

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WIPO Voluntary Fund
for Accredited Indigenous and Local Communities
Questions and Answers

IMPORTANT NOTES:

- The Voluntary Contribution Fund is governed by the provisions described in the Annex to document WO/GA/32/6, approved without change by the thirty-second WIPO General Assembly, which was held from September 26 to October 5, 2005. These provisions are the only ones to be valid. This informal document was prepared by the WIPO Secretariat to make the provisions easier to read, by emphasizing several key points.
- The “Committee” referred to is the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.
- The passages in brackets added by the WIPO Secretariat to the cited articles are intended to make them easier to read, but do not form part of the original text.

Summary

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TIMEFRAME OF THE PROCEDURE

Note from the Secretariat: This timeframe constitutes only an informal and brief overview of the procedure applied. Reference should be made to the details as described by the text governing the aims and operation of the Fund in order to become familiar with the stages of the procedure as actually applied.

Previous sessions of the Intergovernmental Committee

Observer accreditation

The Member States of WIPO approve in advance the accreditation of the *ad hoc* observer to the Committee at a previous Committee session (or they have previously accredited the observer to WIPO) (see page 5). It is indispensable to take this step in advance before an eligible application can be made for possible financial support from the Fund. The numerous observers *already* accredited do not need again to seek accreditation before submitting an application for support from the Fund.



60 days before session X of the Committee

Submission of applications

The previously accredited observer and its designated candidate wishing to apply for financial support from the Fund for subsidized participation in Committee session X+1 submit an application form to the Secretariat (see page 8) at the latest 60 days before session X (see page 8). Consequently, applications for funded participation at the *tenth* session of the Committee are submitted 60 days before the *ninth* session of the Committee.



Session X of the Committee

Selection of applicants for the next session

The Committee meets and appoints the members of the Advisory Board (see pages 11 and 12). The Advisory Board considers the applications and recommends to the Director General those which will receive funding for participation at the next Committee session (X+1). (see pages 13 and 14).





Between session X and session X+1

Practical measures for session X+1 and applications for session X+2

The Secretariat takes practical steps relating to the funding of the selected applicants for session X+1. Previously accredited observers and their designated candidates submit new applications 60 days before session X+1, with a view to subsidized participation in Committee session X+2.



Session X+1 of the Committee

Selection of applicants for the next session

The Committee meets. The subsidized representatives selected at session X participate in that session X+1. The Committee appoints the members of the Advisory Board. The Advisory Board examines the applications and recommends those which will receive funding with a view to next Committee session X+2.

Question 1: What purpose does the Voluntary Contribution Fund serve?

Article 2

“The Fund is established exclusively to finance the participation in the work of the Committee and other related activities of WIPO of the nominated representatives of accredited observers which represent indigenous or local communities, or otherwise represent customary holders or custodians of traditional knowledge or traditional cultural expressions”.

Article 5 (e)

“The financial support will cover the purchase of a return economy class ticket, including taxes connected with the ticket, between the domicile of the beneficiary and Geneva or any other meeting place, by the most direct and cheapest route. It will also cover living expenses in the form of a daily subsistence allowance at the rate specified by the United Nations for Geneva or for the city where said meeting is held, with an additional flat rate of US\$60 to cover expenses incurred at the time of departure and arrival. All other expenses related to the participation of the beneficiaries in the session concerned will be excluded from Fund support”.

Article 5 (b)

“Each provision of support will relate to a single Committee session and any related activities held consecutively with the Committee session. Provision of support on one occasion shall not prejudice possible support for the participation of the same beneficiary in other sessions”.

Note by the WIPO Secretariat:

Only the representatives of the observers *previously* accredited by WIPO or on an *ad hoc* basis by the Intergovernmental Committee are eligible to submit applications to the Fund. The establishment of the Fund does not therefore replace the procedure of accreditation by the Committee or WIPO, which remains in place. If you wish to participate in the Committee (with or without funding from the Voluntary Fund), but you are not a representative of a previously accredited organization, that organization should begin by submitting a request for accreditation and it must obtain that accreditation, *before* being eligible to submit an application to the Fund.

The Committee consists of the Member States of WIPO, accredited intergovernmental organizations and non-governmental organizations (NGOs) which have been accredited to participate in the Committee meetings as observers. It is the Member States of WIPO, and not the WIPO Secretariat, which take the decisions relating to the question as to which organizations are accredited. The Secretariat's role is limited to receiving requests for accreditation and submitting them to the Member States for consideration. At the beginning of each session, the Member States participating in the Committee are invited to make *ad hoc* accreditations for the NGOs that have requested observer status. Currently, more than 110 *ad hoc* observers have been accredited by the Intergovernmental Committee, many of which represent local and indigenous communities and other holders or custodians of traditional knowledge and traditional cultural expressions.

In order to be taken into consideration for accreditation, an organization must send to the WIPO Secretariat, at least two months before the beginning of each Committee session, a request for accreditation as an *ad hoc* observer, accompanied by a description of the organization, including its full name, its main aims, the link the organization has to intellectual property issues, its full contact details, the names of the countries in which the organization is particularly active, and the name of the person that will represent the organization at the next Committee session, should observer status be granted to it.

