Questionnaire to the UN system agencies, funds and programmes and intergovernmental organizations

The United Nations Permanent Forum on Indigenous Issues (PFII) was established by the Economic and Social Council (ECOSOC) Resolution 2000/22. The Permanent Forum is mandated to provide expert advice and recommendations on Indigenous issues to the ECOSOC and through the Council to United Nations agencies, funds and programmes; to raise awareness and promote the integration and coordination of activities related to Indigenous issues within the UN system; prepare and disseminate information on Indigenous issues; and promote respect for and full application of the provisions of the UN Declaration on the Rights of Indigenous Peoples and follow up the effectiveness of the Declaration.

The Indigenous Peoples Development Branch/Secretariat of the Permanent Forum on Indigenous Issues invites UN system agencies, funds and programmes and other intergovernmental organizations to complete the attached questionnaire on any action taken or planned in response to the Permanent Forum's recommendations, the system-wide action plan on rights of Indigenous Peoples (SWAP) and the 2030 Agenda for Sustainable Development.

The responses will be compiled into a report for the 2025 session of the Permanent Forum. In your responses, please, include information on progress and challenges related to Indigenous women, Indigenous persons with disabilities, Indigenous older persons, and Indigenous children and youth.¹

All responses will be placed on the DESA/DISD website on Indigenous Peoples at: <u>https://www.un.org/development/desa/indigenouspeoples/</u>

If you have any objections to your response being made available on our website, please inform our office accordingly.

Please submit your completed questionnaire by **<u>15 November 2024</u>** to:

Indigenous Peoples and Development Branch Secretariat of the Permanent Forum on Indigenous Issues Division for Inclusive Social Development Department of Economic and Social Affairs United Nations Headquarters New York. USA 10017 Email: indigenous_un@un.org

Subject: Response to SWAP questionnaire

¹ Indigenous should be capitalized when referring to cultures, communities, lands, languages, etc., of Indigenous Peoples, e.g.: Indigenous culture in Ecuador, Indigenous languages are dying out. If referring to flora or fauna, lower case should be used. See UN Editorial Manual for further guidance: https://www.un.org/dgacm/en/content/editorial-manual/updates

Questionnaire

Please also include an <u>executive summary</u> of your inputs to the 3 main questions below (strict <u>500-word</u> limit) which will be used for our compilation report submitted to the 2025 session of the PFII.

Note from WIPO:

The following answers (parts in blue) were provided by the Secretariat of the World Intellectual Property Organization (WIPO) on December 10, 2024. Unless expressly stated, they do not necessarily reflect the views of WIPO Member States, taken as a whole or individually.

EXECUTIVE SUMMARY

PART A

1.

The Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources (the Diplomatic Conference) took place from May 13 to 24, 2024 at WIPO Headquarters in Geneva (Switzerland).

At the conclusion of the Diplomatic Conference, WIPO Member States adopted by consensus a new Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge on May 24, 2024.

It is the first WIPO Treaty to address the interface between intellectual property, genetic resources and traditional knowledge, and the first WIPO Treaty to include provisions specifically for Indigenous Peoples, as well as local communities.

2.

In 2024-2025, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC) will continue its negotiations aimed at finalizing an international legal instrument(s) to ensure the balanced and effective protection of traditional knowledge (TK) and traditional cultural expressions (TCEs).

The IGC met November and December 2024, and will meet further in 2025, with the participation of Indigenous Peoples as Observers.

Participation of Indigenous Peoples in the IGC and the Diplomatic Conference

Contributions to the WIPO Voluntary Fund to support the participation of Indigenous Peoples as Observers were made by Germany in 2022, Australia, Mexico and anonymous contributors in 2023, as well as Spain in 2024.

The 2023 WIPO General Assembly decided that WIPO will provide "funding to facilitate the participation in the Diplomatic Conference of 2 representatives of Indigenous Peoples and Local Communities from each sociocultural region" used by the Permanent Forum through the WIPO Voluntary Fund and, in case of insufficient resources, through the budget allocated to the Diplomatic Conference.

As a result, 11 representatives of Indigenous Peoples as well as local communities were funded with the view to their participation in the Diplomatic Conference.

Note >

The WIPO Secretariat has been taking due account of, and is doing its best to implement, the 2022 UNPFII recommendation made in paragraph 85 of its report, be it on the WIPO website or in the new publications of WIPO.

ii. Theme of the 2025 UNPFII session: Implementation of the UNDRIP

See B. 1 and 2 below.

PART B

- 1. Reference to the UNDRIP is made in the preamble of the 2024 WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.
- 2. References to the UNDRIP are included in the most recent versions of the draft negotiating texts on the protection of TK and TCEs.
- 3. In furtherance of Article 31, WIPO provides training, mentoring and matchmaking opportunities, and information, that aim to enable Indigenous Peoples to make more effective use of intellectual property principles and tools, if they so wish, in support of their TK-and TCEs-based community entrepreneurships, with a particular emphasis on women. In parallel, WIPO conducts normative work on intellectual property, GRs, TK and TCEs.
- 4. WIPO's training activities addressing Indigenous Peoples' needs for protection of their TK and TCEs contribute towards the fulfillment of the commitments made vis-à-vis Indigenous Peoples within the SDGs framework, as well as of SDGs 3, 4, 8, 11 and 13 inter alia.
- 5. Most of the WIPO training materials as well as a repository of relevant laws, etc. in relation to the protection of TK and TCEs from an intellectual property perspective is available on the WIPO website.
- 6. A) The WIPO Community Enterprises Program further expanded. B) WIPO organized a *Photography Prize for Indigenous Youth* in 2024.

