

Questionnaire to UN system

Questionnaire to the UN system agencies, funds and programmes and intergovernmental organizations

The United Nations Permanent Forum on Indigenous Issues (PFII) was established by the Economic and Social Council (ECOSOC) Resolution 2000/22. The Permanent Forum is mandated to provide expert advice and recommendations on Indigenous issues to the ECOSOC and through the Council to United Nations agencies, funds and programmes; to raise awareness and promote the integration and coordination of activities related to Indigenous issues within the UN system; prepare and disseminate information on Indigenous issues; and promote respect for and full application of the provisions of the UN Declaration on the Rights of Indigenous Peoples and follow up the effectiveness of the Declaration.

The Indigenous Peoples Development Branch/Secretariat of the Permanent Forum on Indigenous Issues invites UN system agencies, funds and programmes and other intergovernmental organizations to complete the attached questionnaire on any action taken or planned in response to the Permanent Forum's recommendations, the system-wide action plan on rights of indigenous peoples (SWAP) and the 2030 Agenda for Sustainable Development.

The responses will be compiled into a report for the 2024 session of the Permanent Forum. In your responses, please, include information on progress and challenges related to Indigenous women, Indigenous persons with disabilities, Indigenous older persons, and Indigenous children and youth.

All responses will be placed on the DESA/DISD website on Indigenous Peoples at: <https://www.un.org/development/desa/indigenypeoples/>

Please note that the term “Indigenous Peoples” must be capitalized as per the UN Editorial Manual.

If you have any objections to your response being made available on our website, please inform our office accordingly.

Please submit your completed questionnaire by **15 November 2023** to:

Indigenous Peoples and Development Branch
Secretariat of the Permanent Forum on Indigenous Issues
Division for Inclusive Social Development
Department of Economic and Social Affairs
United Nations Headquarters
New York, USA 10017
Email: indigenous_un@un.org

Subject: Response to SWAP questionnaire

Questionnaire

Please also include an **executive summary** of your inputs to the 3 main questions above (strict 500-word limit) which will be used for our compilation report submitted to the 2024 session of the PFII.

Note from WIPO:

The following answers (parts in blue) were provided by the Secretariat of the World Intellectual Property Organization (WIPO) on November 30, 2023. Unless expressly stated, they do not necessarily reflect the views of WIPO Member States, taken as a whole or individually.

EXECUTIVE SUMMARY

PART A

Normative work

In 2022-2023, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC) has continued its negotiations aimed at finalizing an international legal instrument(s) to ensure the balanced and effective protection of traditional knowledge (TK) and traditional cultural expressions (TCEs) and will continue to do so in 2024-2025, with the participation of Indigenous Peoples as Observers.

The 2022 WIPO General Assembly decided to convene a Diplomatic Conference on Intellectual Property, Genetic Resources (GRs) and TK Associated with GRs in 2024. The IGC met in a Special Session in September 2023, in preparation for the Diplomatic Conference, and agreed on a number of revisions to the substantive articles of the Draft Text. The Special Session was followed by the Preparatory Committee of the Diplomatic Conference. The meeting of the Preparatory Committee in September was adjourned to be reconvened at a future date to consider the draft agenda and the dates and venue of the Diplomatic Conference.

Participation of Indigenous Peoples

Contributions to the WIPO Voluntary Fund to support the participation of Indigenous Peoples as Observers were made by Germany in 2022, Australia, Mexico and anonymous contributors in 2023.

The 2023 WIPO General Assembly decided that WIPO will provide “funding to facilitate the participation in the Diplomatic Conference of 2 representatives of Indigenous Peoples and Local Communities from each sociocultural region” used by the Permanent Forum through the WIPO Voluntary Fund and, in case of insufficient resources, through the budget allocated to the Diplomatic Conference.

An Indigenous Expert Workshop on Intellectual Property and Genetic Resources, TK and TCEs was organized. As an outcome, a Report made by the Indigenous Experts was published.

Indigenous Youth

Three young photographers received awards at an Awards Ceremony that concluded the 2023 *WIPO Photography Prize for Indigenous Peoples and Local Community Youth*.

Note >

The WIPO Secretariat has been taking due account of, and is doing its best to implement, the 2022 UNPFII recommendation made in paragraph 85 of its report, be it on the WIPO website or in the new publications of WIPO.

PART B

1. References to the UNDRIP have been included in the most recent versions of the draft negotiating texts on the protection of TK and TCEs, as well as in the Basic Proposal for the 2024 Diplomatic Conference.
2. In furtherance of Article 31, WIPO provides training and mentoring opportunities, and information, that aim to enable Indigenous Peoples to make more effective use of intellectual property principles and tools, if they so wish, in support of their TK-and TCEs-based community entrepreneurship, with a particular emphasis on women. In parallel, WIPO conducts normative work on intellectual property, GRs, TK and TCEs.
3. WIPO's training activities addressing Indigenous Peoples' needs for protection of their TK and TCEs contribute towards the fulfillment of the commitments made vis-à-vis Indigenous Peoples within the SDGs framework, as well as of SDGs 3, 4, 8, 11 and 13 inter alia.
4. Most of the WIPO training materials as well as a repository of relevant laws, etc. in relation to the protection of TK and TCEs from an intellectual property perspective is available on the WIPO website.
5. A) The WEP Program further expanded. B) WIPO organized a *High-Level Dialogue on Indigenous Peoples, Traditional Cultural Expressions and Fashion* in 2023.
6. Indigenous Peoples' representatives in the IGC benefit from measures enhancing their effective participation as Observers. The Preparatory Committee of the 2024 Diplomatic Conference, approved *inter alia* the list of invitees, including Indigenous Observers.

