficient in organizing the work of the General Assembly and to allow sufficient time for informal consultations with a view to crafting solutions based on the information, policy background and sense of priorities that had been put forward by delegations in plenary. He therefore suggested that the discussion in plenary on Agenda Item 17 be suspended for the continuation of the informal consultations, and invited the Facilitator to report back to the plenary whenever convenient. The Chair then suspended Agenda Item 17.

244. On a further update, the Chair referred to informal consultations undertaken by the Facilitator before the General Assembly, and on Monday afternoon, Wednesday afternoon and Friday afternoon. He also referred to the opening statements relating to this agenda item, and the statements made specifically on this agenda item on Thursday afternoon and Saturday morning. He invited the Facilitator to update the plenary in respect of the informal consultations on the IGC.

245. The Facilitator stated that he had asked Member States which did not wish to renew the mandate of the IGC in its current format to provide him with their proposals on the purpose of the future work on the IGC related matters, noting that all Member States had indicated their support for continuation of the IGC-related discussions. He stated that he had also met with those groups and Member States who had a substantive proposal for the renewal of the mandate on similar terms as the current mandate to discuss their positions. The essential difference of those proposals was how the work would be governed, i.e. the IGC or a standing committee. It was clear that, as he had indicated on Saturday, Member States still remained far from a consensus position. There was very limited time to achieve an outcome. The Facilitator would be focusing on the minimum requirements which needed to be agreed. They were: (i) the purpose of the future work, which was addressed in sub-paragraph (a) of the current mandate; (ii) the focus of the work, which was addressed in sub-paragraph (c) of the current mandate, including what materials constituted the basis of that work; (iii) the basic work program in terms of sessions and subject matter to be addressed in those sessions, which was dealt with in sub-paragraph (b) of the current mandate; (iv) the goal of the work for the biennium, which was reflected in sub-paragraph (d) of the current mandate; and (v) how the work would be governed. The Facilitator stated that, once he had received the inputs from those groups that did not propose the renewal of the current mandate, he would produce a third text which would focus on those issues. He would then advise the time and location of the next informal consultations. As the first step, he would speak to Regional Coordinators to discuss his approach to conducting future informal consultations.

246. On a further update, the Facilitator recognized the strong interest which Member States had in the IGC issue and the challenge faced in developing a consensus decision. He reminded all Member States that there was a need for their support to achieve an outcome. A third draft text had been issued the night before and it took into account inputs received from the Delegation of the European Union, on behalf of the European Union and its member states, the Delegation of Romania, on behalf of the CEBS Group, and the Delegation of the United States of America. The text included alternative proposals in key areas: the purpose of the work of the IGC, i.e. normative or non-normative; the focus of the work; and the goal of the work over the next biennium. There were some positives. Consensus had been reached that the Committee should progress its work, noting that there were two proposals in this area, an intergovernmental committee or a standing committee. There had been broad support on the work program for between four and six sessions over the biennium, which included thematic, cross-cutting and stocktaking sessions. As for the next steps, the Facilitator indicated that he would hold an informal consultation in the afternoon which would focus on those three core areas of disagreement: the purpose of the work; the focus of the work; and the goal of the work over the next biennium. After those discussions, he intended to produce a new text which would have no alternatives. The Facilitator believed that there was a middle ground which required some compromise on both sides.

247. The Delegation of Nigeria, speaking on behalf of the African Group, stated that the third draft of the decision was completely incompatible, and there were two distinct positions in that text. There was one position for normative work which was shared by more than two thirds of the WIPO membership. Only the minority wanted non-normative work and they were the Delegation of the United States of America, the Delegation of the European Union, on behalf of the European Union and its member states, and the Delegation of Romania, on behalf of the CEBS Group. The African Group could not see how a middle ground could be reached with these very distinctive positions. It raised concerns as to how the facilitation that had been planned in the afternoon would proceed, and wondered how the text would be developed if there was a willingness not to take into account the resources and intellectual activities invested during the last 15 years and the text-based work in the last seven years. The Group would like the opponents of the normative work to continue to respond. It was glad to hear that the Facilitator was going to issue another text which would be based on the request of more than two thirds of the WIPO membership. It believed that Facilitator's role was to provide a text to

advance negotiations and cause progress. The text should reflect the view of the majority and not that of the minority.

