

Responses from the WIPO Secretariat to
OHCHR's questionnaire (April 30, 2024)

Note : The following answers (parts in blue) to the questions asked by the Office of the United Nations High Commissioner for Human Rights (OHCHR) (parts in black) were provided by the Secretariat of the World Intellectual Property Organization (WIPO) on May 14, 2024. Unless stated expressly, they do not necessarily reflect the views of WIPO Members States, taken as a whole or individually.

1 Existing procedures:

a) What are the current venues of Indigenous Peoples' participation in your organization? In what meetings can Indigenous Peoples officially participate? Do they participate in meetings at the national or international levels? If so, where?

- Sessions of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“the IGC”) of the World Intellectual Property Organization (WIPO) (Geneva, WIPO’s Headquarters).
- Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources (the “Diplomatic Conference”) (Geneva, WIPO’s Headquarters, May 13 to 24, 2024).

b) What are the modalities of Indigenous Peoples' participation? How can they participate? What can they do during the meetings? How can they influence the outcomes of the meetings?

The IGC sessions take place with the active participation of representatives of accredited non-governmental organizations that represent Indigenous Peoples as Observers.

The measures to ensure and enhance such participation include the following:

- o An *ad hoc* and fast-track accreditation procedure for Observers at the IGC;
- o Establishment of a WIPO Voluntary Fund (please refer to the response under 3b))
- o 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;

- The Chairs of the IGC have 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;
- An Indigenous Consultative Forum is organized on the day or two days preceding the IGC sessions with the WIPO Secretariat's support, with the view to facilitating the preparation of IGC sessions by the Indigenous Caucus;
- The Chairs of the IGC meet 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 Indigenous Consultative Forum and the daily meetings of the Indigenous Caucus;
- **IGC sessions accommodate time for a panel presentation by Indigenous Peoples',** as well as local communities', experts in the plenary.
- Pursuant to recommendations made by the UN Permanent Forum on Indigenous Issues and decisions by the IGC, 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, and an Indigenous Expert Workshop on Intellectual Property and GRs, TK and TCEs was organized in 2023, whose report has been transmitted to the IGC.

Organizations representing Indigenous Peoples accredited at the IGC have been invited to participate in the Diplomatic Conference. The Draft Rules of Procedure of the Diplomatic Conference indicate *inter alia*: "With respect to the participation of Observers, the Presiding Officer shall take into account the measures applied to Observers in the context of the work of the WIPO [IGC] and which shall be applied mutatis mutandis to the work of the relevant Committee or any working group." Specific support by the WIPO Secretariat is being provided through the organization of a series of meetings of the Indigenous Caucus prior to and during the Diplomatic Conference.

c) What participation criteria does your organization apply to accredit Indigenous Peoples' participants? Do Indigenous Peoples participate as organizations? Can Indigenous Peoples' representative institutions participate as such? Do they participate as individuals or independent experts?

Accreditation requests are submitted as received for the consideration and decision by WIPO Member States.

For the other questions, please refer to the responses under 1 a) and 1 b).

d) What are the selection criteria? What criteria does your organization use to select Indigenous Peoples to participate in the meetings?

Please refer to the response under 1 c)

2. Good practices

a) Since when have Indigenous Peoples participated in your organization's meetings? How has their participation evolved?

Since 2001. Measures ensuring their participation in drafting and consultations processes during IGC sessions have been reinforced when the IGC initiated text-based negotiations on an international legal instrument or instruments for the protection of traditional knowledge, traditional cultural expressions and genetic resources in 2009. As a result, drafting proposals by Indigenous representatives have been taken up in the negotiating texts; several options included in the drafting texts reflect their comments or proposals.

b) Please briefly describe any good practices within your organization that should be considered for this report.

Measures described under the responses provided to the question 1b) may be identified as good practices.

c) Does your organization have an Indigenous advisory group or similar? If so, what are its functions?

The WIPO Indigenous Fellowship Program allows for an Indigenous person to be part of the WIPO Traditional Knowledge Division on a full-time basis.

d) What success factors could be highlighted from your organization's experience with Indigenous Peoples' participation?

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

3. Existing gaps

a) What have been the main challenges to Indigenous Peoples' participation in/engagement with your organization?

Financing their participation in IGC sessions.

b) What action has your organization taken to address these gaps?

The WIPO General Assembly set up the WIPO Voluntary Fund for Accredited Indigenous and Local Communities in 2005 in order to facilitate the participation in sessions of the IGC of representatives of Indigenous Peoples as well as local communities. In relation to the 2024 Diplomatic Conference and in short, the 2023 WIPO Assemblies agreed that WIPO provide adequate funding to facilitate such participation and allowed that the budget allocated to the Diplomatic Conference be used in case of insufficient resources in the WIPO Voluntary Fund. As per the rules of the Fund, representatives of Indigenous Peoples participated in the allocation process.