PART C

See Part B.3.

END OF THE EXECUTIVE SUMMARY

Questionnaire to UN system

Please provide information on the following:

- iv. **Recommendations of the Permanent Forum on Indigenous Issues and input to the 2024 session**
- iv. Please provide information on measures taken since your last update to the Forum on the implementation or planned implementation of the recommendations of the PFII.
- ii. The theme of the 2024 PFII session is “Enhancing Indigenous Peoples’ right to self-determination in the context of the United Nations Declaration on the Rights of Indigenous Peoples – emphasizing the voice of Indigenous Youth. Please include information on any publications, projects, reports, or activities relevant to this theme.
- iii. Please provide information on efforts to ensure the participation of Indigenous Peoples in the international decades declared by the General Assembly, such as the United Nations Decade on Ecosystem Restoration, the United Nations Decade of Ocean Science for Sustainable Development, the International Decade for Action, “Water for Sustainable Development,” the International Decade of Indigenous Languages and other relevant international decades and processes, including CEDAW General recommendation 39 on Indigenous women and girls.
- iv. Has your entity responded to the 2022 UNPFII recommendation¹ paragraph 85... *The Permanent Forum urges all United Nations entities and States parties to treaties concerning the environment, biodiversity and the climate to eliminate the use of the term “local communities” in conjunction with indigenous peoples, so that the term “indigenous peoples and local communities” would be abolished.*

If yes, please explain your response in further detail.

- i. **Follow-up on the recommendations of the Permanent Forum made in 2018, 2019, 2021, 2022 and 2023.**

The Permanent Forum on Indigenous Issues (the Permanent Forum) addressed specific recommendations to WIPO at its 17th Session (April 16-27, 2018) (as reflected in the Permanent Forum’s report in document E/2018/43-E/C.19/2018/11, para. 58), 18th Session (April 22 to May, 3, 2019) (as reflected in the Permanent Forum’s report in document E/2019/43-E/C.19/2019/10, par. 9 to 11), at its 20th Session (April 19 to 30, 2021) (as reflected in the Permanent Forum’s report in document E/2021/43-E/C.19/2021/10, par. 61, first sentence), at its 21th Session (April 25 to May 6, 2022) (as reflected in the Permanent Forum’s report in document E/2022/43-E/C.19/2022/11, par. 14, 66 and 85) and at its 22^d Session (April 17-28, 2023) (as reflected in the Permanent Forum’s report in document E/2023/43-E/C.19/2023/7, par. 42 and par. 79).

- 1. **Par. 9 of the report of the 18th Session of the Permanent Forum, par. 61, first sentence, of the report of the 20th Session of the Permanent Forum and par. 14 and 66 of the report of the 21th Session of the Permanent Forum refer expressly or**

¹ E/2022/43-E/C.19/2022/11

implicitly to the negotiations taking place at the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC or the Committee).

After a suspension of two years due to the COVID-19 pandemic, substantive negotiations at the IGC resumed in 2022 in the framework of its renewed mandate for the 2022-2023 biennium² “with the objective of finalizing 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 tradition cultural expressions (TCEs).”

GRs and TK associated with GRs

The WIPO General Assembly that took place from July 14 to 22, 2022 decided to convene a Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources (“the Diplomatic Conference”) no later than 2024. In its decision, the WIPO General Assembly further agreed that “document WIPO/GRTKF/IC/43/5³, the Chair’s text of a Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources will constitute the substantive articles of the Basic Proposal for the Diplomatic Conference”, and that the Diplomatic Conference be preceded by a special session of the IGC and a Preparatory Committee⁴.

The Special Session of the IGC, which took place from September 4 to 8, 2023, reviewed the substantive articles of the Draft of an International Legal Instrument Relating to Intellectual Property, GRs and TK Associated with GRs, and transmitted a revised version (Annex to [WIPO/GRTKF/IC/SS/GE/23/4](https://www.wipo.int/edocs/mdocs/wo/ga/23/4))⁵ to the Preparatory Committee of the Diplomatic Conference. The Preparatory Committee, which took place from September 11 to 13, 2023, decided to incorporate the changes made by the Special Session of the IGC in the Basic Proposal for the Diplomatic Conference.

Furthermore, the Preparatory Committee of the Diplomatic Conference approved the draft administrative provisions and final clauses for the instrument, the list of invitees⁶, including Indigenous Observers, to the Diplomatic Conference, and the draft rules of procedure of the Diplomatic Conference. The meeting of the Preparatory Committee was adjourned to be reconvened at a future date to consider the draft agenda and the dates and venue of the Diplomatic Conference.

² See WIPO document WO/GA/54/10, par. 4

(https://www.wipo.int/edocs/mdocs/govbody/en/wo_ga_54/wo_ga_54_10.pdf).

³ See document WIPO/GRTKF/IC/43/5

(<https://www.wipo.int/edocs/mdocs/wo/ga/43/5>).

⁴ For details of the decision, see https://www.wipo.int/export/sites/www/about-wipo/en/assemblies/docs/brochure_a63_list_decisions.pdf, pp. 7-8.

⁵ See Annex to

<https://www.wipo.int/edocs/mdocs/wo/ga/23/4>

⁶ See document GRATK/PM/4 (<https://www.wipo.int/edocs/mdocs/wo/ga/23/4>).

