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CURRENT STATUS ON THE PROTECTION
AND LEGISLATION OF NATIONAL FOLKLORE IN CHINA

Documents submitted by the Delegation of China

1. On June 13, 2002, the Secretariat of the World Intellectual Property Organization (WIPO) received from the Delegation of China a document for submission to the third session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, entitled "Current Status on the Protection and Legislation of National Folklore in China."

2. The document is reproduced in the Annex.

3. *The Intergovernmental Committee is invited to take note of this document and the Annex to it.*

[Annex follows]

ANNEX

CURRENT STATUS ON THE PROTECTION AND LEGISLATION
OF NATIONAL FOLKLORE IN CHINA**1. Status on the Protection of National Folklore in China**

On the vast expanse of this beautiful land of China and with a history of long standing, the Chinese people have, over more than 5,000 years, created with their diligence and intelligence rich and colorful national folklore of geographical characteristics and national styles, composing of myths, proverbs, music, dances, traditional operas, various forms of folk art, customs, dwelling houses with local styles, dresses and personal adornments, household utensils, national sports and so on. The Chinese national folklore is just like a shining treasure house that symbolizes national unity and bridges China with the world. It has been a consistent policy of the Chinese Government to protect historical and cultural heritage and carry forward traditional culture of excellence. Since the foundation of the People's Republic, especially since the adoption of its policy of opening to the outside world, the Chinese Government has made fruitful and effective efforts in protecting and carrying forward its national folklore.

A. Collection, Collation and Documentation of Folklore

Since 1950s, the Chinese Government has started to mobilize people to save and excavate folklore, and to record and sort out, according to the various schools and styles of art, traditional operas, music and its vocal music, music tunes, performing skills, facial make-ups, costumes, stage properties and so on through note-taking, drawing, music notation, sound recording and picture taking. Special importance has been attached to the recording, collation and study of the unique performing skills, experiences of, and historical data held by, aged artists. The year of 1979 saw the launch of a systematic project in collecting and collating folklore – codification of ten collections and local annals of literary and artistic works, namely, Collection of Folk Songs of China, Collection of Folk Stories of China, Collection of Proverbs of China, Collection of Popular Ballads of China, Collection of Folk Opera Music of China, Collection of Folk Art Music of China, Collection of Folk Dances of China, Collection of Folk Instrumental Music of China, Annals of Operas of China, and Annals of Folk Art Music of China. Some 50,000 trained persons have been involved in conducting a comprehensive and in-depth investigation across the country. According to incomplete statistics, a total of 3,020,000 folk ballads, 7,480,000 proverbs, 1,840,000 folk stories, 350 different types of folk operas, more than 10,000 scripts of plays, 130,000 musical compositions in different folk art forms, 150,000 folk instrumental musical compositions, 17,000 folk dances and 5 billion words of literature have been collected. By now, 173 volumes of local annals have been published, and it is expected that all the 300 sets and 450 volumes of provincial volumes would be completed by 2004. The investigation and collation of the national folklore heritage has saved and noted down many gems of national folklore which were on the verge of being lost, and have helped a lot of other national folklore heritages shine with new radiance after being extravagated and collated. In addition, the relevant information is being made into databases, and corresponding R&D work is also

being carried out. One can say that a rather systematic and standard documentation has been established for national folklore in China.

B. Integration of Protection with Development for the Exploitation of Traditional Arts and Crafts

Traditional craftsman ship dates back long in the history of China, with its huge varieties in type, exquisiteness in workmanship and uniqueness in style. Among the world's famous examples are embroidery, brocade, cloisonné enamel and tie-dyeing. The Chinese Government has adopted a policy of integration of protection with development and improvement of traditional arts and crafts. Over half a century, a large number of light industry enterprises have been set up to conduct large-scale development of traditional arts and crafts, so as to both meet the material and spiritual needs of the people, and vitalize traditional craftsmanship. As an effort to protect traditional arts and crafts, relevant governmental agencies have been continuously in search for traditional art and crafts, and have collected and stored up many of their masterpieces. For those who have been long engaged in the production of works of arts and crafts with a unique style and outstanding achievements, the title of "masters of arts and crafts" is granted, and their working environment improved. By now, 204 persons have been granted such a title. Technology secrets and trade secrets in respect of traditional arts and crafts are also protected by law in China.