248. The Delegation of India, speaking on behalf of the Asia Pacific Group, stated that the majority of the Group was in favor of renewing the mandate of the IGC. The majority of the Group wanted text-based negotiations to be continued with a very clearly defined work program. It was unfortunate that some delegations were not in favor of renewing the mandate of the IGC. It was even worse that seminars, panel discussions and workshops were being proposed as an alternative, which were non-normative mechanisms. Lots of money and time had been invested in the IGC process. All Member States had to undertake serious introspection. The Group fully supported the Facilitator to find solutions, but not to create problems or roadblocks for the process.

249. The Delegation of Japan, speaking on behalf of Group B, thanked all the facilitators for their tireless efforts to find a solution to the various difficult issues. All Member States of Group B had been actively engaged in the IGC consultations, with a constructive and forward looking spirit and taking into account the objectives to be achieved. There was still divergence on the core issues, but that was not an issue of being negative or positive, of willingness or no willingness, or of majority or minority. It underlined that Group B was seriously considering what the best approach to this subject matter would be for the coming biennium. It strongly hoped that it would be possible to find common ground through the small group process that had been established by the Facilitator.

250. The Delegation of Brazil, speaking on behalf of GRULAC, thanked the Facilitator for his tireless efforts to find a solution for the renewal of the IGC mandate. The Facilitator had been involved in this process since July 2015 at least, and had always been available for delegations to exchange ideas and to have a fruitful dialogue. The Group had just received the third draft prepared by the Facilitator and was still analyzing the new elements that had been introduced. GRULAC was a *demandeur* of the renewal of the IGC mandate. It understood that the objective of the facilitation was the renewal of the current mandate. It had presented a proposal more than one month before to the Facilitator that went in that direction and it believed that the path of the facilitation process should not be changed. The Group, along with other delegations, wished to see the renewal of text-based negotiations in the IGC. The Facilitator could count on GRULAC's support in the facilitation process.

251. The Delegation of Romania, speaking on behalf of the CEBS Group, warmly thanked all the facilitators for taking up the facilitation task and for their hard work on their respective agenda items. At the current stage, it recognized that there were divergent views on various topics. That meant that delegations needed to continue looking for compromise solutions. A compromise could only be found somewhere in between the positions which had been expressed. It was hopeful that such solutions could be envisaged by all. The Group regretted that the number of supporters of a certain position had become a negotiating argument. That was equivalent to giving up diplomacy. It deplored such a stand and sincerely hoped that it would be possible to work on a consensual basis. The Group was keen to see a successful outcome on all agenda items.

252. The Delegation of China thanked the facilitators for their efforts in trying to solve all the pending issues. On the previous day, there had been a consultation at Ambassadorial level in which all parties had indicated that they wished to push the IGC forward and had demonstrated their political willingness. The Delegation believed that sufficient time had to be set aside for the IGC-related discussion in the plenary. This would be helpful in order to advance the substantive issues related to the IGC.

253. The Chair noted that there might be other delegations that wished to take the floor. However, for the efficiency and continuation of the envisaged work program, he decided to break the plenary at that stage to allow for a continuation of the informal facilitation process. He then suspended Agenda Item 17.

254. On a further update, the Chair reported on the informal consultations that had taken place since the last plenary discussion of this item. He believed that the informal consultations had been constructive. The Facilitator had issued a new text. The Chair hoped that there would be a breakthrough. The Chair asked the Facilitator to explain the text.

255. The Facilitator stated that the night before he had issued a new draft text without alternatives. It was his text. The informal discussions indicated that there was a potential for a breakthrough, particularly around "text-based negotiations". However, it was too early to confirm. It was a delicate moment and he asked Member States to show some flexibility to conclude the work.