TK and TCEs

Negotiations on TK and TCEs continued during the Forty-Fourth, Forty-Fifth, Forty-Sixth and Forty-Seventh Sessions of the IGC that took place from September 12 to 16, 2022, December 5 to 9, 2022, February 27 to March 3, 2023, and June 5 to 9, 2023 respectively. Two further developed texts, “The Protection of Traditional Knowledge: Draft Articles”⁷ and “The Protection of Traditional Cultural Expressions: Draft Articles”⁸ at the Forty-Seventh Session of the IGC were transmitted to the WIPO General Assembly.

The WIPO General Assembly that met from July 6 to 14, 2023 decided to renew the mandate of the IGC for the 2024-2025 biennium⁹. In accordance with its mandate, the IGC will continue its negotiations aimed at finalizing an international legal instrument(s) to ensure the balanced and effective protection of TK and TCEs during the biennium. The IGC will continue to discuss intellectual property issues concerning GRs as they relate to the mandate of the IGC, after the Diplomatic Conference that will be convened in 2024 to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources.

2. Follow up on par. 66 of the Permanent Forum’s report in document E/2022/43-E/C.19/2022/11 relating to the recognition and protection of the “collective intellectual property rights of Indigenous Peoples in respect of their creations, discoveries, traditional knowledge and knowledge of biodiversity », was reported back to the Permanent Forum in WIPO’s answers to the 2022 Questionnaire.
3. Paragraphs 10 and 11 of the report of the 18th Session of the Permanent Forum (Update of Technical Review and Indigenous Expert Workshop).

With reference to the recommendations made in paragraphs 10 and 11 of the report, the IGC at its 40th Session (June 17 to 21, 2019) adopted the following decisions:

- (1) “Acknowledging the contribution to the Committee’s work made by the Indigenous Expert Workshop held in 2013, as reflected in its Report (WIPO/GRTKF/IC/25/INF/9), and with reference to the recommendation made by the United Nations Permanent Forum on Indigenous Issues (UNPFII) at its Eighteenth Session in 2019, the Committee requested the WIPO Secretariat to organize, within existing resources, an Indigenous Expert Workshop during the biennium 2020-2021, following similar arrangements *mutatis mutandis* to those as agreed at the Twentieth Session of the Committee under Agenda Item 8.”, and

⁷ See https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_14.pdf

⁸ See https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_15.pdf

⁹ For details of the mandate 2024-2025, see <https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-mandate-2024-2025.pdf>.

(2) “Acknowledging the contribution to the Committee’s work by the *Technical Review of Key Intellectual Property-related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions* (WIPO/GRTKF/IC/29/INF/10), which was prepared by an indigenous expert, and with reference to the recommendation made by the UNPFII at its Eighteenth Session in 2019, the Committee requested the Secretariat to commission, within existing resources, the updating by an indigenous expert of the *Technical Review* for the Committee’s consideration during the biennium 2020-2021”¹⁰.

The decision (2) from the Committee refers to the Technical Review of Key Intellectual Property-Related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions by Professor James Anaya published in January 2016¹¹.

In 2020, the WIPO Secretariat commissioned two indigenous experts, namely Mr. Elifuraha Laltaika from the United Republic of Tanzania and Ms. Neva Collings from Australia, to update the Technical Review. Mr. Laltaika and Ms. Collings have completed their task and provided the WIPO Secretariat with such update, which has been blind peer reviewed by two other indigenous experts.

The updated Technical Review¹² was communicated to the IGC at its Forty-Second Session (February 28 – March 4, 2022) and subsequent sessions.

Due to the COVID-19 pandemic, follow up on the decision (1) from the Committee was differed until the 2022-2023 biennium. Accordingly, an Indigenous Expert Workshop on Intellectual Property and GRs, TK and TCEs was organized from February 22 to 24, 2023. The report from the Indigenous Expert Workshop was transmitted to the Committee at its Forty-Sixth Session¹³ and republished at the Forty-Seventh as well as at the Special Session of the Committee.

4. Par. 58 of the report of the 17th Session of the Permanent Forum, par. 9 of the report of the 18th Session of the Permanent Forum and par. 79 of the report of the 22^d Session of the Permanent Forum (Participation of Indigenous Peoples in the IGC).

IGC

¹⁰ See document WIPO/GRTKF/IC/40/DECISIONS, pp. 2 – 3 available in https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_40/wipo_grtkf_ic_40_decisions.pdf

¹¹ See https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_29/wipo_grtkf_ic_29_inf_10.pdf.

¹² See document WIPO/GRTKF/IC/42/INF/8 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_42/wipo_grtkf_ic_42_inf_8.pdf).

¹³ See document WIPO/GRTKF/IC/46/INF/9 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_46/wipo_grtkf_ic_46_inf_9.pdf)

The attention of the 42nd, 43rd, 44th, 45th, 46th and 47th sessions of the IGC has been drawn to the recommendation included in par. 58 of the report of the 17th Session of the Permanent Forum¹⁴.

The Chairperson of the IGC, in her opening statements, as well as the WIPO Secretariat, recalled at the 46th and 47th sessions of the importance of effective participation of Indigenous Peoples as well as local communities in the IGC, noted that the WIPO Voluntary Fund for Accredited Indigenous and Local Communities (the WIPO Voluntary Fund) was near to be depleted, encouraged Member States to consider contributing to the Fund, and invited Member States to consider other alternative arrangements.