7. Indigenous Peoples' representatives in the IGC benefit from measures enhancing their effective participation as Observers. Specific measures were taken to ensure the participation of Indigenous Peoples in the 2024 Diplomatic Conference that adopted a new Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.

PART C

See Part B.4.

END OF THE EXECUTIVE SUMMARY

Please provide information on the following:

A. Recommendations of the Permanent Forum on Indigenous Issues and input to the 2025 session

i. Please provide information on measures taken since your last update to the Forum on the implementation or planned implementation of the recommendations of the PFII.

ii. The theme of the 2025 PFII session is "Implementing the United Nations Declaration on the Rights of Indigenous Peoples within United Nations Member States and the United Nations system, including identifying good practices and addressing challenges." Please include information on any publications, projects, reports, or activities relevant to this theme.

iii. Please provide information on efforts to ensure the participation of Indigenous Peoples in the international decades declared by the General Assembly, such as the United Nations Decade on Ecosystem Restoration (2021-2030), the United Nations Decade of Ocean Science for Sustainable Development (2021-2030), the International Decade for Action, "Water for Sustainable Development" (2018-2028), the International Decade of Indigenous Languages (2022 - 2032) and other relevant international decades and processes, including CEDAW General recommendation 39 on Indigenous women and girls.

iv. Has your entity responded to the 2022 UNPFII recommendation² paragraph 85... *The Permanent Forum urges all United Nations entities and States parties to treaties concerning the environment, biodiversity, and the climate to eliminate the use of the term "local communities" in conjunction with indigenous peoples, so that the term "indigenous peoples and local communities" would be abolished.*

If yes, please explain your response in further detail.

If yes, please explain your response in further detail.

i. Follow-up on the recommendations of the Permanent Forum made in 2018, 2019, 2021, 2022, 2023 and 2024.

² E/2022/43-E/C.19/2022/11

The Permanent Forum on Indigenous Issues (the Permanent Forum) addressed specific recommendations to WIPO at its 17th Session (April 16-27, 2018) (as reflected in the Permanent Forum's report in document E/2018/43-E/C.19/2018/11, para. 58), 18th Session (April 22 to May, 3, 2019) (as reflected in the Permanent Forum's report in document E/2019/43-E/C.19/2019/10, par. 9 to 11), at its 20th Session (April 19 to 30, 2021) (as reflected in the Permanent Forum's report in document E/2012/10, par. 61, first sentence), at its 21st Session (April 25 to May 6, 2022) (as reflected in the Permanent Forum's report in document E/2022/43-E/C.19/2022/11, par. 14, 66 and 85), at its 22nd Session (April 17-28, 2023) (as reflected in the Permanent Forum's report in document E/2023/43-E/C.19/2023/7, par. 42 and par. 79) and at its 23rd Session (April 15-26 2024) (as reflected in the Permanent Forum's report in document E/2024/43-E/C.19/2024/8, par. 44).

 Par. 79 of the report of the 22nd Session of the Permanent Forum of the Permanent Forum refers to the Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources.

The 2022 WIPO General Assembly decided to convene a Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources ("the Diplomatic Conference") no later than 2024.

The Diplomatic Conference took place from May 13 to 24, 2024 at WIPO Headquarters in Geneva, Switzerland.

At the conclusion of the Diplomatic Conference, on May 24, 2024, WIPO Member States adopted by consensus a new Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge³.

It is the first WIPO Treaty to address the interface between intellectual property, genetic resources and traditional knowledge, and the first WIPO Treaty to include provisions specifically for Indigenous Peoples, as well as local communities.

An executive summary of the Treaty⁴ and an informal summary of the key elements of the Treaty for Indigenous Peoples, as well as local communities⁵, are available on the WIPO website.

2. Paragraph 44 of the Report of the 2024 Session of the Permanent Forum urged "the States members of the World Intellectual Property Organization to ensure the full

³ <u>Text of the Treaty on Intellectual Property, Genetic Resources and Traditional Knowledge:</u> <u>https://www.wipo.int/edocs/mdocs/tk/en/gratk_dc/gratk_dc_7.pdf</u>

 ⁴ Executive summary of the Treaty : <u>https://www.wipo.int/edocs/mdocs/mdocs/en/gratk_dc/gratk_dc_exsum.pdf</u>
 ⁵ Informal summary of the key elements of the Treaty for Indigenous Peoples as well as local communities :

https://www.wipo.int/edocs/mdocs/en/gratk_dc/gratk_dc_summary_info.pdf

participation of Indigenous People, including developing safeguards to protect their knowledge and adopting a treaty to protect Indigenous Peoples' genetic resources and associated traditional knowledge and medicine, at the Diplomatic Conference on Genetic Resources and Associated Traditional Knowledge to be held in 2024."

All accredited organizations representing Indigenous Peoples, as well as local communities, at the IGC were invited by the Preparatory Committee of the Diplomatic Conference (which met on September 11 to 13, 2023 and December 13, 2013) to participate as Observers in the Diplomatic Conference.

