

THE GAMBIA

Response to Question 1: None.

Response to Question 2: There is no *suigeneris* law on intellectual property protection of traditional law.

Response to Question 26: None.

Response to Question 27: The focus of existing intellectual property laws is largely the protection of individual creations, even though collective efforts are also protected. The historical origins, communal overlapping and character of the rights in traditional knowledge make them elusive to protection by existing intellectual property laws. Here we see an interplay of laws of agency and intellectual property i.e. the questions of ownership of rights, the extent of recognition of these rights and who has the capacity or responsibility to act in terms of registration, protection, collection and distribution of fees etc. While existing laws provide an insight into the protection of traditional knowledge they are not adequate and thus the need for a *suigeneris* law. The applicability of the concepts of 'Droit Desuite' and 'Domain Public Payout' should be given increased focus in the protection and commercialization of traditional knowledge. Restrictions, as in tradition IPR protection by way of term of use should not be applied in the case of traditional knowledge. Given the communal character of, and attachment to these rights, protection should be perpetual. However, where this is not considered feasible, the concepts of 'Droit de Suite' and/or 'Domain Public Payout' or variants of them should be used to enhance the bond of attachment of communities to these rights. This may serve as an incentive to IPR protection.