

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

Fifty-Third Session
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UPDATED PROPOSAL FOR A QUESTIONNAIRE ON THE USE OF *SUI GENERIS* PROTECTIONS FOR TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS, A SUMMARY REPORT OF RESPONSES RECEIVED, AND A PRESENTATION OF RESULTS

Document prepared by the Secretariat

1. The Annex to this document contains an updated proposal submitted by the Delegation of the United States of America concerning the preparation and circulation of a questionnaire on the use of *sui generis* protections for traditional knowledge and traditional cultural expressions, as well as the preparation of a summary report of responses received and the presentation of the results thereof.

2. *The Committee is invited to consider the proposal in the Annex to this document.*

[Annex follows]

PROPOSAL SUMMARY

1. The United States of America updates its proposal introduced at IGC 52 that the WIPO Secretariat disseminate a questionnaire surveying WIPO Member States on the utilization of their domestically available *sui generis* protections for traditional knowledge (TK) and traditional cultural expressions (TCEs). The updated proposal includes a list of questions for Member States to answer in responding to the questionnaire. The proposal also retains a request that the WIPO Secretariat prepare a summary report of responses to the questionnaire and present the results of the questionnaire at an IGC meeting. The report and presentation will serve as a compilation of how these *sui generis* systems operate in practice.

Context

2. Over the course of the IGC, WIPO has never focused its attention on the actual use of *sui generis* systems for TK and TCE protection and, in particular, how such systems function in practice when a TK or TCE holder seeks to use them. That omission is a critical missing piece of the evidence needed to evaluate policy proposals at the IGC. The proposed questionnaire, summary report, and presentation will help fill an information gap and also work to address the requirement in the IGC's mandate that we undertake work following "an evidence-based approach with actual examples, including national/regional experiences" and "conducting/updating studies covering, *inter alia*, examples of national experiences."

3. Rationale for Including Questions: During discussions at IGC 52 over the U.S.'s proposal for a questionnaire administered by WIPO on the use of *sui generis* systems (available at [WIPO/GRTKF/IC/52/6](#)), the Secretariat and certain Member States expressed the view that Member States should discuss and develop questions that WIPO could include in the questionnaire. To that end, the updated proposal includes a short list of questions for discussion at IGC 53.

4. Guidance on Questions: The questionnaire is needed because of the divergent views among Member States over the appropriate approaches to take in the TK and TCE working texts, the IGC's mandate to undertake work following "an evidence-based approach with actual examples, including national/regional experiences," and the existing lack of information, within the IGC's repository of materials, on the actual use of and experiences with *sui generis* systems for TK and TCE protection. The questionnaire seeks information on how governmental *sui generis* systems for TK and TCE protection have operated in practice, based on information tracked at the governmental level within Member States. The questionnaire is voluntary, seeks the summary reporting of information already available to Member States, and does not require or expect Member States to undertake new data collection efforts to participate.

5. Additional Context: The questionnaire should support constructive discussion in the IGC and not delay its work. The questionnaire should also build on existing IGC materials, including studies and surveys previously conducted by the Secretariat. For example, in February 2026, the Secretariat published an updated "[Compilation of Information on National and Regional *Sui Generis* Regimes for the Intellectual Property Protection of Traditional Knowledge and Traditional Cultural Expressions](#)" with links to legal instruments on the WIPO Lex portal. Importantly, the questionnaire seeks information that WIPO has not collected or focused on in the past — specifically, how *sui generis* TK and TCE protection regimes have performed in practice. The information gathered via the questionnaire will be used to evaluate and analyze the various approaches proposed in the TK and TCE working texts. Systems that appear to function effectively in practice could serve as a basis for future consideration.

6. At least two previous IGC proposals have sought this information. Neither proposal was adopted. As reflected in the questions below, the questionnaire now under consideration is narrower than the aforementioned proposals were. It seeks short answers to targeted

questions directed to the compilation of relevant, operational information currently absent from the record. The questions were drafted based on feedback provided by Member States at IGC 33, 37–39, and 52.

The questionnaire followed by a summary report and presentation

7. This proposal contains a concise questionnaire that seeks to ascertain the operational aspects¹ of *sui generis* systems in existence for the protection of TK and TCEs. Such aspects include instances of compliance with requirements under such systems, information on the number and details of any adjudications or enforcement outcomes or other forms of dispute resolution occurring under these systems, and concrete outcomes delivered by the systems.

8. The Secretariat is requested to carry out the following actions:

- Prepare, and issue a circular inviting Member States to complete, the questionnaire;
- Prepare a report summarizing responses received; and
- Present results of the questionnaire for consideration by the IGC.

Questions for Member States:

- Please provide a brief description of your government's *sui generis* system (whether country-specific or regionally integrated, and whether administered within a single governmental entity or by multiple entities) and include answers to these questions.
 - When did the system enter into force in your country?
 - Who are the beneficiaries under the system?
 - What role does your government play in the system? Please identify any governmental entities in your country tasked with administering the system.
 - Through what legal modalities is your system implemented (e.g., civil (including private contracts), criminal, administrative, alternative dispute resolution)?
- Please summarize how TK or TCE-holder groups in your country have benefited under the system and, in your response, address the following, if applicable.
 - Please summarize the value of benefits received.
 - Approximately how many times has the system been used to mediate a dispute in your country: (1) among TK or TCE holders; and (2) between TK or TCE holders and TK or TCE users? Please provide representative examples of each scenario.
 - Approximately how many times has the system been used to facilitate a usage arrangement in your country between TK or TCE holders and TK or TCE users? Please provide representative examples.
 - Please provide representative examples of how TK or TCE holders have commercialized their TK or TCEs under the system.

¹ Considering preexisting WIPO compilations of the laws for the *sui generis* protection of TK and TCEs, questions should focus on examples of how such laws have been used in practice.

- Have any court cases or enforcement actions arisen in your country under the system? If so, what were the outcomes and where can information about them be found?
- Does the system have optional or mandatory government registration? If so, which kind? Additionally, how many registrations have occurred and how are they recorded?
- How, if at all, has your government's *sui generis* system interfaced, and demonstrated compatibility, with the intellectual property system in your country?

[End of Annex and of document]