2011-2012 IP Survey Report

Field Survey on
Intellectual Property Issues
in the Process of
ICH Information Building and Sharing

International Information and Networking Centre for
Intangible Cultural Heritage in the Asia-Pacific Region
under the auspices of UNESCO
In collaboration with the Foundation for the Protection of Natural and Cultural Heritage, Mongolia
ICHCAP, a UNESCO Category 2 Centre, has carried out activities for safeguarding intangible cultural heritage (ICH) in the Asia-Pacific region with a centralised function in ICH information and networking. In this role, the Centre has worked towards protecting intellectual property rights related to ICH information. The Centre held expert meetings on ICH safeguarding and intellectual property rights in 2009 and 2010, and in 2011, the Centre proposed a project for protecting ICH intellectual property (IP) rights in the process of ICH information building and sharing.

In 2011 and 2012, as part of the new project, field surveys were conducted with the cooperation of ICH information–related institutes in the Asia-Pacific region to examine IP issues that could arise in the process of ICH information building and sharing. The survey was conducted in eleven countries—Cook Islands, Fiji, India, Kazakhstan, Korea, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, and Viet Nam. The purpose of the surveys was to highlight the IP-related problems that ICH-related organisations may encounter while conducting ICH information–related activities, such as identification, documentation, digitisation, etc., and promoting the groundwork for a guide to protect IP-related aspects of ICH in the process of information building and sharing.

For the field surveys, a questionnaire developed by ICHCAP was provided to key organisations, and surveys were carried out by each organisation according to the questionnaire. A research team based in each organisation lead the surveys. Upon completing the surveys, the organisations involved compiled a report. ICHCAP collected the submitted reports and is now making them available in this publication, *Field Survey on IP Issues in the Process of ICH Information Building and Sharing*.

The survey reports from each country are being provided as a resource to exchange experiences related to the IP aspects of ICH information. Also, it is expected that publishing reports can foster an environment to understand and resolve problems related to IP aspects of ICH information in the Asia-Pacific region.
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IP Survey Report
I. Mongolian National Broadcaster

1. Profile of the Institute

Mongolian National Radio (MNR) was established in 1934 and Mongolian National Television (MNT) in 1967. Together, these two institutions form the Mongolian National Broadcaster (MNB). MNB is one of the first media broadcasting systems established in Mongolia.

On 27 September 1967, MNT started broadcasts and with it started Mongolian TV broadcasting. Initially all programmes were broadcast live, but in December 1971, Mongolian TV studios opened and another important step towards improving the quality of the images and enabling the pre-recording of documentaries and short films was taken. This allowed the broadcasting schedule to become much more varied and entertaining. Since the 1980s, MNB began working with a new generation of equipment made in Japan, France, and Russia, and this, along with a new TV centre being put into commission, made the transition to colour possible.

Until the mid-1980s programmes were only watched by a small percentage of the population, but with the help of radio relay lines, reception was extended. In 1991, MNB began broadcasting via the AsiaSat satellite, and this allowed its programmes to be received in even the remotest parts of Mongolia. Today, some 70 per cent of the country's population watches the national TV channel. MNT operates two channels at the national level and broadcasts various programmes in five different languages abroad. MNB Channel 2 is broadcast at the national level for minority groups.

According to the 2005 Law of Mongolia on Public Radio and Television, MNB has amended its structure, operational directives, management, and policies on broadcasting, and thus has gained independence, particularly in terms of programming. MNB is in operation on a principle of favouring the pluralism, transparency, and national gain.
MNB in Ulaanbaatar, Mongolia, covers entertainment programmes and local news, and the company broadcasts its programmes in Mongolia as well as in Asia and Europe.

MNB conducts research, documents, broadcasts, and archives ICH, including language and literature, oral expressions, performing arts, traditional craftsmanship, traditional festivals, ceremonies, rituals, dance, and music.

MNB is classified as a non-governmental organisation.

According to the Law of Mongolia on Public Radio and Television, the National Committee of Public Radio and Television, a supernumerary organisation consisting of fifteen members, or public representatives, is the administrative body of public radio and television.

The National Committee of Public Radio and Television was appointed on 14 October 2005. The fifteen members are

- G. Purevbat, monk
- L. Bold, Chairman, Committee of Mongolian Artists Union
- Chilaajav, Chairman, Writers’ Union
- Ts. Dashdondov, Journalist
- R. Hadbaatar, Vice President, Mongolian Newspapers Association
- O. Munguntuul, Italy-Mongolia Friendship Society
- O. Erdene-Ulzii, Honored President, Kick Boxing Association
- N. Sodnomdorj, President, Mongolian Trade Union
- L. Tumurbaatar, Executive Director, Anti Cancer Association
- Zanaa, Board Chair
- R. Burmaa, Chair, Social Progress—Women’s NGO
- G. Tserenpurev, Executive Director, Mongolian Banks Association
- N. Zoljargal, Employee, Trade and Development Bank
- Damdinsuren, Food Sector Workers Association
- Buyanbadrakh, Director, FM 107 Radio Station, journalist

As stated in the Law of Mongolia on Public Radio and Television, the sources of budget are

- Income from the service of Radio and Television programmes
- Profits from social advertisements
• Income from rental of technical equipment and other materials
• Donations and support from the state budget
• And other possible/available sources

2. Information Building and Sharing

MNB is engaged in all ICH activities, including identifying, documenting, inventorying, database/archive building, publishing and distributing, and using digital contents. MNB, through research and study or through field surveys, identifies and documents specified individuals, group, or community who have the targeted subject or knowledge and skills concerning ICH. Collected materials, such as audio-visual recordings, photos, and other related items are subjected to become archive/database material. These materials are widely broadcasted, distributed, and used for information building and sharing activities. Although the issue concerning ICH intellectual property and its copyright issues relates to every activity, it mainly involves TV programmes, documentation, film productions, registration and information database/archive building, information sharing, and the use of digital contents in TV programmes as well as broadcasting and distributing such programmes. The following example involves registration and information database/archive building and broadcasting and distributing folk performing arts.

In 1954, the Golden Fund (archive) of Song and Music at the MNR was established. According to the statements of former employees of the MNR, the Golden Fund contains abundant materials starting from folk traditional songs and music to the best of contemporary works composed and performed by the renowned masters of today.

In 1983, a new TV programme of folk performing arts entitled the Repertoire of Folk Music was launched and is still actively reached to the audiences.

In 1976, the first TV series called Works of Folk Art started under the theme of ‘Traditional Craftsmanship of Wood Engraving’. Since this period, the production of TV documentaries of ICH works, their dissemination and broadcasting, and the safeguarding activities for research and advertisement purposes effectively began.

Two series of Mongol Khuumei, a documentary movie, were produced by Telekino Productions at the MNT in 1983; two series of Tsatsal (Libation), a
documentary movie, were produced by Telekino Productions in 1985; and the two series of *Ingen Egshig* (A Melody of Mare-Camel), a documentary movie, were produced by Telekino Productions in 1987. Each of these has won first place at Solongo, the International Festival of TV Works of Folk Arts.

Since 1988, the controversial or debated contest—serial TV show titled *Durvun Berkh* (Four Toughs) has aired with purposes of revitalising and safeguarding traditional customs and rituals.

In 1991, the two series of *Dembee Mine Dee*, a documentary movie, were produced by Telekino Productions and won first place at Solongo, the International Festival of TV Works of Folk Arts.

Thus, since its establishment, the MNB has been engaged in conducting various ICH-related activities. Even now, the MNB is operating and launching various TV programmes to promote and disseminate ICH. These programmes include *Altan Yazguur* (Golden Lineage), *AriasahuinGumuda* (about Buddhist religious customs), *ArdmiinKhugjimiinSan* (Repertoire of Folk Music), *MongolYosZanshil* (Mongolian Customs and Traditions), *Khuuchin Pyanz* (Old Disc), and *BiMongolHun* (I Am Mongolian).

MNR constantly broadcasts programmes with traditional songs, music, folk performing arts, traditional customs, and rituals to foreign audiences through its Mongolian Voice Radio Station. Despite these special programmes, MNR also broadcasts folk songs, music, and performing arts through its song and music programme. Through Channel 2, the MNB also provides TV programmes for minority ethnic groups in their own languages to introduce and safeguard their language, history, traditions, and customs, such as *Aldai—Khonash* for the Tuva ethnic group and *Toonto Nyutag* for people of Buriat-Mongolian ethnicity.

Besides the mentioned ICH-related activities, including the production of various different TV programmes, documentaries, and shows, the MNB is also engaged in establishing and maintaining the registration and information database/archive. The activities of improving and enriching the archive and information sharing have been extended in recent years. Since digitising video tapes, the ICH digital contents are being widely used for advertisement and dissemination purposes.

The decision to what to include in the archive is made by MNB Programmes Department according to the criteria stating that ‘those radio or television
works shall be registered and included in the Golden Fund—MNB’s archive, which are considered the best produced work, requiring high-quality skills or historically significant or unrepeatable contents’. The Rule to Preserve, Maintain, Enrich, and Use the Golden Fund has been approved, and it is in an effective state today to regulate the activities concerning the registering radio and television works in the archive, broadcasting them, and sharing information.

Broadcasting ICH-related programmes is regulated according to the MNB’s programmes policy. ICH-related programmes such as those mentioned above—Altan Yazguur, AriusahuinGumuda, ArdiminKhugjiinSan, MongolYosZanshil, Khuchin Pyanz, and BiMongolHun—each have a certain number of series to be broadcast within a year.

In paragraph 10 of Article 2 of the Law of Mongolian on Public Radio and Television, it is stated that the ‘works, broadcasted through MNB programmes, possessing materials concerning the life of Mongolian people and the history of their development, particularly with the contents of scientific, social, political, economic, historical, artistic, and cultural significance shall be registered and included in the Public Radio and Television Archive’. The same paragraph also states that the ‘Public Radio and Television Archive is subject to and is a branch of the National Central Archive. Thus, regulating the activities concerning the establishment, maintenance, preservation, enrichment, and use of the materials of Public Radio and Television Archive is subject to National Archives Law’. In addition, the MNB’s Rule to Preserve, Maintain, Enrich, and Use the Golden Fund is observed on a daily basis. The historically significant materials, particularly the ones concerning ICH elements created by Mongolian people play an important role or cover the predominant percentage of all materials maintained at the MNB’s Golden Fund Archive. These materials were selected in accordance with certain criteria to be registered and kept as archival elements. Even though the archive is being enriched year by year, the magnetic tapes recorded between 1950 and 1990 are in danger of becoming superannuated and out of date. Because of this, the administration of the MNB is starting to take measures to revive and digitise these materials and use them for dissemination and advertisement purposes. A scanned copy of the Rule to Preserve, Maintain, Enrich, and Use the Golden Fund is attached.