In addition to Germany which contributed 14,233.70 Swiss francs (the equivalent of 15,000 euros at the date) on September 13, 2022 to the WIPO Voluntary Fund¹⁵, Australia contributed 29,795.36 Swiss francs (the equivalent of 50,000 Australian dollars at the date) on June 22, 2023, followed by Mexico which contributed 8,239.99 Swiss francs (the equivalent of 167,555 Mexican pesos at the date) on August 7, 2023. Following calls for voluntary contributions made by the Chairperson of the IGC at its 46th and 47th sessions, 817 Swiss francs and 872.60 Swiss francs were transferred to the Voluntary Fund on behalf of anonymous contributors on March 3 and July 4, 2023 respectively.

The measures taken in order to facilitate the participation of Indigenous Peoples in the IGC are described in WIPO's answers provided below under part B.6 of the Questionnaire.

2024 Diplomatic Conference

In relation to the 2024 Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, the 2023 Assemblies of WIPO “[...] agreed that, on an exceptional basis [...], WIPO will provide adequate funding to facilitate the participation in the Diplomatic Conference of 2 representatives of Indigenous People and Local Communities from each sociocultural region used by the UN Permanent Forum on Indigenous issues. The funding will be provided by WIPO's Voluntary Fund and, in case of insufficient resources, through the budget allocated to the Diplomatic Conference. The modalities of allocation for such funding will follow the rules of WIPO's Voluntary Fund.”

5. Par. 42 of the report of the 22d Session of the Permanent Forum.

As described under Part B.5 of the Questionnaire, an extensive intellectual property-related program of seminars and training activities for Indigenous Peoples

¹⁴ See document WIPO/GRTKF/IC/47/3, par. 5.

(https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_3.pdf).

¹⁵ See document WIPO/GRTKF/IC/45/3, par. 2

(https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_45/wipo_grtkf_ic_45_3.pdf).

concerning their traditional knowledge, traditional cultural expressions and traditional knowledge associated with genetic resources, including traditional medicinal knowledge, some in collaboration with, or support from, other entities as appropriate, have been implemented within the scope of WIPO's mandate and in accordance with the WIPO Program of Work and Budget 2022-2023 agreed by Member States. Those activities will be further implemented by WIPO in accordance with the WIPO Program of Work and Budget 2024-2025 agreed by Member States.

ii.

Mr. Daren Tang, Director General of WIPO, emphasized the involvement of Indigenous Peoples Youth in WIPO activities in a message issued at the occasion of the International Day of the World's Indigenous Peoples¹⁶ on August 9, 2023.

In conjunction with Mr. Tang's message, a young Indigenous woman from Ecuador shared her community enterprise's inspiring experience as part of the WIPO Training, Mentoring and Matchmaking Program on Intellectual Property for Women Entrepreneurs from Indigenous Peoples and Local Communities in Bolivia, Colombia, Ecuador and Peru 2022-2023¹⁷.

A second edition of the *WIPO Photography Prize for Indigenous Peoples and Local Community Youth* was launched in 2023 on the theme "How We Wear Our Culture Is How We Tell Our Stories". The Photography Prize¹⁸ aims to celebrate the creativity of young members of Indigenous Peoples as well as local communities, raise their awareness on how copyright can be used to protect their creativity expressed in photographs, and encourage them to express themselves on the theme. The three winners, from Colombia, Nigeria and Guatemala respectively, selected among 15 short-listed applicants, were announced and received their awards in person in Geneva at an Awards Ceremony, presided over by the WIPO Director General, on November 2, 2023¹⁹.

iii. -

iv. The WIPO Secretariat has been taking due account of, and is doing its best to implement, this recommendation since its adoption, be it on the website or in the new publications of WIPO.

As per the WIPO Program and Budget agreed by WIPO Member States, WIPO's programs and projects benefitting Indigenous Peoples often also benefit local communities. This is without prejudice to the scope of the distinct rights of Indigenous Peoples under international law.

¹⁶ See https://www.wipo.int/tk/en/news/tk/2023/news_0010.html

¹⁷ See https://www.wipo.int/tk/en/news/tk/2023/news_0009.html

¹⁸ See https://www.wipo.int/tk/en/youth_prize.html.

¹⁹ See https://www.wipo.int/tk/en/news/tk/2023/news_0014.html.

Whenever possible, the WIPO Secretariat has started to use the following formulation in WIPO's materials referring to the beneficiaries of the programs and projects concerned: "Indigenous Peoples, as well as local communities", using "local communities" in small letters, except in titles.

B. System-Wide Action Plan to achieve the ends of the UN Declaration on the Rights of Indigenous Peoples

Background

As per the Outcome Document of the World Conference on Indigenous Peoples (A/RES/69/2), a [system-wide action plan to ensure a coherent approach to achieving the ends of the UN Declaration on the Rights of Indigenous Peoples](#) was adopted in November 2015 and launched by the Secretary-General at the UN Permanent Forum in May 2016.

In August 2020, the United Nations Executive Committee agreed on the need for accelerated and collective action to strengthen the implementation of the SWAP on indigenous peoples. In November 2020, the United Nations Chief Executives Board for Coordination issued a [Call to Action: Building an Inclusive, Sustainable and Resilient Future with Indigenous Peoples](#). Its goal is to ensure collaborative and coherent UN system action to support the rights and well-being of indigenous peoples with a focus on furthering the implementation of the SWAP²⁰.

- i. The Permanent Forum will follow up on progress made on the SWAP implementation as part of its discussion on the outcome document of the World Conference on Indigenous Peoples during its 2024 session. Please provide an analysis of actions taken by your agency, fund and/or programme on the six key elements of the SWAP, since your last update to the Forum²¹.

