

Responses to questions raised at the Tenth Session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

Traditional Cultural Expressions/Expressions of Folklore (TCEs/EoF)

1. All works whose source is traditional culture, performed by folklore groups or authors from a number of indigenous peoples, including:

Works of popular creation may include:

- (1) works of oral popular creation, such as popular tales, epics, legends, fairy tales, popular poetry, proverbs and riddles;
- (2) musical works such as popular songs and instrumental music;
- (3) choreographic works such as popular dances;
- (4) dramatic works such as games, performances and rituals;
- (5) works of painting, sculpture, graphic art and other works of fine art;
- (6) works of decorative applied art;
- (7) works of architecture etc.

2. Authors and performers of the works performed.

3. Economic rights and moral rights.

4. The unlawful or commercial use of copies of and tunes from works without the consent of the authors and performers.

5. The right of priority to use traditional knowledge for commercial purposes, granted by representatives of indigenous peoples and encouragement of persons related to indigenous peoples, to make commercial use of traditional knowledge through the provision of essential capital and conditions for such use by persons and organizations of indigenous peoples.

Documentation by specialists of traditional knowledge (including their whole range as listed above) of persons and communities related to indigenous peoples, which they wish to use for commercial purposes, or in cases of the unauthorized use of such knowledge by persons not related to indigenous peoples.

6. These rules should not be limited in time. Only a creative group or author, which has created a traditional cultural expression and performed it to the public, may limit the term of protection.

7. No response.

8. The unlawful use, without the voluntary and conscious consent of authors, of traditional cultural expressions for commercial purposes shall be punishable by the complete removal of profit and circulation of such expressions for the benefit of authors.
9. At international level general principles should be examined (see paragraph 5) and at national level – protection mechanisms.
10. No response.

Traditional Knowledge

1. The traditional knowledge relating to the system of traditional life activity includes:
 - knowledge of the methods of use of natural resources and forms of economic activity of indigenous peoples and ethnic communities of the north, related to reindeer breeding and other northern forms of rearing local and aboriginal breeds of domestic animals, fishing, the river, lake, maritime and maritime hunting industry, hunting for meat and fur, market gardening and the gathering of wild plants;
 - knowledge of territories with essential biological resources, populations of domesticated and wild animals, knowledge of the system of seasonal and spatial arrangement of fixed and industrial settlements, cattle shelters and routes of nomadic camps;
 - knowledge of the methods of economic management of different areas of land and natural climatic zones;
 - the traditional system of self-management and economic organization ensuring the durability of the use of renewable natural resources and transfer of ecologically and ethically important information: the traditional economic calendar, methods of collecting, gathering and processing produce, skills in the manufacture of work instruments and objects for use in the home, industrial restrictions, temporary removal from economic circulation of areas of land in the form of special zones restricted to visits, knowledge of edible and medicinal plants, forms of distribution of lands and produce, domestic trades and raising of children.
2. Individual representatives or groups of holders of such knowledge.
3. Moral and economic objectives.
4. Use of traditional knowledge for commercial purposes without the voluntary and conscious consent of its holders.
5. Cultural borrowings not pursuing commercial use.
6. Unlimited. A term may be defined freely only by the actual holders of traditional knowledge.
7. No response.

8. Unlawful use without the voluntary and conscious consent of holders of traditional knowledge for commercial purposes shall be punishable by the complete removal of profit and circulation of such knowledge for the benefit of authors.

9. At the international level general principles of protection and defense: the right of priority to use traditional knowledge for commercial purposes, granted by representatives of indigenous peoples and encouragement of persons related to indigenous peoples, to make commercial use of traditional knowledge through the provision of essential capital and conditions for such use by persons and organizations of indigenous peoples.

Documentation by specialists of traditional knowledge (including their whole range as listed above) of persons and communities related to indigenous peoples, which they wish to use for commercial purposes, or in cases of the unlawful use of such knowledge by persons not related to indigenous peoples.

At the national level – mechanisms providing protection and defense.

10. No response.

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