The MNB obtains ICH-related data or archives through fieldwork and documentation.
During the first stage, concerned professionals and experts from the MNB are designated to conduct comprehensive research using all data and information sources available to identify the main subject/ICH bearer, his or her residency, and other related information.

For the second stage, the MNB either invites the subject/ICH bearer to the studio to participate in producing the TV programme or the selected team of professionals travels to the subject/ICH bearer’s residence to document the ICH element in its original state during the proper period or season.

The index of data or archives of the MNB is as follows:

(a) Name of data: audio-visual records
(b) Offline/online data
(c) Type of data: text, photo, video, audio
(d) Source of data: fieldwork and documentation
(e) Context of data: significant
(f) Person/Organisation who has rights on the data: Mongolian National Broadcaster

3. IP Issues in Information Building and Sharing

MNB does not have experience with a project regarding IP aspects of ICH. There is currently no department, unit, or individual undertaking tasks related to intellectual property in MNB, but there is a supernumerary individual working as MNB legal counsel.

If any issue or problem concerning ICH intellectual property or copyrights comes up or persists, the matter must be settled in accordance with the Copyright Law of Mongolia. There are no other specific and active rules or regulations at present, and to date, no specific issues or problems concerning ICH intellectual property and copyrights have been in effect. It is certain that, as of now, the function or any regulatory factors towards intellectual property and copyright issues have not been set properly or at all at the MNB and in its operational directives.

In Article 26.1 of Chapter 8 in the Mongolian Law on Broadcasting, it is stated that ‘broadcasters may only broadcast programmes that they produced or for which they hold broadcasting rights, and copyrights must be clearly indicated as part of the credits displayed with each programme’; and in Article 26.2 of the same chapter, it is stated that ‘the name of the producer of every programme shall be displayed or read out at the end of the programme’.
Besides these texts, there are no other statements included for copyright or intellectual property issues.

The MNB does not have a principle for protecting IP aspects of ICH at present. However, there is a statement in the employment morality guideline stating that ‘the employee shall not use any material without its owners’ confirmed consent’.

The MNB is a considerably important organisation in the media field, broadcasting programmes at the national level. The MNB conducts all the activities including obtaining, registering, documenting, and digitising data in the process of ICH information building and sharing. To conduct these activities, the MNB goes through many stages: a stage for preparing, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for using and disseminating information. Therefore, it is highly possible that issues and problems concerning ICH intellectual property and copyrights—problems regarding complying with the country's laws and regulations or customs, identifying the nature of rights existing on ICH, determining ICH ownership, obtaining prior informed consent or approval, maintaining collected information, sharing benefits, copying and reproducing ICH, or any other problems—could arise during the organisation’s ICH information building and sharing processes.

Because the groundwork for establishing a legal environment for protecting ICH and related copyrights is now just being set and because the concerned organisations have less than twenty years of experience in the field of copyright protection, intellectual property issues and problems at these organisations have not yet been visible. For example, most materials used for film or documentary productions or other purposes were mostly from state archives, so exposure such problems and issues have been rather limited to date.

As a result of the above questions and corresponding answers made by the MNB on ICH information building and sharing, the following conclusions have been reached.

- Intellectual property matters and ICH copyright issues in particular are poorly observed at the MNB. There is little understanding or knowledge concerning intellectual property and copyright issues among concerned organisations, individuals, and the general public.
From one point of view, Mongolia began understanding and implementing copyright regulations only since 1995; and from another point of view, there is a little knowledge and understanding among copyright owner organisations and individuals, thus there is little capacity to fully exercise their rights. In addition, the law is not feasibly being implemented at the concerned ICH information building and sharing organisations.

- There are no existing guidelines, rules, and regulations at this organisation for ICH information building and sharing activities and ICH copyright issues in particular. To date, no issues concerning ICH intellectual property or copyrights have been presented at the MNB. Only the Rule to Preserve, Maintain, Enrich, and Use the Golden Fund concerning copyright is currently active. Although it is an effort or attempt to comprehensively cover the stages of information building and sharing, there are no provisions concerning copyrights.

- There is currently no concerned department, unit, or individual at the MNB responsible for intellectual property and ICH copyright issues. Legal matters are handled only by the designated legal counsel. Because the legal counsel is responsible for all legal matters arising at the MNB, it isn't possible for the MNB's legal counsel to handle and regulate the issues concerning the intellectual property or copyright.

- Also lacking are regulations governing the MNB activities, such as to own the created ICH information, to protect the owned information by copyright, and to share and use that information. In another words, Implementation of copyright law is lacking. As of now, not one NGO has cooperated with the MNB in the field intellectual property and copyright protection.

Based on these conclusions, it is recommended that the following measures be undertaken immediately.

1. Organise training meetings and seminars concerning ICH intellectual property and copyright issues for the staff and professionals at the MNB with aims to raise the awareness of the importance of ICH and copyright matters and to strengthen their capacity

2. Approve and implement a law, associated guidelines, and rules on ICH copyright corresponding to the Convention and Mongolia law. Within this framework, it is indeed inevitable to develop and implement the rules and regulations concerning the copyright issues that could arise while collecting, using, sharing, and protecting information.
In paragraph 10 of Article 2 of the Law of Mongolian on Public Radio and Television, it is stated that the ‘works, broadcasted through MNB programmes, possessing materials concerning the life of Mongolian people and the history of their development, particularly with the contents of scientific, social, political, economic, historical, artistic, and cultural significance shall be registered and included in the Public Radio and Television Archive’. The same paragraph also states that the ‘Public Radio and Television Archive is subject to and is a branch of the National Central Archive. Thus, regulating the activities concerning the establishment, maintenance, preservation, enrichment, and use of the materials of Public Radio and Television Archive is subject to National Archives Law’. In addition, the MNB is subject to implementing other laws in its activities, such as the Law on Patents, Law of Mongolia on Trade Names and Trademarks, Law of Mongolia on Copyright and Related Rights, Law for Protection of Cultural Heritage, and the Law of Mongolia on Advertisement. The MNB is not currently implementing any specific guidelines, rules, or regulations concerning intellectual property and copyrights other than the Rule to Preserve, Maintain, Enrich, and Use the Golden Fund. Therefore, there is a need to approve and implement such a guideline, rule, or regulation.

3. There is no statement concerning ICH intellectual property and copyright issues in the MNB operational directives. The MNB also has no department, unit, or individual responsible for ICH copyrights. Therefore, there is an immediate need to have MNB’s organisational and operational directives amended and to have a special unit or department for ICH copyrights.

As stated above and as a result of this survey, there is a need to organise training meetings and seminars concerning ICH intellectual property and copyright issues for the staff and professionals at the MNB with aims to raise the awareness of the importance of ICH and copyright matters and to strengthen their capacity and to approve and implement a law, associated guidelines, and rules on ICH copyright corresponding to the Convention and Mongolia law. Within this framework, it is indeed inevitable to develop and implement the rules and regulations concerning the copyright issues that could arise while collecting, using, sharing, and protecting information. Furthermore, there is also an immediate need to establish a special unit or department dedicated to ICH copyright matters. Accordingly, the MNB is planning to implement a specific project to solve the abovementioned issues.
Starting from 2013, the project will continue for two years undertaking the following activities:

- conduct training meetings and seminars on intellectual property issues in the process of ICH information building and sharing;
- conduct comprehensive research and develop an adequate guideline
- make amendments to improve the MNB's internal policy and add a new unit responsible for ICH intellectual property and copyright issues
- develop a draft guideline and associated forms conforming to the Convention and Mongolian law and implement the guideline and forms accordingly
- revitalise the MNB's registration and information database/archive (Golden Fund) to revive superannuated records and documentaries on tapes and to digitise and use the updated data

Due to the lack of experience in the field not only at the MNB, but in Mongolia in general, there is a need to have international or foreign expertise involved collaborating with the development of adequate guidelines, rules, or regulations. Therefore, it is decided that the MNB should invite an international organisation to cooperate with developing the project proposal.

MNB, since its establishment, has been engaged in ICH research, advertisement, documentation, broadcasting, and dissemination and with maintaining and archiving activities. In 2011, the MNB and the Culture and Art Committee—the government implementing agency—have signed a contract to cooperate. The contract states “to collaboratively make efforts on safeguarding and preserving the tangible and intangible cultural heritage and oral literature of the Mongols, to disseminate the implementation progress of national projects, including 'Morin Khuur (Horse head fiddle)', ‘Urtiin Duu (Folk long song)’, 'Mongol Khuumei' and ‘Bii Biilgee (Mongolian Traditional Dance), strengthening the knowledge on National language and script, traditional knowledge of upbringing children, documentation and distribution of Folk Arts Festival to the General public and other significant measures.”
II. National Center of Cultural Heritage

1. Institute Overview

The National Center of Cultural Heritage is a competent and professional body for protecting tangible and intangible cultural heritage. The ICH Protection Division at the National Center of Cultural Heritage was established in 2008. The ICH Protection Division* is a responsible unit at the national level for protecting, advertising, and documenting (audio-video) ICH elements; identifying and registering ICH bearers and helping bearers transmit their skills and knowledge to the next generation; and establishing and improving the consolidated registration and information database and its archival management.

*(Under the auspices of UNESCO and with Japanese Funds-in-Trust, the National Center of Intangible Cultural Heritage was designated as a non-government organisation in 1997. With UNESCO support, the Center implemented the Documentation of the Oral and Intangible Cultural Heritage of Mongolia with Audio and Video Recordings project, which set the groundwork for establishing the database and archive for oral and intangible cultural heritage. Under the request from the National Center's administrative council and the Education, Culture and Science Minister’s Order of 2008, government status was given to the National Center and accordingly it joined the Center of Cultural Heritage as one of its Division.)

Also attached is the Constitution of Mongolia, which contains provisions that specially recognise and guarantee protection to intellectual property rights.

The National Center of Intangible Cultural Heritage was established in 1988, under the name Restoration and Conservation Studio of Museum Items. At that time, Mongolia was on the edge of political change towards democracy, which created a positive approach for scholars, scientists, writers, and young politicians to criticise the poor methods of preserving, restoring, and conserving historical and cultural properties and museum items that resulted in grave damage or loss of many items and properties. According to the arisen need to restore and conserve the museum items that had been kept for...
seventy years, since the first museums were established in Mongolia, the Ministry of Culture established the Studio. In 1989, the studio moved to a newly equipped facility for restoring and preserving cultural properties. In 1996, in association with the new amendments made to the Law for the Protection of Historical and Cultural Heritage, the Center officially became a government agency with new name—Center for Cultural Heritage of Mongolia. Along with the name change came a restructuring, which created two units, the Conservation and Restoration of Historical and Cultural Heritage and the State Fund for Registration and Information of Historical and Cultural Heritage. In May 2009, an additional division, the Intangible Cultural Heritage Protection Division, was established in accordance with changes made to the structure of the Center for Cultural Heritage of Mongolia. Since its establishment, the ICH Protection Division created the National List of the Intangible Cultural Heritage, the National List of ICH in Need of Urgent Safeguarding, and the ICH Information and Registration Database System for all possible ICH elements present in Mongolia.

