

ONLINE SURVEY ON INFORMATION SYSTEMS, REGISTERS AND DATABASES

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Submitted by Japan

This Online Survey has a fact-finding objective. The aim is to gather relevant experiences and already implemented practical solutions for the establishment, functioning and management of information systems on genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).

The term "information systems" is used in this survey to generally cover databases, registers, inventories, lists and other kinds of documentation of GRs, TK and TCEs.

Such information systems may have been established for a wide variety of purposes, some related to intellectual property (IP) and others not. For example, many countries have established and maintain registers, lists and inventories for the safeguarding and preservation of intangible cultural heritage (which encompasses both TK and TCEs). In some cases, information systems may have both IP and non-IP purposes, or the distinction between the two may not be clear.

Therefore, while the purpose of this Survey is to gather information on information systems that have IP-related purposes and functions, respondents are invited to provide as much information as possible.

1. Is there any formal domestic or customary legal system in your country requiring, or at least relating to, the establishment and/or maintenance of an information system on GRs, TK and/or TCEs, such as:

- conventional intellectual property (IP) law?
- a specific law for the protection of TK and/or TCEs?
- access and benefit-sharing legislation or legislation dealing with biodiversity, the environment, intangible cultural heritage, publicly-funded research, food and agriculture?
- customary laws and practices?
- the law of confidentiality/trade secrets/undisclosed information?

If so, please provide details, such as the title of the law(s) and the relevant provisions.

2. Is your country party to any international or regional legal instrument (such as a convention, treaty or declaration) that requires the establishment of or participation in information systems for the protection, promotion and/or safeguarding of GRs, TK and/or TCEs? If so, please indicate which international or regional legal instrument.

3. Does any information system(s) of GRs, TK and/or TCEs exist in your country (whether IP-related or not)? If so, please provide a description of such information system(s).

The following questions relate specifically to information systems that have an IP-related

purpose or function.

4. Which IP-related objectives are sought to be achieved through this information system(s)?

5. What types of information are included in such an information system, including potentially sensitive categories of information such as sacred TK/TCEs and/or secret TK/TCEs?

6. What are the roles of various stakeholders in the establishment of the information system(s):

- who characterizes and documents GRs?
- who writes down, films, records, translates and compiles TK and/or TCEs?
- who administers the information system/database/register(s)
- who can add new entries/registrations?
- what role do Indigenous Peoples, as well as local communities as appropriate, play?

7. Which are the principles and modalities regulating access to relevant information:

- who retains control of the information system?;
- who is authorized to access the content?; and
- are there tiered levels of access to different categories of content?

8. What are the involvement and rights of Indigenous Peoples, as well as local communities, in the process of the establishment, functioning and management of the information system(s)?

9. What is the legal effect of inclusion of GRs, TK and/or TCEs, as the case may be, into the information system? For example, does inclusion establish IP rights?

10. How are disputes resolved (for example, competing claims by more than one community to a certain body of GRs, TK or TCEs)? How are transboundary GRs, TK and/or TCEs dealt with?

11. Are there interoperability standards between the existing information systems in your country and other information systems or services? Do these interoperability standards concern: (i) data formats (e.g., XML, data fields, etc.); (ii) content data (e.g., characterization, function, technical use of GRs, TK or TCEs); (iii) rights metadata (e.g., right holder, subject matter, date of documentation, etc.); or (iv) structures of the information systems and services (e.g., APIs, etc.)? If so, please provide a description of these standards.

12. Do you have any other views or experiences relating to the establishment, functioning and management of information systems?

13. Do you have any suggestions for future work under the auspices of the WIPO IGC and/or by the WIPO Secretariat on these issues?

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Japan appreciates the effort by the Secretariat on this important issue. Japan's findings and ideas concerning questions 1 and 3, and interoperability standards as well as future works on this issue are shared as follows.

With regard to question 1, there is no specific legislation that requires the establishment and/or maintenance of an information system especially on GRs, TK and/or TCEs in Japanese conventional IP law. Although inventions related to GRs can be protected under the Japanese Patent Act without distinction from inventions in other fields, and the Patent Act stipulates that the establishment of a patent right is registered in the patent register, which may be prepared on magnetic tape or other storage media using a similar method that is able to record and reliably store certain matters (Article 27), the said provision merely stipulates the method of preparing the Patent Registry, and is not intended to establish information systems on GRs, etc. Also, the Act on Protection of Cultural Properties stipulates that cultural properties in need of preservation and utilization measures may be registered in the Cultural Property Registry (Article 57, Article 76-7, Article 90, Article 90-5), but this is not intended to establish an information system on TK/TCEs.

Regarding question 3, although not specific to GRs/TK/TCEs, there is a patent-related information system called "J-PlatPat", which is a database made available to the public for the purpose of prior art searches and allows both searches and inquiries regarding patents and other publications. Inventions related to GRs or TK would therefore be included in the database and could be searched and inquired. There are also a number of databases for GRs and TK/TCEs which are not related to intellectual property. (Examples include the "Genetic Resources Database" for GRs, and the "National Designated Cultural Properties Database" for TK/TCEs).

In patent-related databases, for example, various WIPO standards are adopted for some data formats of patent information such as patent gazettes, etc., thereby ensuring the data formats common to other offices that adopt the same standards.

WIPO has worked on the development of data provision systems and data standards for patent information among IP Offices in the past, and has therefore acquired considerable know-how in building databases (particularly international ones). We believe that more useful discussions will be possible if the WIPO secretariat can also be actively involved in these discussions. The technical aspects need to be discussed before proceeding with the information system study, and it would be important to establish a task force or other such body that can continue these discussions on an ongoing basis.