C. Research, Teaching, Creation and Dissemination of National Folklore through Multiple Channels

Research institutions have been established by the Government at both the national and local levels to focus on the study of folklore. Among them is the Chinese Academy for Art Research, whose main task is to collect, collate, store and conduct research on the precious heritage of national folklores such as Chinese music, dances, operas and fine arts. After decades of work, their efforts have yielded rich fruits. For example, the collation and publication of three folk epics – *King of Gesar* of the Tibetans, *Biography of Jianger* of the Mongols and *Manas* of the Kalkhas – have caused sensation throughout the cultural community all over the country. Many organizations in the civil society have also been engaged in the field of research and practice with an aim to carry on the national folklore. Folklore-lovers in some cities, counties and townships have formed their own associations. Out of the 230 or more professional art colleges and institutes in China, quite a large number have included teaching of national folklore in their curricula. Subjects related to national folklore are also taught in universities, and even in middle and primary schools in some areas. These teaching activities have helped foster successors to carry on national folklore expressions. In addition, there are over 2,600 professional art performing groups and thousands of self-organized art performing groups, whose brilliant performances of national folklore have also greatly helped the widespread of national folklore.

D. Salvage of Cultural Heritage of Imminent Danger, and Prioritized Support for its Sustained Development

In respect of traditional consummate skills on the verge of disappearing, the Government has made effort in having them recorded and collated on the one hand, and, on the other hand, in providing adequate financial support to the folk artists in order to encourage them to pass on their skills to apprentices. The State gives prioritized support to the most valuable cultural heritage of national folklore. For instance, with an aim to carry on the art of Beijing Opera – the so-called “quintessence of Chinese culture”, the Ministry of Culture has set up a Steering Committee on the Vitalization of Beijing Opera and a Foundation for the Art of Beijing Opera to support the development of Beijing Opera. A Project of Collection of Dubbing Beijing Operas with Images has been implemented whereby videotapes are made on the basis of the sound recordings of leading exponents of some key schools of Beijing Opera, for the purpose of teaching younger generations. A Steering Committee on the Vitalization of the *Kunqu* Opera has been set up under the Ministry of Culture to vitalize the art of *Kunqu*, which has been selected by the United Nations as a “masterpiece of oral and intangible cultural heritage of mankind”. A ten-year plan for the protection and vitalization of the art of *Kunqu* has been prepared covering areas such as the conservation of data, training of personnel, maintenance and innovation of plays and construction of theatres. On the other hand, the State has also facilitated, through financial allocations and encouraging social donations, the creation and performance of art performing groups that focus on national folklore.

E. Conservation of Living Environment for Cultural Heritage, and Construction of Protection Zones for Cultural Biology

The living environment for cultural heritage constitutes an important condition for the sustained cultural development. It is of great significance to preserve the cultural biology and to conduct *in situ* conservation of the cultural heritage in the very communities and environment that are suitable for its existence, in other words, to keep it as “live culture”. Recently, work has been started to construct protection zones for cultural biology in regions inhabited by minority ethnic groups where cultural biology is well preserved. In 1996, the Chinese Government constructed in cooperation with the Government of Norway a museum of cultural biology – the first of its kind in China – in *Suojia* Village of the *Liuzhi* Special Region of Guizhou Province, where there are connected villages and stockades inhabited by a branch of the Miao nationality with a unique culture. Currently, western Chinese provinces where many minority ethnic groups live are all planning such constructions. For example, Guizhou Province plans to construct seven different protection zones for the Miao, Bouyei, Sui, Dong and Yi ethnic groups; and Sichuan Province has filed a request for the construction of the same sort in its Aba, Liangshang and Ganzhi areas mostly inhabited by minority ethnic groups; the Xinjiang Autonomous Region also has its plans for such constructions. According to the overall plan, 30 protection zones for cultural biology will be constructed in the western part of China.

F. Development of Various Incentive Measures to Carry Forward National Folklore

The Government has initiated a program whereby villages and townships are designated as “land of folklore” and “land of art with distinctive features”, thus encouraging the effort of

all localities to collate, protect and develop national folklore. Since 1988, 322 townships and villages with strong national style and artistic characteristics have been designated as such. Many of them are redesignated, in accordance with the locally popular artistic forms and customs, as “land of kites”, “land of paper-cutting”, “land of yangge dances”, “land of bamboo weaving”, “land of wood carving”, and “land of waist drum dances”. In those regions with a designation of “land of folklore”, activities with distinctive artistic features are widely carried out by the local people, and many traditional festivals and celebrations of a regional nature have been resumed and further developed. Some regions have based their development efforts on their distinctive culture, which in turn brings along cultural industries, to promote both economic growth and cultural development of their regions. One of the examples is the International Kite Festival of the Weifang City in Shandong Province, which has not only enhanced the impact of the art of kites at the international level, but also promoted local economic and social development. Another example is found in the Linqu County of Shandong Province, where folklore industry mainly based on rare stones, paintings and calligraphy has become one of the mainstay industries in the region. In addition, the Government also organizes regular art festivals, literary and artistic awards and exhibitions to encourage the manifestation and sustained development of the various forms of folklore.