ICH Protection Division’s contribution to ICH-related activities in cooperation with other relevant organisations includes the following.

- preparing the nomination file for the Mongolian traditional music of Tsuur to the List of Intangible Cultural Heritage in Need of Urgent Safeguarding
- hosting a symposium, ‘On the Issues of the Safeguarding and Promoting of Mongolian ICH”
- holding a workshop on implementing the UNESCO Living Human Treasure programme in Mongolia
- having an international symposium, ‘Mongolian Khuumei’ in Ulaanbaatar
- organising a national seminar, ‘Significance of Sacred Sites on the Conservation of Cultural and Biological Diversity’
- holding the Mongolian Long Song Festival in Uvurkhangai province
- attending a seven-day day seminar, ‘The 3rd Training Course for Safeguarding of ICH’ in Kyoto, Japan
- successfully conducting ICH field surveys in nine Mongolian provinces of Mongolia—Khentii, Dornod, Tuv, Dornogovi, Govisumber, Uvurkhangai, Arkhangai, Selenge, Orkhon
- preparing the national List of the ICH in Need of Urgent Safeguarding as well as the ICH Representative List of Mongolia
• preparing the general rules for ICH designation and recognition of the and its bearers, and a rule for prefectural advising subcommittee for designation and recognition of the ICH bearers

Throughout Mongolia, covering all the administrative, there are aimags (province), soums (administrative units subordinate to a province), districts, and khoroo (administrative units subordinate to a district).

ICH Protection Division at the National Center of Cultural Heritage is specialised in the following ICH domains.

• Oral traditions and expressions, including language as a vehicle of ICH
• Folk performing arts
• Social practices, rituals, and festive events
• Traditional technique, knowledge, and practices concerning nature and the universe
• Traditional craftsmanship

The National Center of Cultural Heritage is a state-funded government organisation. Other affiliated organisations are listed below.

Culture and Arts Department, Ministry of Education, Culture and Science of Mongolia

Culture and Arts Department, Ministry of Education, Culture and Science manages national policy on arts and culture and develops and formulates Mongolia’s culture and arts policy and revisions to them.

National Committee for Selecting and Designating ICH and its Bearers

The Committee was established by order of the Education, Culture and Science Minister in 2009. The Committee, a supernumerary organisation with consultative rights to cabinet members and minister in the ICH field, is the body that regulates issues related to researching and identifying the original forms of ICH elements existing in Mongolia; designating and recognising ICH bearers and regulating their relations with the government; providing cooperation and support for registering ICH and its bearers; selecting adequate safeguarding measures; and documenting and transmitting these elements to the next generation.
2. Information Building and Sharing

The National Center of Cultural Heritage has done or is doing the following activities.

- Identification
- Documentation
- Inventory making
- Database/Archive building
- Publication and distribution
- Using digital contents

Since the Center's ICH Protection Division is responsible at the national level for protecting, advertising, and documenting (audio-video) ICH elements and identifying and registering ICH bearers, it respectively focuses on all activities stated above. However, the ICH Protection Division, for the last three years, has not fully established a coherent system constituting these activities, but it was able to set the groundwork to their further effectiveness.

The Center successfully implemented the project Elaboration of the Inventories of the Representative List and List of ICH in Need of Urgent Safeguarding in Mongolia in 2011.

Background of the Project

Mongolia ratified the UNESCO Convention in 2005. Since then, Mongolia has been implementing measures for safeguarding ICH in its territory. The elements of Mongolian Traditional Folk Long Song (multinational including PRC), Mongolian Traditional Festival—Naadam, Mongolian Tradition Art of Khuumei, and Falconry (multinational including twelve countries of Asia and Europe) were inscribed on the UNESCO Representative List, and the elements of Mongolian Epics, Mongolian Traditional Music of the Tsuur, and the Mongolian Traditional Folk Dance—Bii Biyelgee were inscribed on the UNESCO Urgent Safeguarding List.

With aims of safeguarding ICH in Mongolia and promoting ICH bearers, the government of Mongolia and the Ministry of Education, Culture and Science established three national lists—National Representative List if ICH, the National List of ICH in Need of Urgent Safeguarding, and the National List of ICH Bearers Possessing High-Level Skills and Knowledge. The government and
ministry are also working towards annually updating the above lists. In the framework to further improve and develop the lists and to designate and implement safeguarding measures, there is a need to establish a system for identifying and designating the ICH elements in cooperation with the concerned communities, groups, and relevant non-government agencies.

The aims of the *Elaboration of the Inventories of the Representative List and List of ICH in Need of Urgent Safeguarding in Mongolia* project are to implement the above objectives to renew the national ICH lists, to establish the rational mechanisms for identifying ICH bearers, to establish a national registration and information system of ICH and ICH bearers.

Successfully establishing and implementing the above system are fundamental in developing further coherent sets of research and safeguarding activities. Therefore, we have focused on conducting and organising the primary registration work for existing ICH and bearers at the national level. Accordingly, the effective implementation of registration work was considered a main source for further activities and was thought of as the main objective to implementing in the project framework.

**Context of the Project**

The objectives to implement in the project framework are as follows.

1. To conduct a survey and organise a questionnaire with aims to evaluate and analyse the current situation of the safeguarding system, and to identify and designate ICH elements and bearers in Mongolia at the national level
2. To develop and provide a methodology and advisory for conducting and organising the primary registration work for the ICH and its bearers and distribute the work to all soums, provinces, and city districts, to publish and distribute the relevant handbooks and catalogues for introducing, and to organize seminars in these fields
3. To establish a permanent and rational mechanism for the nation
4. To raise the public awareness and increase involvement and participation among concerned communities, groups, and relevant non-government organisations in activities of implementing the identification of ICH and its bearers
5. To conduct and organise the monitoring activities and provide a methodology and advisory for the primary registration work and the
establishment of the registration and information database for ICH and its bearers at the provincial and local level.

6. To document some ICH elements with audio and video recordings that were identified during project activities

7. To conduct the national registration work for identifying ICH elements and bearers and to renew and develop the registration and information database for the ICH elements in the National ICH Lists

8. To organise a national symposium, 'The Current Issues for Safeguarding the ICH', and a seminar, 'The Establishment of the National Registration and Information System of ICH in Mongolia', involving ICH experts, researchers, scholars, professionals, bearers, and information and registration officers

**Procedures of project**

The project was implemented, covering every region and local administrative unit and involving every designated professional from all provinces and units for a period of one year.

**Outcomes/Effects**

By implementing the project *Elaboration of the Inventories of the Representative List and List of ICH in Need of Urgent Safeguarding in Mongolia*, the following results were achieved.

1. With aims to safeguard the ICH of Mongolia and promote ICH bearers, the following inscriptions were made, 70 elements on the National Representative List of ICH, 18 elements on the National List of ICH in Need of Urgent Safeguarding, and 100 individuals on the National List of ICH Bearers Possessing High-Level Skills and Knowledge.

2. Before implementing this project, ICH inventory making was being done poorly and partially without a particular system or regulations. Following this project, however, we were able to establish the primary steps towards developing a systematic and permanent inventory that can be developed and improved annually.

3. Before implementing the project, involvement in ICH inventorying activities covered smaller areas and only in places the research teams visited. As a result of implementing project, we could conduct the "primary registration work of ICH and its bearers" at the national level, covering every administrative unit existing in Mongolian territory. Thus, the inventorying scope expanded to a national level.
By employing and designating the right personnel as ICH registration and information methodologists and officers, acknowledging their responsibilities and providing them with the necessary working regulations and advisories at the primary stage of ICH inventorying in soums, in khoroo and at the middle stage of provinces and districts, we were able to establish a permanent operational mechanism of the national registration and information system of ICH and its bearers.

4. While implementing the project, we could conduct the “primary registration work of ICH and its bearers” for the first time, covering 85 percent of all the administrative units in Mongolia, including 283 out of 329 soums of 21 provinces and all 9 districts of Ulaanbaatar. Overall, 88 ICH elements were identified and registered, and 3339 individuals were identified as ICH bearers.

5. Overall, fifty-seven ICH bearers and their skills and repertoire were documented with audio and video records. Fifty of these are practicing performing arts; two are practicing traditional social practices and rituals, and five are practicing traditional craftsmanship.

6. By providing an increased involvement and participation of the public, concerned ICH communities, groups, and individuals in the activities for identifying the elements in the National Representative List and List of ICH in Need of Urgent Safeguarding and their bearers, we could set the groundwork for establishing the information database for further annual development and improvement. In addition, every soum and province have created their own ICH lists that include the elements they pride, and they took responsibility to further safeguard and transmit these elements to the younger generation.

7. By successfully implementing the project, public involvement has increased as has ICH awareness and understanding as well as the importance of safeguarding ICH.

8. In the framework of the project, the knowledge and methodology on safeguarding, researching, identifying, and documenting ICH have significantly improved among cultural administrative individuals, researchers, information and registration officers, ICH bearers, and other relevant individuals.

The National Center of Cultural Heritage obtains ICH-related data or archives through fieldwork and documentation. During fieldwork, the types of data collected include text, photos (digital; printed), videos (digital; tape: Betacam, DV, VHS), and audio (digital; audio cassette). Data relevant to the ICH elements existing in Mongolia are collected. Data are collected for archive, awareness-raising, transmission, and dissemination purposes. The National
The National Center of Cultural Heritage (State Registration and Information Fund/Database) is the rightful owner of the collated materials.

The National Center of Cultural Heritage is a competent and professional body for protecting tangible and intangible cultural heritage. The ICH Protection Division is a responsible unit at the national level for protecting, advertising, and documenting (audio-video) ICH elements; identifying and registering ICH bearers and helping bearers transmit their skills and knowledge to the next generation; and establishing and improving the consolidated registration and information database and its archival management.

In the framework of ICH information building and sharing, the National Center of Cultural Heritage implements all the activities including collecting, inventorying, registering, documenting, digitising, disseminating, advertising, and using information. To conduct these activities, the National Center of Cultural Heritage goes through many stages: a stage for preparing, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for using and disseminating information. Therefore, it is highly possible that issues and problems concerning ICH intellectual property and copyrights—problems regarding complying with the country’s laws and regulations or customs, identifying the nature of rights existing on ICH, determining ICH ownership, obtaining prior informed consent or approval, maintaining collected information, sharing benefits, copying and reproducing ICH, or any other problems—could arise during the organisation’s ICH information building and sharing processes.

