

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

Thirty-Fourth Session
Geneva, June 12 to 16, 2017

INDICATIVE LIST OF OUTSTANDING/PENDING ISSUES TO BE TACKLED/SOLVED

Document prepared by the Secretariat

1. At its Thirty-Third Session, held from February 27 to March 3, 2017, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the Committee”) decided to transmit to its Thirty-Fourth Session an “Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session” (“the List”), which was annexed to the Decisions of the Thirty-Third Session of the Committee.

2. Pursuant to the decision above, the List is annexed to the present document.

3. *The Committee is invited to take note of the List contained in the Annex.*

[Annex follows]

ANNEX

Indicative List of Outstanding/Pending Issues to be Tackled/Solved at the Next Session

1. Policy objectives

The use of the terms “misappropriation” and/or “[misuse]/[unlawful appropriation]”.

The recognition of rights already acquired by third parties.

2. Subject matter

If and where to include criteria for eligibility.

The reference to a time period that the TCEs would need to have been used for in order to be protectable.

3. Scope of protection

“Rights-based” and/or “measures-based” approaches.

Whether a “tiered approach” is feasible, and, if so, how it would be formulated.

Economic and/or moral rights, as well as other rights.

4. Beneficiaries

Whether to include beneficiaries other than indigenous peoples and local communities.

5. Use and meanings of certain terms and concepts

References to “protection” and “protected” traditional cultural expressions and relationship with eligibility criteria/scope of protection.

Reference to “safeguarding” of traditional cultural expressions.

Terms to denote nature of the harm for which protection may be sought, such as “misappropriation”.

Terms describing or relevant to the quality or extent of diffusion of the traditional cultural expressions, such as “public domain”, “publicly available”, “secret” or “sacred”.

Terms relevant to beneficiaries, such as “Indigenous peoples”.

6. Administration of rights/interests

Role and nature of a “competent authority or authorities”.

7. Exceptions and limitations

Whether the determination of exceptions and limitations should be made at the national level, or whether to provide a set of general and/or specific exceptions.

8. Relationship with the public domain

9. Sanctions, remedies and exercise of rights/interests

10. Term of protection/safeguarding

11. Formalities

12. Transitional measures

13. Relationship with other international agreements

14. National treatment

15. Transboundary cooperation

16. Capacity building and awareness raising

17. Principles/preamble/introduction

[End of Annex and of document]