1. Raising awareness of the UN Declaration

Awareness of the UNDRIP is raised within the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC or the Committee)²².

Explicit references to the UNDRIP are included in the draft preambles and articles in the most recent negotiating texts on the protection of traditional knowledge (TK) and the protection of traditional cultural expressions (TCEs): "The Protection of

²⁰ Reporting on the activities to implement the CEB Call to Action is through task groups and should not be included in the responses to this questionnaire.

²¹ The six key elements of the SWAP are: 1) Raise awareness of the UNDRIP; 2) Support the implementation of the UNDRIP, particularly at the country level; 3) Support the realization of indigenous peoples' rights in the implementation and review of the 2030 Agenda for Sustainable Development; 4) Map existing standards and guidelines, capacity, training materials and resources within the UN system, international financial institutions and the members of the IASG for the effective implementation of the UNDRIP; 5) Develop the capacity of States, indigenous peoples, civil society and UN personnel; and 6) Advance the participation of indigenous peoples in UN processes.

²² For details on the IGC negotiating process, see part A.i.1 of the Questionnaire.

Traditional Knowledge: Draft Articles”²³ and “The Protection of Traditional Cultural Expressions: Draft Articles”²⁴, as well as in the preamble of the Draft of an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources²⁵ that will constitute the Basic Proposal for the Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources (“the Diplomatic Conference”)²⁶.

References to the UNDRIP are also included in the working documents of the IGC²⁷.

UNDRIP is regularly advocated for in the IGC negotiations, particularly, but not exclusively, by Indigenous Peoples’ representatives participating in the IGC.

In addition, WIPO publications relating to the protection of TK and TCEs refer to the UNDRIP whenever relevant. That is the case of WIPO publications *Promote and Protect Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities* and *Documenting Traditional Knowledge – A Toolkit*²⁸.

The UNDRIP, as a key resource, is retrievable from the webpage presenting WIPO’s engagement with Indigenous Peoples²⁹.

2. Supporting the implementation of the UN Declaration

WIPO’s mission is to lead the development of a balanced and effective international intellectual property ecosystem to promote innovation and creativity for a better and more sustainable future³⁰.

Articles 18, 31 and 41 of the UNDRIP are of particular relevance for WIPO’s program of work on the protection of TK and TCEs.

Article 31 of the UNDRIP refers to the right of Indigenous Peoples to “maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions”. Article 41 refers to the

²³ See https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_14.pdf

²⁴ See https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_15.pdf

²⁵ See Annex to

https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_ss_ge_23/wipo_grtkf_ic_ss_ge_23_decisions.pdf

²⁶ See for details on the forthcoming WIPO Diplomatic Conference under part A.i.1 of the Questionnaire.

²⁷ Most recently in the “draft gap analyses”: See document WIPO/GRTKF/IC/47/8 on https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_8.pdf and document WIPO/GRTKF/IC/47/9 on

https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_9.pdf.

²⁸ E-copies available on https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1048.pdf and

https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf.

²⁹ See <https://www.wipo.int/tk/en/engagement.html>.

³⁰ See document WO/PBC/32/3 (Medium-term Strategic Plan – MTSP – 2022 – 2026 https://www.wipo.int/edocs/mdocs/govbody/en/wo_pbc_32/wo_pbc_32_3.pdf

commitment of UN specialized agencies to contribute to the full realization of the provisions of UNDRIP.

Indigenous Peoples create, maintain and develop their TK and TCEs, as part of their core identities and as a rich foundation of their well-being and own development. Article 31 recognizes the legitimate sense that Indigenous Peoples have regarding ownership of, and the essential value inherent in, their own TK and TCEs.

In furtherance of Articles 31 and 41 and as part of WIPO's strong engagement with Indigenous Peoples³¹, WIPO provides training and mentoring opportunities, and information resources³², that aim to enable Indigenous Peoples to make more effective use of existing intellectual property principles and tools in support of Indigenous Peoples' entrepreneurship initiatives drawing from their ingenuity and creativity, particularly of indigenous women. (More details are available below under part B.5 of the Questionnaire.)

WIPO Director General Daren Tang has reaffirmed WIPO's engagement with Indigenous Peoples in his messages delivered at the occasion of the International Day of the World's Indigenous Peoples celebrated on August 9, 2022³³ and August 9, 2023³⁴. He underlined that Indigenous Peoples were important stakeholders in WIPO's vision of a more inclusive global intellectual property ecosystem.

In 2023, the WIPO Secretariat has continued to provide intellectual property-related technical, legal and policy information to Member States that wish to develop national strategies, legislation or other measures with a view to protecting TK and TCEs from an intellectual property perspective.

Substantive negotiations continued in the framework of the renewed mandate of the WIPO IGC for the 2022-2023 biennium, "with the objective of finalizing 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 tradition cultural expressions (TCEs)."

Discussions at the IGC included *inter alia* the possibility for Indigenous Peoples to require their free, prior and informed consent for the access to and use of, their TK and TCEs by third parties.

The 2022 WIPO General Assembly decided to convene a Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources no later than 2024.

³¹ See *inter alia* on the WIPO website <https://www.wipo.int/tk/en/engagement.html>.

³² See <https://www.wipo.int/tk/en/resources/publications.html>.

³³ See https://www.wipo.int/tk/en/news/tk/2022/news_0008.html.

³⁴ See https://www.wipo.int/tk/en/news/tk/2023/news_0010.html

More details regarding the Diplomatic Conference and the normative work conducted at the IGC are available above under part A.i.1 of the Questionnaire.

