

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

Thirty-Second Session

Geneva, November 28 to December 2, 2016

INDICATIVE LIST OF OUTSTANDING/PENDING ISSUES TO BE TACKLED/SOLVED

Document prepared by the Secretariat

1. At its Thirty-First Session, held from September 19 to 23, 2016, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) decided to transmit to its Thirty-Second Session an “Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session” (“the List”), which was annexed to the Decisions of the Thirty-First Session of the Committee.
2. Pursuant to the decision above, the List is annexed to the present document.
3. *The Committee is invited to take note of the List contained in the Annex.*

[Annex follows]

ANNEX

Indicative List of Outstanding/Pending Issues to be Tackled/Solved

1. Use and meanings of certain terms and concepts

References to “protection” and “protected” traditional knowledge and relationship with eligibility criteria / scope of protection.

References to “innovation” and “tradition-based creation and innovation”.

Terms to denote nature of the harm for which protection may be sought, such as “misappropriation”, “misuse”, “unauthorized use”, “unlawful appropriation” and “illicit appropriation”.

Terms describing or relevant to extent of diffusion of the traditional knowledge, such as “public domain”, “publicly available”, “secret”, “sacred”, “narrowly diffused” and “widely diffused”.

Terms relevant to beneficiaries, such as “[Indigenous [peoples]]”.

2. Subject matter

Where and how to include criteria for eligibility.

Whether to include examples or “fields” of traditional knowledge and, if so, which ones.

3. Beneficiaries

Whether to include “nations” and/or “States”.

Role and nature of a “competent authority” as a beneficiary, if any.

4. Scope of protection

“Rights-based” and/or “measures-based” approaches.

Whether a “tiered approach” is feasible, and, if so, how it would be formulated.

Economic and/or moral rights.

Roles, nature and design of “complementary measures”, including databases, if any.

Disclosure requirement, and possible link with text on genetic resources.

5. Exceptions and limitations¹

6. Sanctions, remedies and exercise of rights / application

¹ Issues 5 to 13 were not discussed at IGC 31.

- 7. Administration of rights/interests**
- 8. Term of protection / rights**
- 9. Formalities**
- 10. Transitional measures**
- 11. Relationship with other international agreements**
- 12. National treatment**
- 13. Transboundary cooperation**

[End of Annex and of document]