Requests for accreditation should preferably be sent by electronic mail to the following address: grtkf@wipo.int or to the postal address below:

World Intellectual Property Organization (WIPO)
Traditional Knowledge Division
34, chemin des Colombettes,
1211 Geneva 20
Switzerland
Fax: +41 22 338 8120.

You will find all the documentation relating to the Committee's meetings on our Internet site at the following address: <http://www.wipo.int/tk/en/index.html>

It is also possible for an organization to obtain an accreditation by decision of the General Assembly. Please contact the Secretariat if you wish to receive information on this procedure.

Question 2: Who may request financial support from the Fund?

Article 5 (c)

“To be eligible for financial support, persons would need to satisfy each of the following criteria:

- (i) be a natural person;
- (ii) belong, as a member, to an accredited observer which represents indigenous or local communities, or otherwise represents customary holders or custodians of traditional knowledge or traditional cultural expressions;
- (iii) have been duly nominated in writing by the observer to represent it at the session designated for the support and as possible beneficiary of support from the Fund;
- (iv) be able to participate effectively and contribute to the session intended for the support, such as through expressing the experiences and concerns of indigenous and local communities and other customary holders and custodians of traditional knowledge or traditional cultural expressions;
- (v) and whom the Advisory Board considers would not be able to take part in the session concerned without support from the Fund, owing to a lack of alternative financial resources”.

Article 3

“Since participation in the Committee’s work is restricted by its rules of procedure to its members and accredited observers, and in order to ensure their capacity to participate fully in the Committee’s work, the funded representatives should only be the nominated representatives of observers which are duly and previously accredited to the Committee, either as *ad hoc* observers accredited by the Committee itself, or as observers accredited to WIPO.”

Question 3: When should an application be submitted and how?

Article 6 (e)

“Duly documented requests for financial support enabling participation in a Committee session will be sent to the WIPO Director General by the applicants in their own name, so as to arrive at least 60 days before the opening of the Committee session which precedes the session for which support is requested. Later requests will be considered at the following session.

Note by the WIPO Secretariat

Taking into account articles 3, 5(c) and 6(e), the previously accredited observers and their designated candidates who meet the eligibility criteria are invited to submit their applications in due time (that is to say 60 days before the session which precedes the one for which a Fund intervention is requested) using a form designed to make it easier to process their application. This form is available on the Internet site of the Traditional Knowledge Division (www.wipo.int/tk/en).

Question 4: How is information provided on the applications submitted?

Article 6 (f)

“Before each Committee session, the WIPO Director General will communicate for the information of participants an information note setting out:

(...)

(vii) a sufficiently detailed description of the applicants seeking support for the following session”.

Question 5: How is the Fund financed and how is information provided on the resources available from the Fund?

Article 6 (a)

“Fund resources will come exclusively from voluntary contributions by governments, NGOs and other private or public entities, and specifically shall not be drawn from the regular WIPO budget”.

Article 6 (f)

“Before each Committee session, the WIPO Director General will communicate for the information of participants an information note setting out:

- i) the level of the voluntary contributions paid into the Fund on the date on which the document was drafted,
- ii) the identity of the contributors (unless individual contributors have
- iii) expressly requested to remain anonymous),
- iv) the amount of the resources available taking into account the funds disbursed,

(...)”

Question 6: Who nominates the beneficiary(ies) of support from the Fund?

Article 6 (d)

“Decisions to extend financial support will be taken, for formal purposes, by the WIPO Director General, following an express recommendation by the Advisory Board. The recommendations made by the Advisory Board relating to the choice of beneficiaries will be binding on the Director General and not subject to appeal”.

Article 7

“The Advisory Board will comprise nine members, including:

- the Chair of the Committee, appointed *ex officio* or, where that proves to be impossible, one of the Vice-Chairs nominated by the Chair as his or her deputy;
- five members from the delegations of Member States of the Committee reflecting an appropriate geographical balance; and
- three members from accredited observers representing indigenous and local communities or other customary holders or custodians of TK or TCEs.

(...)”

Article 8

“Apart from the *ex officio* member, the members of the Advisory Board will be elected by the Committee on the second day of each of its sessions, on a proposal by its Chair, following consultation with the member states and their regional groups and, respectively, accredited observers’ representatives. Apart from that of the *ex officio* member, their mandates will expire with the opening of the following Committee session”.

Question 7: When are applications for support from the Fund examined by the Advisory Board?

Article 6 (g)

“Following the election of its members, the Advisory Board will be convened by the WIPO Director General to meet on the margins of the Committee session which precedes the session for which support is being considered (...)”

Article 9

“The Advisory Board will meet regularly on the margins of Committee sessions, subject to the requirement that a quorum of seven members, including the Chair or one of the Vice-Chairs, should be present”.

Article 6 (i)

“The Advisory Board will adopt its recommendation before the end of the Committee session on the margins of which it meets (...)”

Question 8: What are the criteria taken into consideration by the Advisory Board when nominating an applicant for support from the Fund?