In relation to the 2024 Diplomatic Conference, the 2023 Assemblies of WIPO "[...] agreed that, on an exceptional basis [...], WIPO will provide adequate funding to facilitate the participation in the Diplomatic Conference of 2 representatives of Indigenous People and Local Communities from each sociocultural region used by the UN Permanent Forum on Indigenous issues. The funding will be provided by WIPO's Voluntary Fund and, in case of insufficient resources, through the budget allocated to the Diplomatic Conference. The modalities of allocation for such funding will follow the rules of WIPO's Voluntary Fund."

Following upon this decision and based on the applications received for funding and the recommendations made by the Advisory Board of the WIPO Voluntary Fund⁶, 11 representatives of Indigenous Peoples as well as local communities were funded to participate in the Diplomatic Conference through the WIPO Voluntary Fund and the budget allocated to the Diplomatic Conference.

Among the additional measures facilitating the participation of Indigenous Peoples in the Diplomatic Conference, the WIPO Secretariat organized four virtual preparatory meetings prior to the Diplomatic Conference to allow the Indigenous Caucus to discuss among themselves, provided support for the Indigenous Caucus to meet daily during the Diplomatic Conference, financed the logistical, secretarial, interpretation and translation support that was provided by the Indigenous Peoples' Center for Documentation, Research and Information (DoCip) during the meetings of the Indigenous Caucus. In addition, participants representing Indigenous Peoples in the Diplomatic Conference, had any of their specific textual drafting proposals reflected in the negotiated text, provided that at least one Member State extended its endorsement (that happened quite frequently). Further, the President of the Diplomatic Conference and the Presidents of Main Committees I and II systematically invited Indigenous Caucus representatives, with Member States' support, to participate in informal consultations and drafting groups on the text, with rights to speak and make proposals. As a result and on

⁶ See the Annex to WIPO document GRATK/DC/INF/5:

https://www.wipo.int/edocs/mdocs/tk/en/gratk_dc/gratk_dc_inf_5.pdf .

several occasions, drafting proposals by indigenous representatives were taken up in the Treaty.

3. Normative work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC or the Committee)

Par. 9 of the report of the 18th Session of the Permanent Forum, par. 61, first sentence, of the report of the 20th Session of the Permanent Forum and par. 14 and 66 of the report of the 21th Session of the Permanent Forum refer expressly or implicitly to the negotiations taking place at the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC or the Committee).

The mandate of the IGC was renewed by the 2023 WIPO General Assembly for the biennium 2024-2025 "with the objective of finalizing an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property, which will ensure the balanced and effective protection of TK and TCEs"⁷

The Forty-Eighth and Forty-Ninth sessions of the IGC have taken place on November 29 and December 2 to 6, 2024 respectively to continue the negotiations on TK and TCEs.

4. Follow up on par. 66 of the Permanent Forum's report in document E/2022/43-E/C.19/2022/11, relating to the recognition and protection of the "collective intellectual property rights of Indigenous Peoples in respect of their creations, discoveries, traditional knowledge and knowledge of biodiversity », was reported back to the Permanent Forum in WIPO's answers to the 2022 Questionnaire.

5. Follow up on paragraphs 10 and 11 of the report of the 18th Session of the Permanent Forum (Update of Technical Review and Indigenous Expert Workshop) was reported back in WIPO's answers to the 2023 Questionnaire.

6. Par. 58 of the report of the 17th Session of the Permanent Forum, par. 9 of the report of the 18th Session of the Permanent Forum and par. 79 of the report of the 22d Session of the Permanent Forum refer to the participation of Indigenous Peoples in the IGC.

The attention of the 42nd, 43rd, 44th, 45th, 46th and 47th sessions of the IGC has been drawn to the recommendation included in par. 58 of the report of the 17th Session of the Permanent Forum⁸.

The Chairperson of the IGC, in her opening statements, as well as the WIPO Secretariat, recalled at the 48th and 49th sessions of the importance of effective participation of Indigenous Peoples as well as local communities in the IGC, noted

 ⁷ See WIPO document <u>https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-mandate-2024-2025.pdf</u>
 ⁸ See document WIPO/GRTKF/IC/49/3, par. 4 to 8.

⁽https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_3.pdf).

that the WIPO Voluntary Fund for Accredited Indigenous and Local Communities (the WIPO Voluntary Fund) was near to be depleted, encouraged Member States to consider contributing to the Fund, and invited Member States to consider other alternative arrangements.

In addition to Germany which contributed 14,233.70 Swiss francs (the equivalent of 15,000 euros at the date) on September 13, 2022 to the WIPO Voluntary Fund, Australia contributed 29,795.36 Swiss francs (the equivalent of 50,000 Australian dollars at the date) on June 22, 2023, followed by Mexico which contributed 8,239.99 Swiss francs (the equivalent of 167,555 Mexican pesos at the date) on August 7, 2023, and Spain which contributed 18,518.24 Swiss francs (the equivalent of 20,000 euros at the date) on February 8, 2024. Following calls for voluntary contributions made by the Chairperson of the IGC at its 46th and 47th sessions, 817 Swiss francs and 872.60 Swiss francs were transferred to the Voluntary Fund on behalf of anonymous contributors on March 3 and July 4, 2023, respectively⁹.

The measures taken in order to facilitate the participation of Indigenous Peoples in the IGC and the May 2024 Diplomatic Conference on Intellectual Property, Genetic Resources and Associated Traditional Knowledge are described in WIPO's answers provided below under part B.6 of the Questionnaire and part A.i.2 of the Questionnaire respectively.