In relation to Articles 18 and 41 of the UNDRIP, details on how WIPO facilitates the participation of accredited observers who represent Indigenous Peoples in the work of the IGC is available below under part B.6 of the Questionnaire.

3. Supporting indigenous peoples' rights in the implementation and review of the 2030 Agenda for Sustainable Development

An overall presentation of WIPO's work on the SDGs, including in relation with Indigenous Peoples, is available on WIPO's website³⁵.

More details are available in the Reports on WIPO's Contribution to the Implementation of the Sustainable Development Goals and its Associated Targets submitted to the WIPO Committee on Development and Intellectual Property (CDIP) in 2023³⁶.

In particular, WIPO supports the implementation of the SDGs through a range of activities that address intellectual property issues related to benefit-sharing of GRs and the protection of TK and TCEs. WIPO's work in relation to TK, TCEs and GRs, as part of the Implementation Strategies of the WIPO's Global Challenges and Partnerships Sector, contributes *inter alia* to SDGs 2, 3, 4, 8, 11, 13 and 15 as identified in the WIPO Program of Work and Budget 2022 – 2023³⁷.

Paragraph 25 of the 2030 Agenda reflects the further commitment of UN Member States to provide Indigenous Peoples with “access to life-long learning opportunities that help them acquire the knowledge and skills needed to exploit opportunities and to participate fully in society”.

WIPO's engagement with Indigenous Peoples aims among others to enable Indigenous Peoples to make informed choices about using intellectual property tools and principles to promote or protect certain aspects of their TK, TCEs and tradition-based products or services, with a view to reinforce their resilience, improve their livelihood and well-being, and support their community-based entrepreneurship and self-development. (More details are available below under part B.5 of the Questionnaire.)

The empowerment of Indigenous Peoples, as referred to in paragraph 23 of the UN Declaration “Transforming our world: the 2030 Agenda for Sustainable Development”, is one of the elements of the commitment made by UN Member States vis-à-vis Indigenous Peoples within the SDGs framework.

³⁵ See <https://www.wipo.int/sdgs/en/story.html>.

³⁶ See WIPO documents CDIP/30/14

(https://www.wipo.int/edocs/mdocs/mdocs/en/cdip_30/cdip_30_14.pdf).

³⁷ See <https://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/budget-2022-2023.pdf>, pp. 51-52.

The draft texts for the protection of TK and TCEs³⁸ that are being negotiated as work-in-progress at the IGC specifically envisage Indigenous Peoples as beneficiaries of the provisions and/or measures under discussion. Outcomes from those negotiations could contribute to the empowerment of Indigenous Peoples as beneficiaries, should WIPO Member States so agree.

4. Mapping of existing standards and guidelines, capacities, training materials and resources for the effective implementation of the UNDRIP

WIPO is a global reference point on intellectual property and GRs, TK and TCEs.

Most of WIPO training materials that address the protection of TK and TCEs relate explicitly or implicitly to Article 31 of the UNDRIP. Those materials include briefs, practical guides, studies and toolkits. All relevant resources are accessible through the webpage presenting WIPO's engagement with Indigenous Peoples³⁹.

WIPO's publication *Promote and Protect Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities* helps Indigenous Peoples to make best use of intellectual property tools with a view to protecting aspects of their TK and TCEs for their own benefit, if they so wish⁴⁰.

An animation - *The Adventures of the Yakuanoi Navigating Traditional Knowledge and Intellectual Property* – features the Yakuanoi, fictional Indigenous Peoples that successfully explore issues and opportunities that arise when their TK interacts with intellectual property⁴¹. The animation has been translated into several indigenous languages under the WIPO's Open Access Policy, which is part of the WIPO's ongoing endeavour to make its publications as accessible as possible⁴².

The WIPO TK Documentation Toolkit (*Documenting Traditional Knowledge – A Toolkit*) contains guidelines that are supportive of Indigenous Peoples' specific interests relating to TK documentation⁴³.

The information available on WIPO's website comprises a repository of resources on regional, national, local and community experiences⁴⁴, including databases of laws, legislative measures and protocols, surveys and case studies. A database

³⁸ See respectively Document WIPO/GRTKF/IC/47/14 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_14.pdf) and document WIPO/GRTKF/IC/47/15

(https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_15.pdf).

³⁹ See <https://www.wipo.int/tk/en/engagement.html>.

⁴⁰ E-copies available on https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1048.pdf.

⁴¹ See <https://www.wipo.int/tk/en/tk/yakuanoi.html>.

⁴² The WIPO's Open Access Policy allows for the reproduction, use and translation of WIPO publications under Creative Commons Licences. (see https://www.wipo.int/pressroom/en/articles/2016/article_0016.html).

⁴³ E-copies available on https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf.

⁴⁴ See https://www.wipo.int/tk/en/resources/tk_experiences.html#1.

containing codes, guidelines and practices relating to the recording, digitization and dissemination of TCEs has been set up⁴⁵.

The WIPO Program of Work and Budget for 2022-2023 consolidates the activities related to, and the resources allocated for WIPO's work in relation to intellectual property and TK, TCEs and GRs within the WIPO Global Challenges and Partnerships Sector⁴⁶. Those activities are implemented by the WIPO Traditional Knowledge Division.