Since its establishment in 2009, the ICH Protection Division has set the groundwork for various ICH information building and sharing activities, with aims to safeguard and transmit ICH elements to the next generation, including documenting ICH with photo, audio, and video records, and specific registration form (Registration Form of ICH and Its Bearers, approved by the Minister of Education, Culture and Science); establishing the registration and information database; and producing and distributing the materials for research, advertisements, and training purposes. Although the ICH Protection Division also was able to conduct several activities in identifying ICH and its bearers, valorising, popularising, and transmitting, it has not yet faced any major issues or problems concerning intellectual property and its copyright.
3. IP Issues in Information Building and Sharing

Intellectual property and ICH copyright issues in particular are poorly observed at the National Center of Cultural Heritage. There is little understanding or knowledge concerning intellectual property and copyright issues among concerned organisations, individuals, and the general public. From one point of view, Mongolia began understanding and implementing copyright regulations only since 1995; and from another point of view, there is a little knowledge and understanding among copyright owner organisations and individuals, thus there is little capacity to fully exercise their rights. In addition, the law is not feasibly being implemented at the concerned ICH information building and sharing organisations.

Accordingly, there is a need to develop a rule from the National Center of Cultural Heritage with detailed regulative guidelines concerning ICH intellectual property and copyright issues that could arise during the activities of collecting, using, sharing, and protecting information.

There is no statement concerning the ICH intellectual property and copyright issues in the National Center of Cultural Heritage’s Operational Directives. There is no department, unit, or individual responsible for ICH copyright at the organisation. Therefore, there is an immediate need to have the National Center of Cultural Heritage's organisational and operational directives amended and to have a special unit or department for this purpose.

The ICH Protection Division, within the framework of the activities regarding safeguarding ICH, identifying ICH bearers, and documenting and transmitting, cooperates with ICH bearers, researchers, experts, and professionals within the regulations of partnership, contracts, government organisational policies, rights, and responsibilities.

In the Rule for the Establishment of Cultural Heritage Registration-Information Database and its Registration, approved by the Minister of Education, Culture and Science, it is stated that ‘At their own request, the registration information of concerned organisations and individuals will be kept secret; the copyright of audio and video records of any organisation or individual is protected under or according to the concerned laws and regulations.’ Other than this statement, there are no provisions regarding the ICH intellectual property and copyright issues. The concerned laws and regulations mainly consider the Law of Mongolia on Copyrights and Related Rights and the Law for Protection of Cultural Heritage.
The National Center of Cultural Heritage has regulated ICH intellectual property or copyright related issues within the Laws and the Rule for the Establishment of Cultural Heritage Registration-Information Database and its Registration in general. Other than these laws and one rule there are currently no guidelines, protocols, and rules concerning the intellectual property and copyright issues.

The National Center of Cultural Heritage does have a case of guaranteeing the rights and the participation of ICH subjects in its information building and sharing activities. For instance:

Establishing the National Registration-Information System for Intangible Cultural Heritage is one of the main priorities in the framework for implementing the UNESCO 2003 Convention at the national level. Relying on territorial and administrative infrastructure and organisation, the National Center of Cultural Heritage is implementing the Consolidated Registration-Information System for ICH. The national inventory is categorised as oral traditions and expressions, including language as a vehicle of ICH; performing arts; social practices, rituals and festive events; knowledge and practices concerning nature and the universe; and traditional craftsmanship—the same ICH domains identified in the UNESCO Convention. In previous years, the extent of the ICH inventorying activities was localised to places where research teams had been. In last three years, it has expanded to a consolidated registration-information system covering every administrative unit existing on Mongolian territory. Competent bodies/organisations were designated, proper personnel were employed and empowered as ICH registration-information methodologists and officers, their responsibilities were acknowledged, and the necessary working regulations and advice was provided at the primary stage of ICH inventorying in soums, in khoroos, and at the middle stages in provinces and districts. In so doing, a permanent operational mechanism for the National Registration-Information (Inventory) System was set. In 2010, the “Primary Registration Work of ICH and its Bearers” was conducted for the first time, covering 85 percent of all administrative units in Mongolia. Overall 88 ICH elements and 3,339 individuals as ICH bearers were identified. Covering 314 soums and 9 districts, the re-registration in 2011 has increased the number of individuals identified as ICH bearers to 5,701. The results of the registration census are a valuable asset gathered as a source to further elaborate the short and long term objectives, policies and programmes for safeguarding and transmitting ICH.
The National ICH Inventory System is responsible for the following:

- The registration and information of ICH and its bearers existing on Mongolian territory (written research materials, photo, audio, video recordings, and other relevant materials);
- National representative list of intangible cultural heritage and its tentative list of ICH to be added to the National representative list;
- National list of ICH in need of urgent safeguarding;
- National List of ICH Bearers Possessing High-Level Skills and Knowledge

Currently, there is documentation of skills and knowledge, technique, traditions, customs, practices and repertoires of more than 1600 individual culture bearers with photos, 720 hours of audio-visual material and 215 hours of audio recordings housed at the National Archive. These documentation materials, gathered to form the ICH Database, are a valuable resource for further research and study, and to safeguard, revitalize, promote, disseminate and transmit the Mongolian intangible cultural heritage.

During the periodic reporting sequence, realistic improvement has been observed in the establishment of the National ICH Inventory System.

The National ICH Inventory System is being implemented using based on Mongolia's territorial and administrative infrastructure and organization. The national inventory is being conducted under the categories of: oral traditions and expressions, including language as a vehicle of intangible cultural heritage; performing arts; social practices, rituals and festive events; knowledge and practices concerning nature and the universe; and traditional craftsmanship, the same intangible cultural heritage domains identified in the UNESCO Convention.

To ensure the accuracy of subsequent measures and activities for safeguarding intangible cultural heritage, special care and attention was given toward establishing a comprehensive inventory and process, in order to properly implement the “Primary Registration Work of ICH and its Bearers” as the groundwork for establishing the permanent ‘National ICH Inventory System.’ In previous years, the extent of the activities of intangible cultural heritage inventoring was localized to places where research teams had been. In last three years it has been expanded to the consolidated registration and information system covering every administrative unit existing on Mongolian
territory. Competent bodies/organizations were designated, proper personnel were employed and empowered as ICH registration and information methodologists and officers, their responsibilities were acknowledged, and the necessary working regulations and advice was provided at the primary stage of ICH inventorying in soums, in khorooos, and at the middle stage of provinces and districts. In so doing, a permanent operational mechanism for the National Registration and Information System of ICH and its Bearers were set.

The cultural centres at soums and districts are the responsible entities to conduct the primary stage for structuring the ICH inventories at the local levels. The provincial and city registration and information database was created based on the data gathered at the soum and district levels. The responsible entities at the middle stage for inventory making are the provincial departments of education and culture and the city departments of culture and arts.

The primary and middle stages of inventorying consist of following registrations.

1. The registration of ICH existing in the territory of that administrative unit
2. The registration of ICH bearers (written research materials, photo, audio, video recordings, and other relevant materials)
3. Tentative list of ICH along with relevant evaluation, identification, and research materials further to be added to the National List of ICH in Need of Urgent Safeguarding
4. Tentative list of ICH along with relevant evaluation, identification and research materials further to be added to the National Representative List of ICH.

ICH expressions are included in the list according to the following criteria.

- The element should be demonstrated as valuable asset for its community, group, or individual and be recognised as part of their cultural heritage providing them with sense of identity and continuity serving as an invaluable source of interaction or sharing with others
- The element should maintain its authenticity and hold the characteristics of rareness and uniqueness
• The environment should be closely associated with and maintaining the distinctiveness of the traditional livelihood, environment, folk customs, and manners of that locality and community
• The element should demonstrate its significance for human creativity
• Special attention should be given to those elements threatened by disappearance

Individuals are designated as ICH bearers according to the following criteria.

• The bearer should be a recognised and acknowledged as being highly skilled culture bearer in his/her community
• The bearer should possess high-level skills of the original forms of the ICH element, including the distinct characteristics, techniques, repertoire, and school
• The bearer should possess the ICH element in connection to his/her livelihood and traditional customs and rituals
• The bearer should be experienced in training and transmitting his/her knowledge and skills and have the ability to conduct training

According to the statements specified in the clause of the Mongolian State Cultural Policy (to take the creators and inheritors of invaluable cultural heritage under State protection, proposals of professional experts and resources of research materials), sixty-five individuals were included in the National List of ICH Bearers Possessing High-Level Skills and Knowledge in 2003, and an additional thirty-five were included on the same list in 2010 and were rewarded with certificates.

The Law for Protection of Cultural Heritage of Mongolia regulates the classification of cultural heritage, particularly intangible heritage that is unique, valuable, or regular according to its authenticity and uniqueness, artistic value, geographical range, and extent of the practice. Each of them is identified for protection at the local, provincial, or national level.

According to the above regulation, the viability of the element is taken into account in following ways.

• The element identified is subject to being protected at local (provincial) levels (not threatened by disappearance)
• The element identified as valuable is subjected to being protected at the national level (elements included in the national representative list and the list in need of urgent safeguarding and elements in the tentative list to be added to the national lists)

• The element identified as unique is subject to being protected at the national and international levels (elements inscribed in the UNESCO ICH Lists)

As stated above, several registrations of ICH and bearers exist. The general registration is conducted on the formal and standardised Registration Form at the national level. The Registration Form consists of the following items:

• State registration and information number
• Name of the element, its correspondence to the relevant domain
• Information about the ICH bearer
• Detailed contact information of the ICH bearer
• Information of the ICH (element’s origin, history, legend, etc.)
• Notes of ICH bearer’s movement (migration)
• Information about inheritance (what generation practitioner, place and period of learning, practicing, mastering, etc.)
• Customs associated with the element (manners and characteristics of practicing)
• Current state and viability of the element, and measures for its safeguarding and transmission
• Items being kept in the registration and information database/archive (photos, negative tapes, audio/video recordings, academic/research materials, reports, publications, books, articles, and other such relevant materials)
• Full name of the registration and information officer and the date the registration was made.

**Method and Frequency of Updating Inventories**

The ICH registration and information database at the local level is considered the source of cultural heritage information. This ICH database is kept at provincial and local (soum) museums and research departments. The ICH registration and information system is designed to be updated, enriched, and improved annually. Proper personnel such as ICH registration and
information officers were employed and empowered at these museums and departments.