7. Par. 42 of the report of the 22d Session of the Permanent Forum.

As described under Part B.5 of the Questionnaire, an extensive intellectual propertyrelated program of seminars and training activities for Indigenous Peoples concerning their traditional knowledge, traditional cultural expressions and traditional knowledge associated with genetic resources, including traditional medicinal knowledge, some in collaboration with, or support from, other entities as appropriate, have been implemented within the scope of WIPO's mandate and in accordance with the WIPO Program of Work and Budget 2022-2023 and the WIPO Program of Work and Budget 2024-2025 agreed by Member States. Those activities will be further implemented by WIPO in accordance with the WIPO Program of Work and Budget 2024-2025 agreed by Member States.

ii.

For a detailed response to this part of the Questionnaire, please refer to the answers provided under part B.1 and B.2.

iii. -

⁹ See document WIPO/GRTKF/IC/49/3, par. 2

⁽https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_3.pdf).

iv. The WIPO Secretariat has been taking due account of, and is doing its best to, implement this recommendation since its adoption, be it on the website or in the new publications of WIPO.

As per the WIPO Program and Budget agreed by WIPO Member States, WIPO's programs and projects benefitting Indigenous Peoples often also benefit local communities. This is without prejudice to the scope of the distinct rights of Indigenous Peoples under international law.

In response to the recommendation, and whenever possible, the WIPO Secretariat uses the following formulation in WIPO's materials referring to the beneficiaries of the programs and projects concerned: "Indigenous Peoples, as well as local communities,", using "local communities" in small letters, except in titles.

B. System-Wide Action Plan to achieve the ends of the UN Declaration on the Rights of Indigenous Peoples

Background

As per the Outcome Document of the World Conference on Indigenous Peoples (A/RES/69/2), a system-wide action plan to ensure a coherent approach to achieving the ends of the UN Declaration on the Rights of Indigenous Peoples was adopted in November 2015 and launched by the Secretary-General at the UN Permanent Forum in May 2016.

In August 2020, the United Nations Executive Committee agreed on the need for accelerated and collective action to strengthen the implementation of the SWAP on Indigenous Peoples. In November 2020, the United Nations Chief Executives Board for Coordination issued a <u>Call to Action: Building an Inclusive, Sustainable and Resilient Future with Indigenous Peoples</u>. Its goal is to ensure collaborative and coherent UN system action to support the rights and well-being of Indigenous Peoples with a focus on furthering the implementation of the SWAP¹⁰.

i. The Permanent Forum will follow up on progress made on the SWAP implementation as part of its discussion on the outcome document of the World Conference on Indigenous Peoples during its 2025 session. Please provide an analysis of actions taken by your agency, fund and/or programme on the six key elements of the SWAP, since your last update to the Forum¹¹.

¹⁰ Reporting on the activities to implement the CEB Call to Action is through task groups and should not be included in the responses to this questionnaire.

¹¹ The six key elements of the SWAP are: 1) Raise awareness of the UNDRIP; 2) Support the implementation of the UNDRIP, particularly at the country level; 3) Support the realization of indigenous peoples' rights in the implementation and review of the 2030 Agenda for Sustainable Development; 4) Map existing standards and guidelines, capacity, training materials and resources within the UN system, international financial institutions and the members of the IASG for the

1. Raising awareness of the UN Declaration

Reference is made to the UNDRIP in the preamble of the new Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge that was adopted by WIPO Member States on May 24, 2024¹².

Awareness of the UNDRIP is raised within the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC or the Committee)¹³.

References to the UNDRIP are included in the draft preambles and articles in the most recent negotiating texts on the protection of traditional knowledge (TK) and the protection of traditional cultural expressions (TCEs): "The Protection of Traditional Knowledge: Draft Articles"¹⁴ and "The Protection of Traditional Cultural Expressions: Draft Articles"¹⁵.

References to the UNDRIP are also included in the working documents of the IGC¹⁶.

UNDRIP is regularly advocated for in the IGC negotiations, particularly, but not exclusively, by Indigenous Peoples' representatives participating in the IGC.

In addition, WIPO publications relating to the protection of TK and TCEs refer to the UNDRIP whenever relevant. That is the case of WIPO publications *Promote and Protect Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples* and *Local Communities* and *Documenting Traditional Knowledge – A Toolkit*¹⁷.

The UNDRIP, as a key resource, is retrievable from the webpage presenting WIPO's engagement with Indigenous Peoples¹⁸.

2. Supporting the implementation of the UN Declaration

effective implementation of the UNDRIP; 5) Develop the capacity of States, indigenous peoples, civil society and UN personnel; and 6) Advance the participation of indigenous peoples in UN processes.

¹² <u>Text of the Treaty on Intellectual Property, Genetic Resources and Traditional Knowledge</u>:

https://www.wipo.int/edocs/mdocs/tk/en/gratk_dc/gratk_dc_7.pdf

¹³ For details on the IGC negotiating process, see part A.i.3 of the Questionnaire.

¹⁴ See www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_4.pdf

¹⁵ See <u>https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_5.pdf</u>

¹⁶ Most recently in the "draft gap analyses": See document WIPO/GRTKF/IC/49/8 on

https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_6.pdf_and document

WIPO/GRTKF/IC/49/9 on https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_6.pdf.

¹⁷ E-copies available on <u>https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1048.pdf</u> and

https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf.