With the development of the modern society, however, the protection of national folklore in China also faces problems, mainly in the following areas:

(i) Lack of successors for some national folklore expressions, which are consequently in danger of being lost

Pounded by modern civilization and foreign cultures, the spoken and written languages of many minority ethnic groups are disappearing; the production scale of some traditional crafts is being reduced, and their markets shrunk, putting the traditional cultural industry in a very difficult situation. Moreover, some folklore expressions are no longer appreciated due to the change of modes of life and thought, leading to the disappearance of some traditional customs. Young people tend to advocate modern civilization, show little interest in traditional national art forms, and do not have motivation in learning and carrying them, whereas holders of national folklore are getting older and older, some of whom have passed away, leaving some of the traditional skills or folklore on the verge of being lost or disappearing completely.

(ii) Regular occurrences of abusing and distorting national folklore

Some people simply go to the communities to collect and collate, without authorization, materials of national folklore, from which gain economic benefits and appropriate research results, without paying back in any form to the communities who have created these expressions. Some people alter in an arbitrary way the connotation of folklores so as to accommodate the needs of the modern society and to gain commercial profits. There also some who distort and impair the original meaning of national folklore when they make adaptations and process national folklore expressions, and even use elements that violate taboos in some national folklore, thus damaging the feelings of communities that have created the national folklore expressions. Acts of non-respect for the spiritual and material rights of collators, especially narrators, performers and translators, are just common occurrences in areas where national folklore are spread among the communities to whom such folklore belongs.

(iii) Brain drain of professionals and backwardness of protection facilities due to the lack of financial support

Recording, collation, conservation and continuation of cultural heritage of folklore call for necessary facilities, equipment and trained professionals, which in turn can be only guaranteed with adequate funds. At present, there is a big gap between the funds earmarked for cultural undertakings and the actual demand in this regard. Among the problems are: obsolescence of facilities and equipment for the conservation of national folklore materials, difficulties of some agencies in collating, studying and saving folklore expressions and materials, for they are scattered in the hands of individuals and are not easy to be collected, failure in saving some cultural heritage on the verge of disappearing, difficulties in publishing some works of the collected and collated folklore, ageing, mildew, adhesion, degaussing and worm-eating problems of many folklore materials already collected and collated, which put them in danger of being lost again. On the other hand, practitioners are badly paid, causing brain drain of professionals in the field of research and performance of many folklore expressions, and making it even more difficult to protect and carry on national folklore.

(iv) Increasingly serious cultural pillage causing great losses of cultural resources

With the deepening of the process in China of opening to the outside world, many foreigners come, in the name of trade, tourism and academic exchange, to the area mostly inhabited by minority ethnic groups in China, to collect, buy over, record and use free of charge the traditional cultural heritage of China. This has led to a wave of cultural pillage in a disguised form and caused great losses of cultural resources.

2. Legislation on the Protection of National Folklore in China

The year of 1982 saw the promulgation of the Law on the Protection of Cultural Relics in China to protect tangible cultural heritage. As far as intangible cultural heritage is concerned, although there does not exist a basic national law on the protection of national folklore, intangible cultural heritage is under the protection of relevant laws and regulations. For example, in the Copyright Law of 1990, it is provided that “regulations for the protection of copyright in expressions of folklore shall be established separately by the State Council”, which demonstrates the position and principle of the country in folklore protection. Accordingly, the Ministry of Culture and the National Copyright Administration have formulated the Regulations on the Protection of Folklore Expressions (Draft). Local legislation has also been made in some provinces and municipalities for the protection of arts and crafts and folklore artists. In 1997, the State Council promulgated the Regulations on the Protection of Traditional Arts and Crafts to vitalizing the development of traditional arts and crafts.

Since 1998, legislation work in the field of folklore protection has entered a new phase. The Committee on Education, Science, Culture and Public Health of the National People's Congress has conducted a wide spread and in-depth survey across the country, and the Ministry of Culture has also included in its agenda the formulation of the Law on the Protection of National Folklore. In May 2000, Yunnan Province issued the Regulations of the Yunnan Province on the Protection of Traditional Folklore, the first regional legislation of its kind in China. In November of the same year, a National Workshop on the Legislation on the

Protection of National Folklore was held jointly by the Committee on Education, Science, Culture and Public Health of the National People's Congress, the Ministry of Culture and the State Cultural Relics Bureau, in order to push forward the legislation process at both the national and local levels.

After an in-depth investigation and study, the Ministry of Culture has formulated the Law on the Protection of National Folklore (Draft). It is expected that, by setting out the responsibility of the Government to protect national folklore, the rights of citizens to the national folklore and their duties to protect it, and by specifying mechanisms for the sharing and distribution of the funds necessary for the protection of folklore, as well as for its collation, salvage, licensing, development and exploitation, this law could become a basic law for the protection of cultural heritage, counterpart of the Law on the Protection of Cultural Relics, forming part of the legal system for the protection of national folklore to carry on and further develop Chinese cultures. This draft is now being finalized, and will be shortly submitted for approval by relevant bodies, and will be promulgated as soon as being approved.

[End of Annex and of document]