256. The Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group, thanked the Facilitator for having prepared a new text. It believed that the protection of GRs, TK and TCEs played a central part in the agenda of WIPO and a mandate to continue text-based negotiations had to be approved. It reaffirmed that the priority was a continuation of text-based negotiations. The Groups understood that multilateralism was anchored by inclusiveness and an appreciation of diversity. The IGC process represented a clear manifestation of both principles. IGC negotiations were about recognizing the moral and economic value and contribution of GRs, TK and TCEs to global development. In order for the international community to maximize the value of these resources and utilize them to their full potential, it was incumbent to create the appropriate protection systems against misappropriation. The WIPO Member States had agreed 15 years ago to initiate discussions towards this goal, culminating in a collective decision in 2009 to mandate the IGC to engage in text-based negotiations to lead up to international legal instrument(s) for the protection of GRs, TK and TCEs. That mandate had been renewed every two years until 2013. The IGC was at a critical juncture requiring Member States to live up to their commitment to the continuation of negotiations based on the previously agreed mandate, as opposed to throwing away the value and amount of work invested into the process. Failing that, Member States would be casting in a deep shadow of doubt over the credibility of the Organization, which would negatively impact the international IP system as a whole. It was self-evident that the voice of more than two thirds of the membership should not be ignored.

257. The Delegation of Brazil, speaking on behalf of GRULAC, supported the declaration made by the Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group.

258. The Delegation of India supported the declaration made by the Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group.

259. The Delegation of Japan, speaking on behalf of Group B, underlined that the Group had been engaged in the discussions seriously. It was ready to engage in the following consultations with a constructive spirit.

260. The Delegation of China supported the declaration made by the Delegation of Nigeria, on behalf of the African Group, GRULAC, China, LMCs and the majority of the Asia Pacific Group.

261. The Delegation of Romania, speaking on behalf of the CEBS Group, thanked all the facilitators for their important work. Member States had made great progress in understanding each other's concerns, and needed to collaborate so as to move to compromise solutions. It hoped that Member States would be able to have consensual solutions on all agenda items.

262. The Delegation of Oman, speaking on behalf of the Arab Group, thanked the Chair for his effective leadership and the Secretariat for the efforts undertaken in preparing the meeting documents. The General Assembly had adopted a number of decisions with regard to future work. While the Group affirmed the importance of the proposed program and budget for the 2016/2017 biennium with increasing of allocations for development activities, it also affirmed the importance of renewing the mandate of the IGC for another two years on text-based negotiations with the objective of reaching an agreement on an international instrument which would ensure the effective protection of GRs, TK and TCEs. The Group wished to endorse the proposal of the African Group with regard to transforming the IGC into a standing committee, and supported the statement that had been made by the Delegation of Brazil on Saturday, on behalf of GRULAC, the African Group, LMCs and the majority of the Asia Pacific Group.

263. The Chair reopened Agenda Item 17 and gave the floor to the Facilitator.

264. The Facilitator reported that there was consensus on the text of a draft decision on the mandate of the IGC as a result of positive and flexible contributions by all Member States, which had demonstrated a significant willingness to compromise. However, there was no consensus on a subordinate element which was the number of days allocated to the work program, even though those were budgeted for. The Facilitator believed that Member States needed to carefully consider the consequences of the issue, their credibility as Member States, and how that would be viewed outside the Organization, particularly among the key stakeholders, including indigenous peoples. He pointed out that, after a considerably intensive facilitation process, agreement had been reached on the substance of the mandate, paragraphs (a) to (h), but not on the number of days. Unfortunately, because of that, over 15 years of work were potentially being thrown away. If the General Assembly was not to agree on the mandate, the consequences of the 12 months during which the IGC had been suspended, plus a further two years of non-renewal, were serious. The likelihood of reopening those issues after three years would be at serious risk. The Facilitator stressed that all Member States had agreed on the substance of the mandate. There was only no agreement on a few days in a biennium. Member States needed to seriously consider if that was the message that they wanted to give to the outside world. He recognized that all sides had been flexible throughout the process and had shown significant willingness to reach a compromise. He wished to present the text to the plenary to be considered and requested that all Member States seriously reconsider the issue to see if a compromise could be reached. Some of the negotiations on the DLT might assist. He pleaded with Member States and highlighted that it was a serious issue in relation to the credibility of WIPO.