¹⁸See https://www.wipo.int/tk/en/engagement.html.

WIPO's mission is to lead the development of a balanced and effective international intellectual property ecosystem to promote innovation and creativity for a better and more sustainable future¹⁹.

Articles 18, 31 and 41 of the UNDRIP are of particular relevance for WIPO's program of work on the protection of TK and TCEs.

Article 31 of the UNDRIP refers to the right of Indigenous Peoples to "maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions". Article 41 refers to the commitment of UN specialized agencies to contribute to the full realization of the provisions of UNDRIP.

Indigenous Peoples create, maintain and develop their TK and TCEs, as part of their core identities and as a rich foundation of their well-being and own development. Article 31 recognizes the legitimate sense that Indigenous Peoples have regarding ownership of, and the essential value inherent in, their own TK and TCEs.

In furtherance of Articles 31 and 41 and as part of WIPO's strong engagement with Indigenous Peoples²⁰, WIPO provides training, mentoring and matchmaking opportunities, and information resources²¹, that aim to enable Indigenous Peoples to make more effective use of existing intellectual property principles and tools in support of Indigenous Peoples' entrepreneurship initiatives drawing from their ingenuity and creativity, particularly of indigenous women. (More details are available below under part B.5 of the Questionnaire.)

WIPO Director General Daren Tang has reaffirmed WIPO's engagement with Indigenous Peoples in his messages delivered at the occasion of the International Day of the World's Indigenous Peoples celebrated, including most recently on August , 2024²². The Director General emphasized that "Indigenous Peoples' unique knowledge systems and cultural expressions date back to time immemorial and continue to thrive in the present day. It is critical that these communities feel connected to intellectual property and see it as a strategic tool that they can harness effectively."

In 2024, the WIPO Secretariat has continued to provide intellectual propertyrelated technical, legal and policy information to Member States that wish to develop national strategies, legislation or other measures with a view to protecting TK and TCEs from an intellectual property perspective.

¹⁹ See document WO/PBC/32/3 (Medium-term Strategic Plan – MTSP – 2022 – 2026

https://www.wipo.int/edocs/mdocs/govbody/en/wo_pbc_32/wo_pbc_32_3.pdf

²⁰ See inter alia on the WIPO website <u>https://www.wipo.int/tk/en/engagement.html</u>.

²¹ See <u>https://www.wipo.int/tk/en/resources/publications.html</u> .

²² See <u>https://www.wipo.int/tk/en/news/tk/2024/news_0004.html</u>

On the normative side, a new WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge was adopted by WIPO Member States on May 24, 2024.

Substantive negotiations in the IGC will resume in the framework of the renewed mandate of the WIPO IGC for the 2024-2025 biennium, "with the objective of finalizing an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property, which will ensure the balanced and effective protection of TK and TCEs"²³.

Discussions at the IGC included *inter alia* the possibility to include the free, prior and informed consent of Indigenous Peoples, as a requirement for the access to, and use of, their TK and TCEs by third parties.

More details regarding the Diplomatic Conference and the normative work conducted at the IGC are available above under part A.i.1 and 3 of the Questionnaire.

In relation to Articles 18 and 41 of the UNDRIP, details on how WIPO facilitated the participation of invited observers who represented Indigenous Peoples in the work of the Diplomatic Conference that adopted the new WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge on May 24, 2024 is available above under part A.i.2 of the Questionnaire.

Details on how WIPO facilitates the participation of accredited observers who represent Indigenous Peoples in the work of the IGC is available below under part B.6 of the Questionnaire.

3. <u>Supporting indigenous peoples' rights in the implementation and review of the 2030 Agenda for</u> <u>Sustainable Development</u>

An overall presentation of WIPO's work on the SDGs, including in relation with Indigenous Peoples, is available on WIPO's website²⁴.

More details are available in the Reports on WIPO's Contribution to the Implementation of the Sustainable Development Goals and its Associated Targets submitted to the WIPO Committee on Development and Intellectual Property (CDIP) in 2024²⁵.

In particular, WIPO supports the implementation of the SDGs through a range of activities that address intellectual property issues related to benefit-sharing of GRs, and the protection of TK and TCEs. WIPO's work in relation to TK, TCEs and GRs, as part of the Implementation Strategies of the WIPO's Global Challenges and

²³ See WIPO document <u>https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-mandate-2024-2025.pdf</u>
²⁴ See https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-mandate-2024-2025.pdf

²⁴ See <u>https://www.wipo.int/sdgs/en/story.html</u>.

²⁵ See WIPO documents CDIP/32/3 (<u>https://www.wipo.int/edocs/mdocs/en/cdip_32/cdip_32_3.pdf</u>).

Partnerships Sector, contributes *inter alia* to SDGs 2, 3, 4, 8, 11, 13 and 15 as identified in the WIPO Program of Work and Budget 2024 – 2025²⁶.

Paragraph 25 of the 2030 Agenda reflects the further commitment of UN Member States to provide Indigenous Peoples with "access to life-long learning opportunities that help them acquire the knowledge and skills needed to exploit opportunities and to participate fully in society".

WIPO's engagement with Indigenous Peoples aims among others to enable Indigenous Peoples to make informed choices about using intellectual property tools and principles to promote or protect certain aspects of their TK, TCEs and tradition-based products or services, with a view to reinforce their resilience, improve their livelihood and well-being, and support their community-based entrepreneurship and self-development. (More details are available below under part B.5 of the Questionnaire.)