The registration of ICH and its bearers is conducted on an annual basis according to the schedule below.

CYCLE I
- Period: January, February, March
- Acceptance of applications from communities, groups, and individuals at the local departments of education and culture in *aimags* and cultural centers in *soums*.

CYCLE II
- Period: April, May, June:
- Evaluation and selection by provincial sub-committees for selecting and designating ICH and bearers
- Elaboration and consolidation by the National Center of Cultural Heritage

CYCLE III
- Period: July, August, September:
- Elaboration and consolidation by the National Center of Cultural Heritage
- Selection and designation by the National Committee for Selecting and Designating ICH and its Bearers
- Approval by the Ministry of Education, Culture and Science

According to the above schedule, the Primary Registration Work of ICH and Bearers was conducted for the first time in 2010, covering 85 per cent of all the administrative units in Mongolia, including 283 out of 329 *soums* of 21 provinces and all 9 districts of Ulaanbaatar. Overall, 88 ICH elements were identified and registered, and 3,339 individuals were identified as ICH bearers. Covering 314 *soums* and 9 districts, the re-registration in 2011 has increased the number of individuals identified as ICH bearers to 5,701. The results of the registration census are valuable resources to further develop the short- and long-term objectives, policies, and programmes for safeguarding and transmitting ICH.
To provide the active involvement of and public interest in establishing the registration and information database, a series of ads about the Registration of ICH and Bearers were regularly run through public (national and local) media, newspapers, and advertisement centres. As a result, many applications from concerned individuals, groups, and communities were received and reviewed. The application forms consisted of questions including the name of the element possessed, level of skill and knowledge, relevance to what form of technique and school, detailed information about the ICH bearer, information about the inheritance (what generation practitioner, place and period of learning, practicing, mastering, etc.) and information of the ICH (element's origin, history, legend, etc.). If available, relevant materials (introduction, certificate, accessories, etc.) were attached to the application forms. As stated in the Rules of Selection and Designation of the ICH and its Bearers, the decision to include ICH elements and bearers in the national lists is decided by the committees concerned, based on evaluations and analyses of the experts.

The government of Mongolia encourages and promotes non-governmental organisations in the field of protecting cultural heritage, ICH communities, groups, and individuals and their efforts toward active and creative collaboration and cooperation. Currently, there are more than thirty relevant non-governmental organisations and groups in Mongolia actively engaged and working toward safeguarding and promoting ICH and its bearers, including the following:

- Mongolian Association of Morin Khuur
- Mongolian Association of Folk Long Song
- Association of Mongol Khuumei
- Center of Mongolian Benediction and Ode Minstrels
- Association of Mongolian Naadam Festival
- National Center for Developing the Mongol Ger
- Association of Mongolian Folk Performing Arts—Bii Bijeleg
- Association for Transmitting the Folk Dance Bii Biyelgee
- Treasure Heritage—Bii Biilgee
- Apprenticeship Training Center
- Research Academy of National Costumes
- Association of Hunnu Tsuur Players
- National Wrestling Federation
- Association of Eagle Hunters
- Eagles of Tsarm Society
- Eagles of Altai Club
These non-government entities each in their own ICH field are working to protect the rights and interests of ICH bearers and to preserve, develop, and transmit their distinct techniques, skills, and knowledge to younger generations.

Representatives from the above NGOs, communities, and groups are members of the National Committee for Selecting and Designating ICH and its Bearers and participate with full rights in decision making for identifying, selecting, and designating ICH elements and bearers.

**National Committee for Selecting and Designating ICH and its Bearers**

In 2009, the National Committee for Selecting and Designating ICH and its Bearers was established to provide professional and methodological administration and regulations for implementing the National ICH Registration and Information System. The Committee consists of twenty-two individuals, including the Director General (Education, Culture and Science Vice-Minister), Deputy-Director (Head of the Government Implementing Agency—Culture and Arts Committee), Secretary-General (Head of the ICH Protection Division at the National Center of Cultural Heritage), and representatives from non-governmental organisations from each ICH field.

Members of the Committee are divided into six expert teams in the following fields.

1. Cultural theory, history, cultural management, marketing
2. Oral traditions and expressions, including language
3. Performing arts
4. Social practices, rituals and festive events
5. Knowledge and practices concerning nature and the universe
6. Traditional craftsmanship and technique

Based on the conclusions and proposals of the provincial expert teams, the National Center of Cultural Heritage develops the tentative draft of the National Representative List of ICH, National List of ICH in Need of Urgent Safeguarding, and the National List of Designated ICH Bearers Possessing
High-Level Skills and Knowledge with additions of proposed ICH elements and bearers. At its periodic meetings, the National Committee then evaluates and concludes the tentative draft and submits the finalised draft to the Education, Culture and Science Minister for approval. After approval by the Education, Culture and Science Minister, the designations become official.

With the same methodology as above, the subcommittees for selecting and designating ICH and its bearers at the local levels were established at the departments of education and culture in each province and in each district of Ulaanbaatar. The subcommittees consist of local experts, professionals, cultural activists, bearers, and representatives from relevant non-governmental organisations.

Individuals possessing high-level ICH skills and knowledge are selected from each province by the provincial subcommittees for selection and designation of ICH bearers and final designation is decided by the National Committee for Selecting and Designating the ICH Bearers. During the procedure, the national expert team members conduct evaluations and monitor. During the whole selection and designation process, these individuals are officially registered in the registration and information database, and their repertories are documented with audio and video recordings.

Rights of Subject Guaranteed

Bearers are provided with an official certificate, Intangible Cultural Heritage Bearers Possessing a High Level of Skills and Knowledge, approved by the Ministry of Education, Culture and Science, and rewarded with honorariums as well. With the support and promotion through the government, the bearers train the new generation of ICH bearers and are provided with monthly or yearly salaries for the work done.

Measures in the Field of ICH Safeguarding and Information Building and Sharing

A. Promoting the function of ICH in society and integrating its safeguarding into planning programmes;

The government of Mongolia had constituted legal empowerment aimed to safeguard, increase, and promote the social functions for ICH.
The State Great Khural adopted the State Cultural Policy of Mongolia Document in 1996. The document states of its use as the basis for developing, drafting, and improving any relevant law, resolution, or act. The document comprises the following:

- To prevent and take any necessary precautions against the national culture being absorbed by another culture or threatened by disappearance or the intellectuality of the nation to fade or diminish
- To consider the tangible and intangible cultural heritage as national treasures and take this heritage under state protection
- To take creators and inheritors of invaluable cultural heritage under the state protection and provide them with freedom and rights to freely create and produce, transmit, and inherit their indigenous techniques, knowledge, and skills to the next generation;
- To equally respect, promote, safeguard, and develop the diverse cultural heritage of different ethnic groups
- To encourage and promote any creative activities of individuals and organisations toward safeguarding and disseminating cultural heritage
- To encourage and promote educational institutions and organizations of all levels to implement the comprehensive and coherent set of inheritance and upbringing activities for children and instilling the children with a sense of love and respect towards traditional culture and knowledge.

These statements had their direct relevance to the regulation of legislations, acts, and resolutions in terms of protecting cultural heritage, particularly the intangible cultural heritage. In conforming to this document, the State Cultural Law was adopted in 1996 and the Law for Protection of Cultural Heritage with separate chapter for ICH protection was adopted. These laws serve as the legal basis for protecting ICH.

In the 2008 document, 'Endorsement of the Millennium Development Goals (MDGs)-based Comprehensive National Development Strategy of Mongolia', state provides support to preserve, protect, and restore tangible and intangible heritage of Mongolia and make it accessible to national and global education.

Programmes, rules, and regulations with aims to safeguarding ICH are developed in conformity with the abovementioned documents and legal statements. As a consequence, it can be considered that the adequate legal
environment for ICH safeguarding has been set. It is undeniable that there is an inevitable need to further revise and amend these legal documents to conform to changes in society.

B. Fostering scientific, technical, and artistic studies with a view to effective safeguarding

For the last six years, research and analysis were carried out, conforming to the Convention’s ideology and objectives. The governmental and non-governmental organisations and cultural and scientific organisations have held more than thirty academic, theoretical, and practical conferences, symposiums, and seminars at the national, regional, and international levels. One significant research project carried out by the National Center for the Intangible Cultural Heritage with support of UNESCO in the field of ICH safeguarding was the field survey on Researching the Traditional Heritage of Morin Khuur.

The objectives of the field survey were as follows.

- To survey the tradition of local characteristics of morinkhuur music in different localities and gather all relevant and varied information and materials
- To survey the traditional technique and school of morinkhuur performance and the skill and knowledge of morinkhuur players
- To identify the past and current state and extent of morinkhuur music and its further trends in development
- To identify the State policy and social factors influenced in the tradition of the morinkhuur music and its development, their positive and negative trends;
- To identify the measures for safeguarding traditional morinkhuur music and the participation of government and non-government entities, the general public, bearers, cultural activists, and artists in transmitting the heritage and supporting and promoting local efforts.

The survey was conducted in 2005 in four regions—the Western, Eastern, Central, and Gobi regions. The field survey covered 65 soums of the following provinces: Khovd, Bayan-Ulgii, Uvs, Khentii, Dornod, Sukhbaatar, Dundgovi, Umnugove, Tuv, Arkhangai, Uvurkhangai, Bayankhongor, and Govi-Altai. Overall 193 individuals from Khalkha, Uriankhai, Uuld, Zakkhchin, Bayad, Durvud, Khoton, Barga, Uzemchin, and Dariganga ethnic groups were identified.
The outcomes and results of the field survey were as follows.

- Various melodies of *morinkhuur* and *ikel* traditions of local characteristics of the performance technique, school, and repertoire were documented.
- The extent of the practice of *morinkhuur* traditions increased in the diverse traditional, ritualistic, and customary practices conducted in local vicinities and livestock-breeding households.
- A registration and information database archive for the traditional *morinkhuur* music, associated customs, and a relevant list of *morinkhuur* players, catalogue, photos, and audio and video recordings was created.
- Favourable conditions and environment for safeguarding and transmitting the traditional *morinkhuur* music through formal and non-formal (apprenticeship) training were provided.

One significant research project carried out in the framework to increase the effectiveness of safeguarding was the Joint Field Survey of the Experts and Scholars of Mongolia, the People’s Republic of China, and the Russian Federation. Consisted of forty experts, scholars, operators, and other professionals from Mongolia, the People’s Republic of China, and the Russian Federation, the joint research team covered 40,000 km distance while conducting the eight surveys among Mongols residing in the three countries. During the surveys, 300 *urtiinduu* (long song) singers were interviewed, 170 hours of audio-visual documentation were created, and more than 500 songs were recorded and documented.