265. The Chair stated that the idea was to put forward for consideration the decision proposed by the Facilitator, copies of which had been distributed. He asked whether Member States were ready to adopt it or not.

266. The Delegation of the United Kingdom requested some time to allow the European Union and its member states to gather and look at the new proposal.

267. The Chair clarified that the proposal was not new.

268. The Delegation of the United Kingdom pointed out that it had just received the copy. It asked whether it was the same proposal that had been on the table before all the consultations had taken place.

269. The Chair asked the Facilitator to confirm whether it was the last version.

270. The Facilitator confirmed that it was the same draft (the fourth draft) as had been discussed in informal consultations. He highlighted that the text had been agreed by Member States. The only outstanding issue was essentially around the work program in relation to how

many days would be allocated during the biennium. He noted that, in comparison with 2014, the number of days had been reduced by four.

271. The Chair put that draft forward for agreement.

272. The Delegation of Romania, speaking on behalf of the CEBS Group, pointed out that many issues had been discussed during the last days of negotiation on the renewal of the mandate of the IGC. The Group had progressively shown flexibility and accepted the renewal of the mandate of the IGC. It had accepted text-based negotiations, though that had not been its preliminary position. It had accepted to work based on previous documents, so that the work which had been done so far would not be discarded. It had also accepted to consider the proposal that had been put forward by one of the groups to convert the IGC into a standing committee, though that had not been its preliminary position. The Group believed that it had made a considerable number of concessions. Regarding the number of days, the text proposed six sessions. It had been, for a while, a practice in WIPO to have two sessions per year to discuss different topics that were of great importance. The Group wondered why the IGC should depart from that practice. That had been done in the past, because the Group had shown flexibility, though it was not its request. However, so far it had not seen effective discussions in the IGC, even with a greater number of days. The Group could accept the renewal of the IGC mandate, but it could not agree with the number of days allocated in the work program, because it believed that having equal treatment to all committees was a reasonable position.

273. The Delegation of Brazil, speaking on behalf of GRULAC, stated that the ideas for the work program had been taken mainly from the proposal of GRULAC. Its proposal organized the work in a more effective way, requiring fewer days when compared to the practice of the IGC meetings. It also noted that, in a biennium, the IGC would usually have 36 days of meetings, but with the current proposal the IGC would meet for 32 days. By explaining the reasoning behind the proposal, the Group made a call on the CEBS Group to show flexibility. GRULAC had exercised flexibility on many issues, and it noted that a decision regarding external offices had just been gaveled, which had required extreme flexibility from the Group. It requested the same kind of flexibility of other groups in order to have a good outcome on the IGC.

274. The Delegation of Nigeria, on behalf of the African Group, thanked the Facilitator for his excellent facilitation. For the African Group, the Facilitator's draft was not the best text, but it believed that it had provided a level of comfort for all delegations. It was a consensus text and the Group hoped that the text could be adopted. It would be difficult to understand that a question of five days was restricting Member States from taking an important step in an area that was critical for the moral, sociocultural and economic rights of indigenous peoples and local communities. It endorsed the statement made by the Delegation of Brazil, on behalf of GRULAC, and asked the CEBS Group to reconsider its position.

275. The Delegation of Romania, speaking on behalf of the CEBS Group, explained that its proposal was to have two sessions per year, accompanied by up to four days for seminars. It noted that, in its initial proposal, the seminars could be included within the sessions, so the Group had showed flexibility. If those days were to be counted, this would amount to 28 days. It also wondered what the difference was between 28 days and 32 days.

276. The Delegation of India wished to place on record its sincere appreciation to the Facilitator for his hard work and the amount of faith he had reposed in all delegations making compromises. It explained that each of the three subject matters would be discussed in two IGC sessions, which would be totally 10 days per subject matter in a biennium. That was how the program had been structured. Seminars would be under Program 4 for which budgets had already been allocated. It was important that Member States moved forward on a very

important decision which a large number of Member States were really looking forward to. It hoped that four days should not be the problem.

