

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

Forty-Second Session
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REPORT ON THE COMPILATION OF INFORMATION ON NATIONAL AND REGIONAL *SUI GENERIS* REGIMES FOR THE INTELLECTUAL PROPERTY PROTECTION OF TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS

Document prepared by the Secretariat

1. In October 2019, the WIPO General Assembly renewed the mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) for the biennium 2020/2021. As part of its mandate, the Committee requested the Secretariat to continue to collect, compile and make available online information on national and regional *sui generis* regimes for the intellectual property protection of traditional knowledge (TK) and traditional cultural expressions (TCEs).
2. Pursuant to the mandate of the Committee, the Secretariat prepared a preliminary online collection of national and regional *sui generis* regimes for the intellectual property protection of TK and TCEs.
3. For the purposes of developing the online collection of *sui generis* regimes, the term “*sui generis* regimes” is defined as existing legal mechanisms which provide indigenous peoples and local communities (IPLCs) and other beneficiaries with intellectual property (IP) or IP-similar protection against misuse and/or misappropriation of their TK and/or TCEs, and/or distorting or culturally offensive uses. Such mechanisms can be part of IP systems, the features of which have been modified to accommodate the special characteristics of TK and TCEs, or to create specific disclosure obligations related to TK, and non-IP systems (e.g. access and benefit-sharing laws, indigenous peoples’ rights).

4. In its preliminary version, the online compilation of *sui generis* regimes presents factual information on the existing regional and national *sui generis* regimes from 24 Member States. The information presented is organized in the following five fields:

- (i) Name of the Member State/regional group in which the regime was adopted;
- (ii) Title of the legal instruments that form each of the *sui generis* regimes, and date in which each was adopted;
- (iii) Whether the legislation addresses TK;
- (iv) Whether the legislation addresses TCEs; and
- (v) Indication on the issues addressed by each of the legal instruments that form each *sui generis* regime.

5. The indications of the issues addressed by each of the legal instruments that form each *sui generis* regime focus on the substantive issues being discussed by the Committee, namely:

- (i) Use of Terms
- (ii) Protection Criteria/Eligibility Criteria
- (iii) Beneficiaries
- (iv) Scope of Protection
- (v) Database, Complementary and Defensive Protection
- (vi) Sanctions, Remedies and Exercise of Rights
- (vii) Disclosure Requirement
- (viii) Exceptions and Limitations
- (ix) Term of Protection
- (x) Formalities
- (xi) Transboundary Cooperation
- (xii) Capacity Building and Awareness Raising

6. In July 2020, as part of a series of preparatory activities leading to IGC 41, Member States and accredited observers were invited to review the compilation, if they so wished, and provide comments, corrections or updates in English by September 30, 2020. Responses were received from one Member State and one accredited observer. The IGC Secretariat has incorporated the feedback received and added a few more countries.

7. The compilation of information on national and regional *sui generis* regimes for the intellectual property protection of TK and TCEs was made available online at:
https://www.wipo.int/export/sites/www/tk/en/resources/pdf/compilation_sui_generis_regimes.pdf.

8. The IGC is invited to take note of the document and provide more comments and updates, if any.

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