The empowerment of Indigenous Peoples, as referred to in paragraph 23 of the UN Declaration "Transforming our world: the 2030 Agenda for Sustainable Development", is one of the elements of the commitment made by UN Member States vis-à-vis Indigenous Peoples within the SDGs framework.

The draft texts for the protection of TK and TCEs²⁷ that are being negotiated as work-in-progress at the IGC specifically envisage Indigenous Peoples as beneficiaries of the provisions and/or measures under discussion. Outcomes from those negotiations could contribute to the empowerment of Indigenous Peoples as beneficiaries, should WIPO Member States so agree.

4. <u>Mapping of existing standards and guidelines, capacities, training materials and resources for the effective implementation of the UNDRIP</u>

WIPO is a global reference point on intellectual property and GRs, TK and TCEs.

Most of WIPO training materials that address the protection of TK and TCEs relate explicitly or implicitly to Article 31 of the UNDRIP. Those materials include briefs, practical guides, studies and toolkits. All relevant resources are accessible through the webpage presenting WIPO's engagement with Indigenous Peoples²⁸.

WIPO's publication *Promote and Protect Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities* helps Indigenous Peoples to make best use of intellectual property tools with a view to protecting aspects of their TK and TCEs for their own benefit, if they so wish²⁹.

 ²⁶ See <u>https://www.wipo.int/about-wipo/en/budget/pdf/budget-2024-2025.pdf</u>, pp. 48-49.
 ²⁷ See respectively Document WIPO/GRTKF/IC/49/4

⁽https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_4.pdf) and document WIPO/GRTKF/IC/49/5 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_5.pdf). ²⁸ See https://www.wipo.int/tk/en/engagement.html.

²⁹ E-copies are available on <u>https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1048.pdf</u>.

An animation - *The Adventures of the Yakuanoi Navigating Traditional Knowledge and Intellectual Property* – features the Yakuanoi, fictional Indigenous Peoples that successfully explore issues and opportunities that arise when their TK interacts with intellectual property³⁰. The animation has been translated into several indigenous languages under the WIPO's Open Access Policy, which is part of the WIPO's ongoing endeavour to make its publications as accessible as possible³¹.

The WIPO TK Documentation Toolkit (*Documenting Traditional Knowledge – A Toolkit*) contains guidelines that are supportive of Indigenous Peoples' specific interests relating to TK documentation³².

The information available on WIPO's website comprises a repository of resources on regional, national, local and community experiences³³, including databases of laws, legislative measures and protocols, surveys and case studies. A database containing codes, guidelines and practices relating to the recording, digitization and dissemination of TCEs has been set up³⁴.

The WIPO Program of Work and Budget for 2024-2025 consolidates the activities related to, and the resources allocated for WIPO's work in relation to intellectual property and TK, TCEs and GRs within the WIPO Global Challenges and Partnerships Sector³⁵. Those activities are implemented by the WIPO Traditional Knowledge Division.

5. <u>Developing the capacities of States, indigenous peoples, civil society and UN personnel</u>

- > WIPO's capacity-building activities in support of Indigenous Peoples aim to help and enable them to:
 - grasp the issues that the lack of protection of TK and TCEs raises from an intellectual property perspective;
 - understand the nature and scope of the existing intellectual propertyrelated principles and tools that they may use, as options, to protect aspects of their TK and TCEs; and
 - define their intellectual property strategy as they best consider in line with their own objectives and for their own development, in particular in support of their community entrepreneurship.

³⁰ See <u>https://www.wipo.int/tk/en/tk/yakuanoi.html</u>.

³¹ The WIPO's Open Access Policy allows for the reproduction, use and translation of WIPO publications under Creative Commons Licences. (see <u>https://www.wipo.int/pressroom/en/articles/2016/article_0016.html</u>).

³² E-copies are available on <u>https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf</u>.

³³ See <u>https://www.wipo.int/tk/en/resources/tk_experiences.html#1</u>.

³⁴ See <u>https://www.wipo.int/tk/en/databases/creative_heritage/</u>.

³⁵ See <u>https://www.wipo.int/about-wipo/en/budget/pdf/budget-2024-2025.pdf</u>, pp. 48-49.

WIPO's program of work in this field includes practical workshops, distance learning courses, training, mentoring and matchmaking, in addition to the dissemination of briefs, practical guides, studies and toolkits.

The WIPO Secretariat continued and further intensified its capacity-building activities in 2024, with an emphasis on Indigenous Peoples', as well as local communities', entrepreneurship, particularly among women.

In this particular context, the WIPO Community Enterprises Program continued to expand in 2024.