Article 6 (h)

“The Advisory Board must ensure that all the criteria for eligibility of applicants set out above, in particular in Article 5, are satisfied during its deliberations, and should agree on a recommended list of eligible applicants who should benefit from Fund support. The Advisory Board should also ensure, when adopting its recommendation, that:

- a balance is maintained between the male and female beneficiaries, and between the geo-cultural regions from which they come, in successive sessions insofar as is possible; and
- where necessary, the benefits are taken into account which the Committee’s work may derive from the repeated participation in its sessions of the same beneficiary.

(...)”

Article 5 (d)

“In taking account of the need to support those who lack alternative financial resources, the Advisory Board should address the particular needs of observers based in developing and least developed countries, and small island developing countries. In ensuring a reasonable geographical spread of participation, the Advisory Board should also take due account of the seven geo-cultural regions recognized by the United Nations Permanent Forum on Indigenous Issues Support.”

Note by the WIPO Secretariat:

The seven geocultural regions recognized by the United Nations Permanent Forum on Indigenous Issues Support are Africa, North America, Latin America, the Arctic Region, Asia, Europe, Russian Federation and the Pacific Region.

Article 5 (a)

“Support from the Fund will be strictly limited to the maximum resources actually available in the Fund”.

Question 9: What is the voting procedure within the Advisory Board?

Article 10

“A recommendation for the selection of any beneficiaries will require the agreement of at least seven members of the Advisory Board. If an application is not agreed upon, it may continue to be examined at the following session, unless that application received three votes or fewer. In the latter case, the request will be considered to have been rejected, without prejudice to the right of the applicant to submit a new request at a later date”.

Article 11

“Each member of the Advisory Board who has a direct association with an observer which has applied for funding for a representative shall disclose that association to the Advisory Board, and shall abstain from any vote concerning any applicant nominated by that observer”.

Article 7

“(…) The members [of the Advisory Board] will serve on an individual basis and will conduct their deliberations independently, notwithstanding any consultations that they might consider as appropriate”.

Question 10: What happens when an application is recommended by the Advisory Board?

Article 10

“A recommendation for the selection of any beneficiaries will require the agreement of at least seven members of the Advisory Board (...)”

Article 6 (i)

“The Advisory Board will adopt its recommendation before the end of the Committee session on the margins of which it meets. This recommendation will identify:

- (i) the future session intended for financial support (i.e. the subsequent session of the Committee),
- (ii) the applicants whom the Advisory Board agrees should be supported for that session and for whom funds are available,
- (iii) any applicant or applicants whom the Advisory Board agrees should be supported in principle but for whom insufficient funds are available,
- (...)

The Advisory Board will immediately forward the contents of the recommendation to the Director General who will take a decision in accordance with the recommendation. The Director General will inform the Committee immediately and, in any cases, prior to the end of its current session, by means of an information note specifying the decision taken concerning each applicant”.

Note by the WIPO Secretariat

Two different cases may occur.

- The application is accepted and the resources available in the Fund are sufficient. In this case, the Secretariat will contact the applicant whose request has been accepted and will make the practical arrangements relating to the financial support provided for the applicant from the Fund.
- The application is accepted but the resources available in the Fund are insufficient. In this case, the application is postponed until the following session, but it enjoys priority over the others.

Question 10: What happens when an application is not accepted by the Advisory Board?

Article 10

“(…) If an application is not agreed upon, it may continue to be examined at the following session, unless that application received three votes or fewer. In the latter case, the request will be considered to have been rejected, without prejudice to the right of the applicant to submit a new request at a later date”.

Article 6 (i)

“The Advisory Board will adopt its recommendation before the end of the Committee session on the margins of which it meets. This recommendation will identify:

(i) the future session intended for financial support (i.e. the subsequent session of the Committee),

(…)

(iv) any applicant or applicants whose application has been rejected in accordance with the procedure in Article 10,

(v) any applicant or applicants whose application has been postponed until the next session of the Committee in accordance with the procedure in Article 10.

The Advisory Board will immediately forward the contents of the recommendation to the Director General who will take a decision in accordance with the recommendation. The Director General will inform the Committee immediately and, in any cases, prior to the end of its current session, by means of an information note specifying the decision taken concerning each applicant”.

Note by the Secretariat of WIPO

- An application may be rejected (if it does not obtain more than three votes): in this case, the applicant must submit a new application in order to be reconsidered.
- An application may be postponed to the following session (if it obtains more than three votes, but fewer than seven votes): in this case, the applicant is not obliged to submit a new application to be reconsidered.

Question 11: What happens in the case of withdrawal by an applicant granted support from the Fund or in the case of *force majeure*?

Article 5 (f)

“If an applicant who has been selected to benefit from Fund support has to withdraw or is unable to take part in the session concerned, any sums unexpended and recovered, apart from possible cancellation charges, will be transferred to the reserve of the resources available to the Fund and the choice which was made with regard to said applicant shall be considered null and void. The applicant will nonetheless be entitled to submit a new request for the following session, provided that information is submitted giving a good reason for the withdrawal or nature of the event which otherwise made participation impossible”.