5. Developing the capacities of States, indigenous peoples, civil society and UN personnel

➤ WIPO's capacity-building activities in support of Indigenous Peoples aim to help and enable them to:

- grasp the issues that the lack of protection of TK and TCEs raises from an intellectual property perspective;
- understand the nature and scope of the existing intellectual property-related principles and tools that they may use, as options, to protect aspects of their TK and TCEs; and
- define their intellectual property strategy as they best consider in line with their own objectives and for their own development, in particular in support of their community entrepreneurship.

WIPO's program of work in this field includes practical workshops, distance learning courses, training, mentoring and matchmaking, in addition to the dissemination of briefs, practical guides, studies and toolkits.

The WIPO Secretariat continued and further intensified its capacity-building activities in 2023, with an emphasis on Indigenous Peoples', as well as local communities' entrepreneurship, particularly among women.

The *WIPO Training, Mentoring and Matchmaking Program on Intellectual Property for Women Entrepreneurs from Indigenous Peoples and Local Communities (WEP)* further expanded in 2023. The WEP⁴⁷ supports women and community entrepreneurship, innovation and creativity related to TK and TCEs by strengthening the capacity of women entrepreneurs from Indigenous Peoples as well as local communities to make effective use of intellectual property tools in support of their communities' entrepreneurial activities.

- The third global cycle of the WEP Program started in 2023 benefitting 21 women of Indigenous Peoples as well as local communities, and their communities, in partnership with the International Labour Organization

⁴⁵ See https://www.wipo.int/tk/en/databases/creative_heritage/.

⁴⁶ See <https://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/budget-2022-2023.pdf>, pp. 51, 52 and 56.

⁴⁷ See https://www.wipo.int/tk/en/women_entrepreneurs/

(ILO), the International Trade Center (ITC) and the International Trademark Association (INTA).

- A regional cycle of the program was provided to 20 women entrepreneurs from Indigenous Peoples as well as local communities, two per community-based entrepreneurship, from the Plurinational State of Bolivia, Colombia, Ecuador and Peru in 2022 and 2023, with the support of the *Servicio Nacional de Derechos Intelectuales* of Ecuador (SENADI) and in collaboration with ILO, ITC and INTA.
- A regional WEP cycle benefitting 20 local community women entrepreneurs and their communities from the Central European and Baltic States (CEBS) started in March 2023.

In 2023, WIPO launched a *Training, Mentoring and Match-Making Program on Intellectual Property and Traditional Medical Knowledge* in Africa, aiming at establishing and supporting an innovation ecosystem related to and based on, traditional medical knowledge.

- WIPO organized a *High-Level Dialogue on Indigenous Peoples, Traditional Cultural Expressions and Fashion*⁴⁸ on November 2 in Geneva. The Dialogue brought together Indigenous Peoples and fashion companies in an informal setting and provided an opportunity for the exchange of ideas and the sharing of best practices, with the aim of connecting people, increasing mutual understanding, building relationships and exploring forward-looking ways to facilitate ethical and fair collaborations between Indigenous Peoples and fashion companies. In opening of the event, WIPO Director General Daren Tang called for increased dialogue and mutual understanding between Indigenous Peoples and fashion companies.
- Three young photographers received awards at an Awards Ceremony that concluded the 2023 *WIPO Photography Prize for Indigenous Peoples and Local Community Youth* in November 2023. Further details regarding the WIPO Photography Prize are provided under Part A ii of the answers to the present Questionnaire.
- The WIPO Indigenous Fellowship Program continued in 2023. The WIPO Indigenous Fellowship Program offers the opportunity for an indigenous person to be part of the WIPO Traditional Knowledge Division⁴⁹. The WIPO Indigenous Fellow contributes to make sure that Indigenous Peoples' sensitivities and interests are duly taken on board, within and beyond the Division. The current WIPO Indigenous Fellow, Ms. Sara Fuentes Maldonado, an indigenous Kichwa-Otavalo from the community of Ilumán, in Ecuador, was appointed in July 2022.
- The WIPO Advanced Distance Learning Course on Intellectual Property, TK and TCEs⁵⁰ provides technical information on key concepts and international, regional and national experiences, policy options and legal mechanisms available or under

⁴⁸ See and listen on https://www.wipo.int/meetings/en/details.jsp?meeting_id=80168

⁴⁹ See <https://www.wipo.int/tk/en/indigenous/fellowship/>.

⁵⁰ See https://www.wipo.int/academy/en/courses/distance_learning/.

consideration for the intellectual property-like protection of TK and TCEs. The WIPO Advanced Distance Learning Course is available for Indigenous Peoples at no cost.

In addition, the WIPO Secretariat has continued to provide intellectual property-related legal and policy information to Member States that wish to develop national strategies, legislation or other measures with a view to protecting TK and TCEs from an intellectual property perspective.

6. Advancing the participation of indigenous peoples at the UN

Implementation of Articles 18 and 41 of UNDRIP on participation is of particular relevance for the IGC negotiations⁵¹.

The IGC sessions take place with the active participation of Indigenous Peoples' representatives as observers. The WIPO Secretariat, with WIPO Member States' express support, has taken robust measures to ensure and enhance such full and effective participation.