- The WIPO Training, Mentoring and Matchmaking Program on Intellectual Property for Women Entrepreneurs from Indigenous Peoples and Local Communities (WEP)³⁶ supports Indigenous women and community entrepreneurship, innovation and creativity related to TK and TCEs by strengthening the capacity of women entrepreneurs from Indigenous Peoples, as well as local communities, to make effective use of intellectual property tools in support of their communities' entrepreneurial activities. The third global cycle of the WEP Program continued in 2023 with a one-to-one mentoring and matchmaking phase benefitting 21 women of Indigenous Peoples, as well as local communities, and their communities.
- In continuation of a regional cycle of the WEP launched in 2022, and in the context of the WIPO Traditional Knowledge Division Community Enterprises Program, additional support was provided in 2023 and 2024 to community enterprises from Indigenous Peoples, as well as local communities, from the Plurinational State of Bolivia, Colombia, Ecuador and Peru wishing to use intellectual property tools strategically, funded by the WIPO Fund-in-Trust/Japan Industrial Property Global. Funding support was renewed for a new 2024-2025 cycle to assist ten new beneficiaries who participated in previous editions of the WEP.
- A Call for applications with the view to the 2025-2026 Training, Mentoring and Matchmaking Program on Intellectual Property for Women Entrepreneurs from Indigenous Peoples, as well as local communities, from Pacific Island Countries was launched in 2024.
- In 2023, WIPO launched a 2023-2025 Training, Mentoring and Match-Making Program on Intellectual Property and Traditional Medical Knowledge in Africa, aiming at establishing and supporting an innovation ecosystem related to and based on, traditional medical knowledge

WIPO organized a *High-Level Dialogue on Indigenous Peoples, Traditional Cultural Expressions and Fashion*³⁷ on November 2, 2023 in Geneva. The Dialogue brought together Indigenous Peoples and fashion companies in an informal setting and provided an opportunity for the exchange of ideas and the sharing of best

³⁶ See <u>https://www.wipo.int/tk/en/women_entrepreneurs/</u>

³⁷ See and listen on <u>https://www.wipo.int/meetings/en/details.jsp?meeting_id=80168</u>

practices, with the aim of connecting people, increasing mutual understanding, building relationships and exploring forward-looking ways to facilitate ethical and fair collaborations between Indigenous Peoples and fashion companies. In the opening of the event, WIPO Director General Daren Tang called for increased dialogue and mutual understanding between Indigenous Peoples and fashion companies. A second High-Level Dialogue is scheduled for 2025. The preparation phase included virtual and informal consultations with Indigenous Peoples' representatives on *Steps When Considering the Use of Elements of Indigenous Peoples' Traditional Cultural Expressions in Fashion*³⁸ introduced by WIPO. The document outlines six steps that fashion companies are invited to consider if they plan to approach or engage with an Indigenous community regarding the use of elements of its traditional cultural expressions in a design or project.

- The 3rd edition of the WIPO Photography Prize for Indigenous Youth was launched in April 2024. The Panel of Judges was composed by three Indigenous photographers who selected the 15 finalists and 3 winners³⁹. The winners received awards at an Awards Ceremony that took place in Geneva on December 2, 2024. Besides, all the participants will be offered an online training on photography and copyright. Through this activity, WIPO celebrates and makes widely known the creativity of young members of Indigenous Peoples and encourages them to convey an impactful message about their peoples, communities and culture through photographic storytelling. The 2024 theme was "Indigenous Peoples' Ways of Healing and Well-Being: Honoring Our Ancestors' Wisdom and Knowledge". The development of the 2024 edition was done in collaboration with WHO and a UNPFII member who provided valuable advice on the theme and overall activity.
- The WIPO Indigenous Fellowship Program continued in 2024. The WIPO Indigenous Fellowship Program offers the opportunity for an indigenous person to be part of the WIPO Traditional Knowledge Division⁴⁰. The WIPO Indigenous Fellow contributes to make sure that Indigenous Peoples' sensitivities and interests are duly taken on board, within and beyond the Division. Ms. Sara Fuentes Maldonado, an Indigenous Kichwa-Otavalo from the community of Ilumán, Ecuador, has been WIPO Indigenous Fellow until November 15, 2024. Mr. Adam Kyomuhendo, an Indigenous Musongora from the community of the Basongora, Uganda, is the new WIPO Indigenous Fellow since that date.
- The WIPO Advanced Distance Learning Course on Intellectual Property, TK and TCEs⁴¹ provides technical information on key concepts and international, regional and national experiences, policy options and legal mechanisms available or under consideration for the intellectual property-like protection of TK and TCEs. The WIPO Advanced Distance Learning Course is available for Indigenous Peoples at no cost.

In addition, the WIPO Secretariat has continued to provide intellectual propertyrelated legal and policy information to Member States that wish to develop national

³⁸ See <u>https://www.wipo.int/tk/en/fashion.html</u>.

³⁹ See <u>https://www.wipo.int/tk/en/news/tk/2024/news_0007.html</u>

⁴⁰ See <u>https://www.wipo.int/tk/en/indigenous/fellowship/</u>.

⁴¹ See <u>https://www.wipo.int/academy/en/courses/distance_learning/.</u>

strategies, legislation or other measures with a view to protecting TK and TCEs from an intellectual property perspective.

6. Advancing the participation of indigenous peoples at the UN

Implementation of Articles 18 and 41 of UNDRIP on participation is of particular relevance for the IGC negotiations⁴².

The IGC sessions take place with the active participation of Indigenous Peoples' representatives as observers. The WIPO Secretariat, with WIPO Member States' express support, has taken robust measures to ensure and enhance such full and effective participation.