As a result of these joint surveys, a multinational registration and information database archive of long songs and singers was established; the composition and performance of *urtiinduu* and its variant melodies, lyrics, and contents were compared; and the origin and authenticity of *urtiinduu* were identified. The symposium, ‘Customs and Traditions of Nomads’ was organised by the International Institute for the Study of Nomadic Civilizations. As a follow-up, *Study on Customs and Traditions of Nomads*, which covered the contents presented at the symposium, was published and distributed.

C. Facilitating, to the extent possible, access to information relating to ICH while respecting customary practices governing access to specific aspects of it.
New programmes and projects proposals are currently being developed to improve and facilitate access to the information and materials being kept in the archive of the National Center of Cultural Heritage.

The National Center of Cultural Heritage, the National Museum, the Research Institute of Culture and Arts at the State University of Culture and Arts, the Institute of Language and Literature at the Mongolian Academy of Sciences, and the International Institute for the Study of Nomadic Civilizations are regularly publish articles covering methodology information, as well as research and analysis. In addition to city and aimags museums, various specialised museums have been created with the support of private individuals and non-governmental organisations, including the International Intellectual Museum, the Mongol Costumes Museum at the National Research Academy of Mongol Costumes, and the Museum of Traditional Accessories and Harnessing Used in Animal Husbandry at the State University of Agriculture.

Cooperation in the Field of ICH Safeguarding

A. Educational, awareness-raising, and information programmes aimed at the general public, in particular to young people

The groundwork to include ICH in general education programmes in schools was established. In conforming to the State Cultural Policy of Mongolia and the president's decree ‘to encourage and promote educational institutions and organisations of all levels to implement a comprehensive and coherent set of inheritance and upbringing activities for youth and children, to instil them with love and respect toward traditional culture and knowledge’, the Ministry of Education, Culture and Science added a new course called Education of Citizenship to educational programmes for grades I, II, III in General Education Schools by.

Many other subjects—Mongolian ger (traditional dwelling), morinkhuur (horse-headed fiddle), folk long song, khuumei (overtone singing), biibiyelgee (folk dance), traditional costume, Mongolian Naadam Festival, Celebration of Tsagaan Sar (Lunar Month Festival), traditional customs of greeting, traditional customs associated with animal husbandry, and traditional knowledge of protecting nature—are being added to the general education materials for students between the ages of six and eight. General education materials, a guide for teachers, and the I am Mongolian video
training materials were produced in collaboration with experienced teachers and cultural activists.

B. Educational and training programmes within the communities and groups concerned

Educational and training activities for raising awareness of the importance of safeguarding ICH have been carried out over the last six years. Heritage education and training activities are being regularly conducted by the government and cultural and scientific organisations at the national, regional, and international levels. TV programmes and series with content and issues related to ICH safeguarding are being broadcast through the General Broadcasting System, the Education TV channels, and other national and local broadcasting systems. Relevant reference books, magazines, catalogues, articles, and training materials for advertisement, transmission, and dissemination are regularly updated or published.

For raising awareness, advertising, and popularising traditional cultural heritage and its bearers, the General Broadcasting System, the Education TV channels, and other national and local broadcasting systems are broadcasting a series of programmes with content covering Mongolian oral heritage, performing arts, traditional customs, practices, folk techniques and knowledge, and traditional craftsmanship.

As a result of the collaboration efforts of leading professional experts in each ICH field, a reference book called *Intangible Cultural Heritage of the Mongols* was published in Mongolian and English for the general public, researchers, and students. The catalogue contains information and photos of nine ICH elements inscribed on the UNESCO Lists, ICH expressions included in the National Lists of ICH, documents registered in the Memory of the World Register, and brief biographies and photos of bearers included in the List of Designated ICH Bearers.

C. Capacity-building activities for the safeguarding of the intangible cultural heritage

Since ratifying the UNESCO 2003 Convention, the government of Mongolia has been implementing long- and medium-term serial programmes nationwide to safeguard ICH elements inscribed on the UNESCO Representative and Urgent Safeguarding Lists. For instance, the government implementing the Morin Khuur and Urtiin Duu Programme
between 2005 and 2014, the Mongolian Traditional Biibiyelgee Programme between 2009 and 2014, and the Mongol Khuumei Programme between 2008 and 2014. To implement these programmes at the local levels, the aimags and soums have developed sub-programmes and are undertaking activities to safeguard, promote, advertise, disseminate, and transmit these elements; to identify and designate the ICH bearers; and to provide bearers with relevant support and promotion.

The president issued decrees to honour and develop the morinkhuur (2002), to develop traditional archery (2002), to transmit and propagate the urtiin duu (2004), and to develop the art of Mongolian khuumei (2006).

As noted in the Law for Protection of Cultural Heritage, adopted in 2001, the Grand Festival of Folk Arts is to be held every five years nationwide. The Grand Festival of Folk Arts in 2006 promoted two elements of the UNESCO Representative List of ICH—Traditional Music of the Morin Khuur and Traditional Folk Long Song, Urtiin Duu. Participants included 800 long song singers and 800 morinkhuur players who were selected from all over Mongolia. The 2011 Grand Festival of Folk Arts covered in four ICH domains: oral traditions and expressions, performing arts, traditional customs and practices, and craftsmanship. The festival was organised in three stages, providing the greatest possible participation of governmental and non-governmental organisations, communities, groups, households, and individuals, reaching up to 65,000 bearers. Among them, 820 were selected to participate at the third stage in the capital city during the Naadam Festival.

The following criteria were taken into account for the selection of winners.

- The level of skill and knowledge of ICH bearers, the authenticity of the element, quality of product, and quality of performance
- The state of revitalisation of the ICH expressions threatened by disappearance or extinction
- The state of transmission (training and apprenticeship), research, and promotion of the element

Of the Festival's participant-bearers, 207 individuals were awarded with gold, silver, and bronze medals, and 100 individuals who have greatly contributed to promoting, safeguarding, transmitting, and developing traditional cultural heritage were awarded the title of State Merited Cultural Worker of Mongolia. Certificates of credentials from the Ministry
of Education, Culture and Science and the title State Leading Artist of Mongolia were conferred by the government. The aimags and districts (Tuv, Bayan-Ulgii, Khentii, Umnugovi, Khovd, Uvurkhangai, and Bayankhongor aimags and the Bayanzurkh district) that achieved success in implementing national morin khuur, and urtiinduu, bii biyelgee, and khuumei programmes were selected and provided with monetary awards.

To popularise and improve people’s social functions, the government has given special attention to the individuals who have greatly contributed to the promoting, safeguarding, transmitting, and developing traditional cultural heritage and to culture-bearers possessing a high level of skill and knowledge of ICH elements.

Since 2006, A. Nergui (a long song singer at the National Song and Dance Academic Ensemble), Ch. Batsaikhan (morinkhuur player), and R. Samjid (a dance teacher and folk bii biyelgee dancer from Bayan-Ulgii aimag) were awarded with the state's highest title—State Leading Folk Artist of Mongolia—and G. Orgoi (benediction minstrel and herder from Mandal-Ovoo soum of Umnugove aimag), Ye. Tserendavaa (khuumei singer from Chandmani soum of Khovd aimag), D. Ulzii (Khalkha epic performer), and G. Dadisuren (long song singer and herder from Deren soum of Dundgovi aimag) were awarded with titles of State Honoured Cultural Activist.

D. Non-formal means of transmitting knowledge

The basic form of the non-formal method of transmission and dissemination, practiced for many centuries, is the traditional method of home-tutoring apprenticeship training.

The techniques of performance and lead-training play a predominant role in the apprenticeship training method. Genuine effort and creativity are required by the apprentices. The other form of non-formal transmission is the centralised training conducted at the local cultural centres, general education schools, kindergartens, and public/private organisations. Importance is given to creatively using these methods within the given circumstances of that locality or the element. In today’s society, while the most of the population is living in or migrating to urban areas and cities, experimental research and observational activities are being conducted to further establish and improve other means of non-formal transmission methods, such as establishing clubs and groups with same interest,
organising joint exhibitions and performances, and unifying freelance artists for each ICH element.

E. Education for the protection of natural spaces and places of memory whose existence is necessary for expressing ICH

Projects were carried out in the field of traditional customs of worshipping sacred sites and the complex expression of ICH. With UNESCO support, the project entitled *Safeguarding the Diversity of Ecological and Cultural Heritage through the Tradition of Worshipping the Sacred Sites* was implemented by the Research and Information Center for Mongolian Sacred Sites. As a result of the project, a registry of 1,309 sacred sites in 283 *soums* and the associated customs and practices was created, and a book titled *The Territory of Mongolia—Cultural Heritage, and its Significance* was published and distributed.

A symposium based on this work was held to discuss issues of various worshipping practices and their relevance to safeguarding and transmitting ICH. In 2008, a joint ICH survey by the Mongolian National Commission for UNESCO and the National Center of Cultural Heritage was conducted in Uvurkhangai and Arkhangai *aimags* (located in the Orkhon Valley Cultural Landscape). Based on this work, a conference, ‘The Orkhon Valley—Birthplace of Oral and Intangible Cultural Heritage of the Mongols’, and a training workshop, ‘Heritage Education’, were held in Kharkhorin *soum*.

Concerning the publication of books or media materials, no problems or issues relating copyrights or ICH-related intellectual property have been raised. As a standard practice in publishing books and manuals, a statement concerning copyrights is included on the back cover: ‘©This book is protected by the Copyright Law of Mongolia. The name of the author shall be included in any copy, duplication or transcription of this book’. In general, all references used for the book, including photos and texts, are stated on the last page of the book. Necessary IP or copyright regulations for possible issues, if any, are specifically stated in the contract and signed by both parties.

In most cases, the misuse of copyrighted materials is observed at the national level. But, to date, no complaints or issues of any kind have been noted, and this is due to the lack of a proper legislative framework for copyright and IP-related issues.
In cases to produce nomination files to inscribe national elements to the UNESCO ICH Lists, forms such as the Session of Rights and Register of Video Recordings for video materials and the Session of Rights and Register of Photos for photos are executed to grant UNESCO with the non-exclusive rights to use, publish, reproduce, distribute, display, communicate, or make available to the public, in any language or form and by any means including digital, in whole or in part. Again, to date, there have no issues raised from these activities.
Ⅲ. Legislations in Mongolia

1. Constitution of Mongolia

Two important issues concerning the intellectual value and the copyright are stated in the Constitution of Mongolia. In Chapter 1 of the Constitution of Mongolia, it is stated that the historical, cultural, scientific, and intellectual heritage of the Mongolian people shall be under state protection, and the intellectual values produced by the citizens are the property of their authors and the national wealth of Mongolia. Furthermore, in paragraph 8 of Article 16, Chapter 2, it is said that the citizens of Mongolia shall be guaranteed the privilege to enjoy the right to engage in creative work in cultural, artistic, and scientific fields and to benefit thereof. Copyrights and patents shall be protected by law.