Those measures include the following:

- An *ad hoc* and fast-track accreditation procedure for observers at the IGC was established at the creation of the IGC⁵²;
- Indigenous participants in the IGC may take the floor on any agenda item and can have any of their specific textual drafting proposals reflected in the drafts, provided that at least one Member State extends its endorsement; this happens quite frequently;
- Further, the Chair of the IGC has systematically invited Indigenous Caucus representatives, with Member States' support, to participate in informal consultations and drafting groups on the texts being negotiated at the IGC, with rights to speak and make proposals;
- As a result and on several occasions, drafting proposals by indigenous representatives have been taken up in the negotiating texts; several options included in the texts reflect their comments or proposals;
- An Indigenous Consultative Forum is organized on the day or two days preceding IGC sessions with the WIPO Secretariat's support, with the view to facilitating the preparation of IGC sessions by the Indigenous Caucus;
- The Chair of the IGC meets the Indigenous Caucus whenever requested or appropriate;
- WIPO has financed the logistical, secretarial, interpretation and translation support that is provided by the Indigenous Peoples' Center for Documentation, Research and Information (DoCip) during the daily meetings of the Indigenous Caucus;

⁵¹ More details regarding the normative work conducted at the IGC are available above under part A.i of the Questionnaire.

⁵² See <https://www.wipo.int/tk/en/igc/participation.html> for practical details.

- IGC regular sessions accommodate time for a panel presentation by Indigenous Peoples', as well as local communities', experts in the plenary room⁵³.
- The WIPO General Assembly set up the WIPO Voluntary Fund for Accredited Indigenous and Local Communities in 2005 in order to facilitate the participation in sessions of the IGC of representatives of Indigenous Peoples as well as local communities⁵⁴.
- Following up upon two recommendations made by the UN Permanent Forum, an updated Technical Review of the Key Intellectual Property-Related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions was commissioned by the WIPO Secretariat to two indigenous experts and communicated to the IGC in 2022⁵⁵, and an Indigenous Expert Workshop on Intellectual Property and GRs, TK and TCEs was organized from February 22 to 24, 2023. The report of the Indigenous Expert Workshop was transmitted to the IGC at its Forty-Sixth Session⁵⁶, and republished at the Forty-Seventh Session of the IGC as well as at its Special Session.

The WIPO Indigenous Fellowship Program allows for an indigenous person to be part of the WIPO Traditional Knowledge Division⁵⁷.

Further details regarding the participation of Indigenous Peoples in the IGC and in the 2024 Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources can be found under Part A i. 4 of the Questionnaire.

C. 2030 Agenda for Sustainable Development

i. Please describe any activities your entity has organized since the last reporting period to accelerate progress across a range of SDGs, demonstrating the interlinkages across goals and targets and if applicable, providing examples of translating global goals into local actions. In your response, please consider referring to SDGs relevant to the theme of the 2024 session of the Forum.

⁵³ For details concerning the two such panels that were organized in 2023, see documents WIPO/GRTKF/IC/46/INF5 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_46/wipo_grtkf_ic_46_inf_5.pdf) and WIPO/GRTKF/IC/47/INF5 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_47/wipo_grtkf_ic_47_inf_5.pdf).

⁵⁴ See <https://www.wipo.int/tk/en/igc/participation.html> for practical details. See under part A.i.4 of the Questionnaire for other details regarding the funding of Indigenous Peoples' participation in the IGC.

⁵⁵ See document WIPO/GRTKF/IC/42/INF/8 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_42/wipo_grtkf_ic_42_inf_8.pdf).

⁵⁶ See document WIPO/GRTKF/IC/46/INF/9 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_46/wipo_grtkf_ic_46_inf_9.pdf).

⁵⁷ For more details about the WIPO Indigenous Fellowship Program, see the answers provided under B.5 above.

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ii. Please describe any activities your entity organized in support of the 2023 UN High-Level Political Forum on Sustainable Development and SDG Summit and/or reports and activities that supported SDG reporting and monitoring or a VNR process at the national, regional, or global level.

The activities that are undertaken in support of Indigenous Peoples in the context of achieving the 2030 Agenda are detailed above under parts B.3 and B.5 of the Questionnaire.

Reminder: Please also include an executive summary of your inputs to the 3 main questions above (strict 500-word limit) which will be used for our compilation report submitted to the 2024 session of the PFII.

ANNEX 1

Agenda of the twenty-second session of the Permanent Forum on Indigenous Issues

The Twentieth-second session of the Permanent Forum on Indigenous Issues is scheduled to take place from **15 to 26 April 2024**

Provisional Agenda

1. Election of officers.
2. Adoption of the agenda and organization of work.
3. Discussion on the theme “Enhancing Indigenous Peoples’ right to self-determination in the context of the United Nations Declaration on the Rights of Indigenous Peoples: emphasizing the voices of Indigenous youth”.
4. Discussion on the six mandated areas of the Permanent Forum (economic and social development, culture, environment, education, health and human rights), with reference to the United Nations Declaration on the Rights of Indigenous Peoples and the 2030 Agenda for Sustainable Development.
5. Dialogues:
 - (a) Dialogue with Indigenous Peoples; E/2023/43 E/C.19/2023/7 23-08492 5/24
 - (b) Dialogue with Member States;
 - (c) Dialogue with the United Nations agencies, funds and programmes;

Questionnaire to UN system

(d) Human rights dialogue with the Special Rapporteur on the rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples; annual review of progress on the implementation of general recommendation No. 39 (2022);

€ Regional dialogues;

(f) Dialogue on Indigenous platforms established within United Nations entities;

(g) Thematic dialogues, including on the financing of Indigenous Peoples' work and participation in the context of, inter alia, development, climate, environment and biodiversity.

6. Future work of the Permanent Forum, including issues considered by the Economic and Social Council, the outcome document of the World Conference on Indigenous Peoples and emerging issues.

7. Provisional agenda of the twenty-fourth session of the Permanent Forum.

8. Adoption of the report of the Permanent Forum on its twenty-third session. -