Those measures include the following:

- An *ad hoc* and fast-track accreditation procedure for observers at the IGC was established at the creation of the IGC⁴³;
- Indigenous participants in the IGC may take the floor on any agenda item and can have any of their specific textual drafting proposals reflected in the drafts, provided that at least one Member State extends its endorsement; this happens quite frequently;
- Further, the Chair of the IGC has systematically invited Indigenous Caucus representatives, with Member States' support, to participate in informal consultations and drafting groups on the texts being negotiated at the IGC, with rights to speak and make proposals;
- As a result and on several occasions, drafting proposals by indigenous representatives have been taken up in the negotiating texts; several options included in the texts reflect their comments or proposals;
- An Indigenous Consultative Forum is organized on the day or two days preceding IGC sessions with the WIPO Secretariat's support, with the view to facilitating the preparation of IGC sessions by the Indigenous Caucus;
- The Chair of the IGC meets the Indigenous Caucus whenever requested or appropriate;
- WIPO has financed the logistical, secretarial, interpretation and translation support that is provided by the Indigenous Peoples' Center for Documentation, Research and Information (DoCip) during the daily meetings of the Indigenous Caucus;
- IGC regular sessions accommodate time for a panel presentation by Indigenous Peoples', as well as local communities', experts in the plenary room⁴⁴.
- The WIPO General Assembly set up the WIPO Voluntary Fund for Accredited Indigenous and Local Communities in 2005 in order to facilitate the

⁴² More details regarding the normative work conducted at the IGC are available above under part A.i 3 of the Questionnaire.

⁴³ See <u>https://www.wipo.int/tk/en/igc/participation.html</u> for practical details.

⁴⁴ For details concerning one of such panel that was organized in 2024, see document WIPO/GRTKF/IC/49/INF5 (https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_49/wipo_grtkf_ic_49_inf_5.pdf).

participation in sessions of the IGC of representatives of Indigenous Peoples as well as local communities⁴⁵.

 Following up upon two recommendations made by the UN Permanent Forum, an updated Technical Review of the Key Intellectual Property-Related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions was commissioned by the WIPO Secretariat to two indigenous experts and communicated to the IGC in 2022 ⁴⁶, and an Indigenous Expert Workshop on Intellectual Property and GRs, TK and TCEs was organized from February 22 to 24, 2023. The report of the Indigenous Expert Workshop was transmitted to the IGC at its Forty-Sixth Session⁴⁷, and republished at the Forty-Seventh Session of the IGC as well as at its Special Session.

The WIPO Indigenous Fellowship Program allows for an indigenous person to be part of the WIPO Traditional Knowledge Division⁴⁸.

Further details regarding the participation of Indigenous Peoples in the IGC and in the 2024 Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources can be found under Part A i. 2 of the Questionnaire.

C. 2030 Agenda for Sustainable Development

i. Please describe any activities your entity has organized since the last reporting period to accelerate progress across a range of SDGs, demonstrating the interlinkages across goals and targets and if applicable, providing examples of translating global goals into local actions. In your response, please consider referring to SDGs relevant to the theme of the 2025 session of the Forum, including SDGs 5, 7, 10, 13 and 16.

ii. Please describe any activities your entity organized in support of the 2024 UN High-Level Political Forum on Sustainable Development and/or reports and activities that supported SDG reporting and monitoring or a VNR process at the national, regional, or global level.

The activities that are undertaken in support of Indigenous Peoples in the context of achieving the 2030 Agenda are detailed above under parts B.3 and B.5 of the Questionnaire.

 ⁴⁵ See <u>https://www.wipo.int/tk/en/igc/participation.html</u> for practical details. See under part A.i.6 and 7 of the Questionnaire for other details regarding the funding of Indigenous Peoples' participation in the IGC.
 ⁴⁶ See document WIPO/GRTKF/IC/42/INF/8

⁽https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_42/wipo_grtkf_ic_42_inf_8.pdf). ⁴⁷ See document WIPO/GRTKF/IC/46/INF/9

⁽https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_46/wipo_grtkf_ic_46_inf_9.pdf)

⁴⁸ For more details about the WIPO Indigenous Fellowship Program, see the answers provided under B.5 above.

Reminder: Please also include an <u>executive summary</u> of your inputs to the 3 main questions above (strict <u>500-word</u> limit) which will be used for our compilation report submitted to the 2025 session of the PFII.

ANNEX 1

Agenda of the twenty-fourth session of the Permanent Forum on Indigenous Issues

The Twentieth-fourth session of the Permanent Forum on Indigenous Issues is scheduled to take place from 21 April - 2 May 2025.

Provisional Agenda

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. Discussion on the theme "Implementing the United Nations Declaration on the Rights of Indigenous Peoples within United Nations Member States and the United Nations system, including identifying good practices and addressing challenges".

4. Discussion on the six mandated areas of the Permanent Forum (economic and social development, culture, environment, education, health and human rights), with reference to the United Nations Declaration on the Rights of Indigenous Peoples and the 2030 Agenda for Sustainable Development.

5. Dialogues:

(a) Dialogue with Indigenous Peoples;

(b) Dialogue with Member States;

(c) Dialogue with the United Nations agencies, funds and programmes;

(d) Human rights dialogue with the Special Rapporteur on the rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples; annual review of progress on the implementation of general recommendation No. 39 (2022);

(e) Interregional, intergenerational and global dialogue;

(f) Dialogue on Indigenous platforms established within United Nations entities;

(g) Thematic dialogue on the financing of Indigenous Peoples' work and participation across the multilateral and regional system.

6. Future work of the Permanent Forum, including issues considered by the Economic and Social Council, the outcome document of the World Conference on Indigenous Peoples and emerging issues.

7. Provisional agenda of the twenty-fifth session of the Permanent Forum.

8. Adoption of the report of the Permanent Forum on its twenty-fourth session.