2. Current Legislation

• Law on Culture—1996
• Law on Protection of Cultural Heritage—2001
• Law on Copyright and Related Rights—2006

Mongolia's current legal system on cultural heritage does distinguish between intangible and tangible cultural heritage (called “physical items of historical and cultural value”), with the latter enjoying a greater protection.

The Cultural Heritage Law gives a definition of intangible heritage and has a section that specifically deals intangible heritage, but only in terms of physical protection or preservation. The Law defines intangible heritage as intellectual cultural properties possessing significance in the areas of history, ethnography, folk wisdom, customs, artistry, techniques, art, and science, which have been transmitted through traditional, non-physical means, and which are clear expressions of folk talent, knowledge, practices, wisdom, and skills.
It is evident that the scope of the definition covers not only traditional cultural expressions, but also traditional knowledge. Unfortunately, the Law does not provide a specific framework for protecting traditional knowledge and traditional cultural expressions against misappropriation or misuse. Therefore, protection against misappropriation or misuse of traditional knowledge and traditional cultural expressions must rely upon the existing legal system in place to protect intellectual property rights, copyrights, trademarks, or patents.

Currently, more than a hundred tradition-based inventions in the field of food industry (meat and dairy products), medicine, and medical compositions based on traditional medicine are protected by patents. Innovative artistic designs based on folkloric themes are protected by design patents. Trademarks as well as certification marks and geographical indications are used for protecting traditional medicine and technology.

Article 3.1.4 of the Law on Copyright and Related Rights defines an expression of folklore as 'a work of traditional literature and arts which is communicated by any means from one generation to another and the author of which is unknown'. Expressions of folklore, as such, are not protected by copyright (as clearly stated in Article 8.1.7), but "derivative works based on the works of folklore" are included in the list of works protected by copyright (Article 7.1 12).

According to Article 3.1.3, a performer is 'an individual who performs literary and artistic works, as well as expressions of folklore for the purposes of circus, stage, screen, and artistic performances through acts such as singing, playing, acting, dancing and declaiming', which suggests that expressions of folklore can be protected by related rights.

The Intellectual Property Office of Mongolia (IPOM) is responsible for implementing public policy to protect copyrights and functions 'to work with citizens and organizations on protecting expressions of folklore' (Article 26.1.9).

IPOM undertakes an active capacity-building programme aimed at protecting the intellectual property interests of the bearers and custodians of traditional cultures, including when their cultural heritage is recorded, digitised, and disseminated.
An example of such a best practice is the production of *Mongolian Folklore-Worshipping the Nature*, a promotional DVD produced by IPOM with the assistance of WIPO. The performers’ consent was sought and obtained with proper remuneration given, and a copyright notice and acknowledgement were displayed on the coversheet of the DVD. The acknowledgement reads as follows: ‘The Intellectual Property Office of Mongolia would like to express its gratitude to native people of Hovd aimag, Munkhkhairhan soum, and other amateur performers for their talent and endeavours to preserve our cultural heritage.’

3. Under Consideration

- Draft Law on Protecting Genetic Resources
- Revision of the Law on Protecting Cultural Heritage

A draft law on protecting genetic resources and associated traditional knowledge and their sustainable use and equitable benefits sharing was proposed to be formulated within the framework of the World Bank and funded by the NEMO project. In August 2010, a working group was established at the Ministry of Nature, Environment and Tourism (MNET). After working on the draft law and through several consultations with stakeholders, the working group submitted a final draft law with the law concept to the MNET in January 2011. A registration system of genetic resources and associated traditional knowledge, provisions related to obtaining prior informed consent and benefit sharing, envisaged by the draft law, could be used as a defensive protection mechanism against a third party’s claims of IP rights over traditional knowledge (as far as intangible heritage issues are concerned).

Within the framework of the Nationally Focused Action Plan for Mongolia entitled ‘Strategic Assistance for Enhancing the Use of the Intellectual Property System in Mongolia’, the provision of expert assistance on traditional knowledge and traditional cultural expressions was requested. The objective of the activity was to identify priority areas for IP protection of traditional knowledge and associated genetic resources in Mongolia and to identify administrative, legislative, and policy measures that the government of Mongolia could take to provide effective legal protection for Mongolian traditional knowledge and traditional cultural expressions.

In 2005, within the abovementioned project, a draft Law on Protection of Traditional Knowledge was formulated, and in 2008, after consultations with
the relevant stakeholders, it was submitted to the government. After the long consultations with the Ministry of Education, Culture and Science, it was decided that some provisions of the draft law could be incorporated in the Law on Protection of Cultural Heritage rather than adopt it as a *sui generis* law. Currently the Law on Protection of Cultural Heritage is under revision.
IV. Future Plans

The National Center of Cultural Heritage does not have plans for projects regarding the protection of intellectual property related rights in the process of information building and sharing.

Although, from the process of developing and completing this significant survey, it is understood and concluded by the members that it could be of the utmost importance for the Center to conduct a project for protecting intellectual property related rights without delay.
“Rule for the Establishment of Cultural Heritage Registration-Information Database and its Registration” is attached. The highlighted text with pink is the only text concerns the copyright issues and it is translated as:

At their own request, the registration information of concerned organizations and individuals will be kept secret; the copyright of audio and video records of any organization or individual is protected under or according to the concerned laws and regulations.
The Mongolian report has been submitted by the Foundation for Protection of Natural and Cultural Heritage. The institute has worked in collaboration with two others national institutes; The Mongolian National Broadcaster, which is the official State-funded television channel in Mongolia, and The National Center of Cultural Heritage under the Ministry of Education, Culture and Science.

The Mongolian report has been arranged according to the number of institutes involved. Each section contains; Institutes’ profiles, Information building and sharing activities in Institutes, and IP issues arising in the process of information building and sharing activities.

1. Mongolian National Broadcaster

Since its establishment, the institute has been engaged in ICH research, advertisement, documentation, broadcasting, dissemination to the public, maintaining and archiving activities.

1) Profile of the Institute

Mongolian National Radio (MNR) constantly broadcasts programmes with traditional songs, music, folk performing arts, traditional customs and rituals to the foreign audiences through its "Mongolian Voice" Radio Station. The institute operates 2 channels at the national level, one in Ulaanbaatar city and broadcasts various programmes in 5 different languages abroad. MNB Channel 2 is broadcast for the minority groups at the national level.

2) Information Building and Sharing

MNB is engaged in all activities including identification, documentation, inventory making, database/archive building, publication, distribution, and utilizing digital contents.

Activities Description

Through research and study or through field surveys, MNB conducts the identification and documentation of specified individual, group or community who possess the targeted subject or knowledge and skills concerning ICH element. Every collected material such as audio-visual recordings, photo and other related materials are subjected to become archive/database material. These materials are widely broadcasted, distributed and utilized for information building and sharing activities.
In 1954, the Golden Fund (archive) of Song and Music at the Mongolian National Radio (MNR) was established. According to the statements of former employees of the MNR, the Golden Fund contains abundant materials starting from folk traditional songs and music, to the best of contemporary works composed and performed by the renowned masters of today.

In 1983, the new TV programme of folk performing arts entitled the “Repertoire of Folk music” was launched and is still actively reached to the audiences.

In 1976, the very first of the TV series with the title of “Works of Folk Art” was started under the theme of ‘Traditional craftsmanship of wood engraving’. Since this period, the production of TV documentaries of ICH works, their dissemination and broadcasting, and as well the safeguarding activities for the research and advertisement purposes, were effectively started.

**Different Stages in Information Building and Sharing**

MNB obtains ICH-related data or archives through field work and documentation.

At the first stage, the concerned ICH professionals and experts from MNB are designated to conduct comprehensive research using all available sources of data and information; also to identify the main subject/ICH bearer, his or her residency and other related information.

At the second stage, the subject/ICH bearer is invited to the studio for the production of the TV programme, or in most cases the selected team of professionals travels to the spot of the subject or place/residency of the ICH bearer to document the ICH element in its original state environment during the adequate time/period or season.

**ICH related Projects**

MNB and the Government Implementing Agency – Culture and Art Committee–, have signed a contract to cooperate. The contract aims the collaboration in view of safeguarding and preserving the tangible and intangible cultural heritage and oral literature of the Mongols. It also focus on the implementation of the national projects including ‘Morin Khuur (Horse head fiddle)’, ‘Urtiin Duu (Folk long song)’, ‘Mongol Khuumei’ and ‘Mongolian Traditional Dance - Bii Biilgee’. Through the contract, both parties work at strengthening the knowledge on national language, script,
traditional knowledge of upbringing children, documentation and distribution of Folk Arts Festival to the general public and other significant measures."

3) IP Issues in Information Building and Sharing

The Center of Cultural Heritage is a State-funded government organization equipped with many data archives. Several IP issues have been identified in the course of activities.

Index of Data Archives

- Name of data: Audio visual records
- Presentation: Offline data/online
- Type of data: Text, Photo, Video, and Audio.
- Source of data: Field work and documentation

IP Issues

Although the subject concerning ICH–IP and copyright issues relates to every activity, it mainly involves TV programmes, documentation, film production, registration and information database/archive building, information sharing, utilizing digital contents in TV programmes, broadcasting and distribution.

The institute does not have experience with a project regarding IP aspects of ICH. There is no unit, or undertaking tasks related to IP. However, there is a supernumerary individual working as a MNB Legal Council.

If any issue arises in relation to ICH IP, it is obligatory to settle in accordance with the copyright law of Mongolia. There are no other specific and active rules or regulations at present. No specific issues or problems concerning ICH intellectual property have been in effect up to date. It is certain that, currently, the function or any regulatory factors towards the intellectual property and copyright issues has not been set properly or at all at the MNB and its operational directives.

IP Guidelines in Institute

MNB does not have a principle for protecting IP aspects of ICH at present. Few guidelines however exist:

Employment Morality Guideline: The employee shall not use any material without its owners confirmed consent.
Copyrights on broadcastings: Article 26.1 Chapter 8 of Mongolian law on Broadcasting, states that the "Broadcasters may only broadcast programmes which they produced or for which they hold broadcasting rights, and copyright must be clearly indicated as part of the credits displayed with each programme." Article 26.2 of the same chapter, states that “The name of the producer of every programme shall be displayed or read out at the end of the programme.” Besides these texts, there are no other statements included for the copyright or other intellectual property issues.