277. The Delegation of Indonesia, speaking on behalf of the LMCs, expressed its appreciation for the work of Mr. Goss and aligned itself fully with the positions expressed by the Delegation of Brazil, on behalf of GRULAC, the Delegation of Nigeria, on behalf of the African Group, and the Delegation of India.

278. The Delegation of Côte d'Ivoire expressed its support for the statement by the Delegation of Nigeria, on behalf of the African Group.

279. The Delegation of Greece stated that, given the starting point that it had had at the beginning of the negotiations and where Member States had reached, it found the request for 28 days for the IGC sessions totally justifiable. It reversed an argument made previously by asking whether it would make any difference to have four days less.

280. The Delegation of Spain thanked the Facilitator for all his efforts in facilitating a draft decision. The Delegation was aware that negotiations had not been easy. It appreciated the Facilitator's perseverance and patience. Bearing in mind all what it had heard, as well the agreements that had been reached regarding the external offices and the proposed Program and Budget for 2016/2017 biennium, the Delegation could support what was proposed. It was pointless to continue the discussions over and over, and hoped that the same spirit would prevail regarding the discussions that were taking place regarding the DLT.

281. The Delegation of Nigeria, on behalf of the African Group, wished to contextualize the work that was done in WIPO Standing Committees as compared with the IGC. The number of days for the IGC should be considered differently. The Delegation recalled that the IGC had worked 36 days during the most recent biennium and wondered why some delegations needed to reduce the number of days. The Group thought it was unfair to compare the IGC with standing committees from such perspective. Four more days would make a difference, since it would give the IGC time to reach a common understanding, as it was proposed by the CEBS Group among others. It urged, therefore, the CEBS Group to reconsider its position in order to allow a decision to be taken on such an important subject.

282. The Delegation of Romania, speaking on behalf of the CEBS Group, said that it was able to agree on the renewal of the mandate of the IGC. However, it believed that since there was clearly no agreement on the number of days, the mandate should keep silent on that particular aspect.

283. The Chair observed that there was still no agreement on the proposal made by the Facilitator. He said that, since time was running out, the General Assembly needed to conclude on this agenda item and take note of the disagreement. He acknowledged though that delegations were still asking for the floor. He would allow those delegations to do so, but urged them to keep their statements short.

284. The Delegation of China reminded that it had taken an active part in the negotiations and had demonstrated a great deal of flexibility. It noted that the present proposal was the result of many consultations and much effort. The gap to be filled in was very small. The Delegation believed that six IGC sessions would help Member States discuss the three very important topics. It would be really regrettable to give up at this juncture. The Delegation urged all parties to make a last effort, so that the General Assembly could take a decision that would be satisfactory to all.

285. The Delegation of India requested that the plenary be briefly suspended in order to facilitate through informal discussions among delegations.

286. The Chair allowed for a short suspension of the plenary.

287. The Chair reopened Agenda Item 17. He referred to the most recent draft decision proposed by the Facilitator, of which written copies had been distributed among all delegations. He reported that following informal discussions, it was proposed, within the proposed work program for the IGC for 2016/2017, to reduce the number of days of the IGC sessions that would take place in June/July 2017, to five days, compared to seven days in the original proposal made by the Facilitator. The Chair submitted the proposed draft decision, with that adjustment, for the Member States' agreement, and it was approved. The Chair thanked delegations for their constructiveness and flexibility in achieving such a result, and welcomed the impetus that such a decision would give to the normative work of WIPO. He then closed Agenda Item 17.

288. Bearing in mind the Development Agenda recommendations and acknowledging the progress made, the WIPO General Assembly agrees that the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Committee) be renewed, without prejudice to the work pursued in other fora, as follows:

- (a) The Committee will, during the next budgetary biennium 2016/2017, continue to expedite its work, with a focus on narrowing existing gaps, with open and full engagement, including text-based negotiations, with the objective of reaching an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).
- (b) The Committee's work in the 2016/2017 biennium will build on the existing work carried out by the Committee with a primary focus on reaching a common understanding on core issues, including definition of misappropriation, beneficiaries, subject matter, objectives, and what TK/TCEs subject matter is entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.
- (c) The Committee will follow, as set out in the table below, a clearly defined work program, based on sound working methods, for the 2016/2017 biennium. This work program will make provision for 6 sessions of the Committee in 2016/2017, including thematic, cross-cutting and stocktaking sessions. The Committee may decide to establish an expert panel(s) and hold further Ambassadorial/Senior Capital-Based Officials meetings during future Committee sessions.
- (d) The Committee will use all WIPO working documents, including WIPO/GRTKF/IC/28/4, WIPO/GRTKF/IC/28/5 and WIPO/GRTKF/IC/28/6, as well as any other contributions of member states, using an evidence-based approach, including studies and examples of national experiences, including domestic legislation and examples of protectable subject matter and subject matter that is not intended to be protected; and outputs of any expert panel(s) established by the Committee and IGC-related seminars and workshops conducted under Program 4. However, examples, studies, seminars or workshops are not to delay progress or establish any preconditions for the negotiations.
- (e) Taking note of the utility served by the 2015 WIPO seminars on IGC-related subjects, provision shall be made for the Secretariat, under Program 4, to organize inter-sessional seminars and workshops to build regional and cross-regional

knowledge and consensus on issues related to IP and GRs, TK and TCEs with a focus on unresolved issues.

(f) In 2016, the Committee is requested to provide, for information only, a factual report to the General Assembly on its work up to that time, and in 2017, submit to the General Assembly the results of its work on an international legal instrument(s) relating to intellectual property which will ensure the balanced and effective protection of GRs, TK and TCEs. The General Assembly in 2017 will take stock of progress made, and decide on whether to convene a diplomatic conference or continue negotiations. It will also consider the need for additional meetings, taking account of the budgetary process.

(g) The Committee may also consider the conversion of the Committee into a Standing Committee and, if so agreed, make a recommendation in this regard to the General Assembly in 2016 or 2017.

(h) The General Assembly requests the International Bureau to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula for the IGC.

Work Program – 6 Sessions

Indicative Dates	Activity
February/March 2016	(IGC 29) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Elaborate an indicative list of outstanding/pending issues to be tackled/solved at the next session on GRs Duration 5 days.
May/June 2016	(IGC 30) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
September 2016	(IGC 31) Undertake negotiations on TK with a focus on addressing unresolved issues and considering options for a draft legal instrument Elaborate an indicative list of outstanding/pending issues to be tackled/solved at the next session on TK Duration 5 days.

September 2016	WIPO General Assembly Factual report
November/December 2016	(IGC 32) Undertake negotiations on TK with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
March/April 2017	(IGC 33) Undertake negotiations on TCEs with a focus on addressing unresolved issues and considering options for a draft legal instrument Elaborate an indicative list of outstanding/pending issues to be tackled/solved at the next session on TCEs Duration 5 days.
June/July 2017	(IGC 34) Undertake negotiations on TCEs with a focus on addressing unresolved issues and considering options for a draft legal instrument Stocktaking session and making a recommendation Duration 5 days.
September 2017	WIPO General Assembly will take stock of and consider the text(s), progress made, and decide on whether to convene a diplomatic conference or continue negotiations. It will also consider the need for additional meetings, taking account of the budgetary process.

ITEM 18 OF THE CONSOLIDATED AGENDA

MATTERS CONCERNING THE COMMITTEE ON WIPO STANDARDS (CWS)

289. Discussions were based on document WO/GA/47/13.

290. The Secretariat recalled that the World Intellectual Property Organization (WIPO) General Assembly meeting of last year discussed pending issues of the Committee on WIPO Standards (CWS). All delegations that took the floor agreed to make additional efforts to overcome the difficulties facing the CWS, because the fourth session of the CWS, held in May last year, was adjourned without formalizing the result of discussions. This was due to the lack of consensus on one agenda item. Since the last General Assembly meeting, regional group coordinators and other interested delegations held informal consultations, which were facilitated by the Vice Chair of the CWS, Ambassador Suescum of Panama. Despite all efforts, there was no consensus on the agenda and it was not possible to convene a meeting of the CWS this