2. Center of Cultural Heritage

The Center of Cultural Heritage is a professional body for protecting tangible and intangible cultural heritage. The Center is equipped with a Protection Division, which is the responsible unit at the national level for protection, advertisement, documentation (audio-video) of ICH elements; also, identification and registration of ICH bearers, and helping them transmit their skills and knowledge to the next generation. The Center also works for establishment and improvement of the consolidated registration and information database, its archival management too.

1) Profile of the Institute

The Center of Cultural Heritage is classified as Government department, and State-funded government organization. The Protection Division at the Center is specialized in the following ICH domains.

- Oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
- Folk Performing Arts;
- Social practices, rituals and festive events;
- Traditional techniques, knowledge and practices concerning nature and the universe;
- Traditional craftsmanship.

2) Information Building and Sharing

The Center of Cultural Heritage has done or is doing the following activities:

- Identification
- Documentation
- Inventory making
- Database/Archive building
- Publication and distribution
• Utilizing digital contents

Activities in Institute

The Center implemented the project “Documentation of the Oral and Intangible Cultural Heritage of Mongolia with Audio and Video Recordings”, which set the groundwork for establishing the database and archive for oral and intangible cultural heritage.

The institute ICH Division contributes greatly to intangible cultural heritage related activities in cooperation with other relevant organizations including:

• Preparation of nomination of “Mongolian traditional music of Tsuur” to the UNESCO List of the ICH in need of urgent safeguarding;
• Symposium—“On the issues of the Safeguarding and promoting of Mongolian ICH”;
• Mongolian Long Song Festival held in Uvurkhangai province;
• Preparation of the general rule for designation and recognition of the ICH and its bearers, and a rule for prefectural advising subcommittee for designation and recognition of the ICH bearers.

Projects in Institute

The Center's Intangible Cultural Heritage Protection Division is the responsible unit at the national level for protection, advertisement, documentation (audio-video) of ICH elements; also identification and registration of ICH bearers, while respectively focusing on all activities stated above. Although the Division for the last three years, has not fully established the coherent set of system constituting these activities yet, was however able to set the groundwork for their further effectiveness.

In 2011, the institute has successfully implemented the project for “Elaboration of the Inventories of the Representative List and List of ICH in Need of Urgent Safeguarding in Mongolia.”

Currently, there is documentation of skills and knowledge, techniques, traditions, customs, practices and repertoires of more than 1600 individual culture bearers with photos, 720 hours of audio-visual material and 215 hours of audio recordings housed at the National Archive. These documentation materials gathered to form the ICH Database, are a valuable resource for further research and study, and to safeguard, revitalize, promote, disseminate and transmit the Mongolian intangible cultural heritage.
3) IP Issues in Information Building and Sharing

This section contains the IP guidelines existing in institutes, the related issues, and the legal provisions in the field such as enacted in Mongolia.

**IP Guidelines in Institute**

The institute applies one rule entitled: “Rule for the Establishment of Cultural Heritage Registration-Information Database and its Registration”. This rule defines the right to registration and copyright.

- Approved by the Minister of Education, Culture and Science, it does mention that registration of information of concerned organizations and individuals will be kept secret at their own request;
- The copyright of audio and video records of any organization or individual is protected under or according to the concerned laws and regulations.

Other than the above statement, there are no provisions regarding the ICH intellectual property and copyright issues included. The concerned laws and regulations mainly consider the “Law of Mongolia on Copyright and Related Rights” and the “Law for Protection of Cultural Heritage”.

The reports mentioned that intellectual property, ICH copyright issues in particular are poorly observed at the Center of Cultural Heritage. There is a little understanding or knowledge concerning the IP issues among concerned organizations, individuals, and general public. Therefore, the need to elaborate a rule with detailed regulative guidelines concerning the ICH IP issues that could arise during the activities of information collecting, utilizing, sharing and protecting.

**IP Issues in Institute**

The Center of Cultural Heritage does have few cases of guaranteeing the rights and the participation of ICH subjects in its information building and sharing activities.

- Issues on Copyright materials: In most cases, the misuse of copyrighted materials is observed at the national level. But, no complaints or issues of any kind has been noted so far. It is due to the lack of proper legislative framework for the copyright and IP related issues.
- Issues concerning publications: Concerning the publications of books or media materials, no problem or issues have been persistant in
relation to copyright or ICH related intellectual property. As standard of compliance in the production of books and manuals, the statement text for the copyright appears such as “©This book is protected by the Copyright Law of Mongolia. The name of the author shall be included in any copy, duplication or transcription of this book.” This statement is regularly included at the back of the book cover. In general, all references used for the book including photos and texts are stated at the end page of the book in the references part. Necessary IP or copyright related regulations for possible issues, if any, are specifically stated in the contract and signed by both parties.

• Issues related to the production of nomination files: The ICH-07 Forms for UNESCO ICH Representative List such as “Session of Rights and Register of Video Recordings” for video materials, and the “Session of Rights and Register of Photos” for photos, are executed for granting to UNESCO the non-exclusive rights to use, publish, reproduce, distribute, display, communicate or make available to the public, in any language or form and by any means including digital, in whole or in part. Whatsoever, there has been no issue been risen from these activities yet.

• Issues related to the Constitution of Mongolia: There are two important issues concerning the intellectual value and the copyright as stated in the Constitution of Mongolia. In the Chapter 1 of the Constitution of Mongolia, it is stated that the historical, cultural, scientific and intellectual heritages of the Mongolian people shall be under State protection, and the intellectual values produced by the citizens are the property of their authors and the national wealth of Mongolia. Furthermore, in the 8 of article 16, Chapter 2, it is said that the citizens of Mongolia shall be guaranteed the privilege to enjoy the right to engage in creative work in cultural, artistic and scientific fields and to benefit thereof. Copyrights and patents shall be protected by law.

Legal Provisions in Mongolia

Under Mongolia legislation, there are several avenues for the legal protection of ICH elements under existing IP and other legislations.

• The Constitution of Mongolia: Contains provisions that specially recognize and guarantee protection to intellectual property rights

• Related Rights: The definition of performer in Article 3.1.3 (“...an individual who performs literary and artistic works, as well as expressions of folklore for the purposes of circus, stage, screen and
artistic performances through acts such as singing, playing, acting, dancing and declaiming”) suggests that expressions of folklore can be protected by related rights.

• Copyright law: The Law on Copyright and Related Rights in Article 3.1.4 gives a definition of expression of folklore as “a work of traditional literature and arts which is communicated by any means from one generation to another and the author of which is unknown”. Expressions of folklore, as such, are not protected by copyright (as clearly stated in Article 8.1.7), but “derivative works based on the works of folklore” are included in the list of works protected by copyright (Article 7.1.12).

The Intellectual Property Office of Mongolia (IPOM) is responsible for implementation of the public policy to protect copyright and performs, among other functions, the function “to work with citizens and organizations on protecting expressions of folklore” (Article 26.1.9).

IPOM undertakes an active capacity building programme aimed at the protection of the intellectual property interests of the bearers and custodians of traditional cultures, including when their cultural heritage is recorded, digitized and disseminated.

The example of such best practice is a DVD titled “Mongolian Folklore-Worshipping the Nature” produced by IPOM with the assistance of WIPO for promotional purpose. Not only consent of performers was sought and obtained with proper remuneration given but a copyright notice and acknowledgement were displayed on cover sheet of the DVD. The acknowledgement reads as follows: “The Intellectual Property Office of Mongolia would like to express its gratitude to native people of Hovd aimag, Munkhkhairhan soum and other amateur performers for their talent and endeavours to preserve our cultural heritage”.


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Annex 1 | *Questionnaire*
1. Introduction

Intangible cultural heritage (ICH), which is the source of human creativity and cultural diversity, has been diminishing since the onset of globalisation and urbanisation. In this regard, international society, working in tandem with UNESCO, has garnered public attention on ICH safeguarding, and the Convention for the Safeguarding of the Intangible Cultural Heritage was adopted in 2003.

According to Article 13, d.iii of the 2003 Convention, States Parties should establish documentation institutions for ICH and facilitate access to them to ensure the safeguarding, development, and promotion of ICH present in each State Party’s territory. This is to say, the Convention encourages managing an institute related to information building and sharing—one that collects, produces, and disseminates ICH information.

The process of ICH information building and sharing could be the cornerstone to safeguarding ICH. However, as with most kinds of information activities in other fields, the process of ICH information building and sharing includes many intellectual property (IP) issues.

Many problems could arise while collecting and creating ICH information, while processing and producing ICH information, and while disseminating and utilising ICH information. Additional, diverse problems could also develop from the communities, institutes, or individuals involved in the process.

In particular, with the development of technology and the appearance of new media, ICH intellectual property issues can manifest themselves in many ways, and these problems have expanded into much more complicated arenas.

The International Information and Networking Centre for Intangible Cultural Heritage in the Asia-Pacific Region under the auspices of UNESCO (ICHAP) has been concerned with IP issues related to ICH information building and sharing. To cope with these concerns, ICHCAP has endeavoured to develop a guideline for protecting IP in the process of ICH information building and sharing.

ICHCAP has proposed a project for a field survey to examine IP issues, focusing on activities of ICH information–related institutes in the Asia-Pacific region and on cases about how to deal with problems that arise in the process of ICH information building and sharing.

The survey is expected to contribute by allowing an exchange of experiences and know-how in the Asia-Pacific region to foster an environment to understand and resolve problems related to IP aspects of ICH. Furthermore, the survey results could be the foundation for developing a guideline for protecting IP rights during ICH information building and sharing.
2. Glossary

For the current survey, the terms below will have the given meanings.

1) Bearer
A member of a community who recognises, reproduces, transmits, transforms, creates, and forms a certain culture in and for a community. A bearer can, in addition, play one or more of the following roles: practitioner, creator, and custodian.¹

2) Community
People who share a self-ascribed sense of connectedness. This may be manifested, for example, in a feeling of identity or in common behaviour, as well as in activities and territories. Individuals can belong to more than one community.²

3) Custodian
A practitioner who has been entrusted by the community with the responsibility of safeguarding their intangible cultural heritage.³

4) Documentation
The recording of ICH in tangible forms.⁴

5) Identification
Technical description of a specific element constitutive of the ICH, often done in the context of a systematic inventory.⁵

6) Information Building and Sharing
A series of activities that build and utilise ICH information, such as identification, inventory making, documentation, and digitisation. The process of ICH information building and sharing consists of several stages: a stage for preparation, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for utilising and disseminating information.

7) Informants
Local experts from whom information about particular cultural practices is obtained, in the context of cultural field research.⁶

² Ibid.
³ Ibid.
⁴ Ibid. p.5
⁵ Ibid. p.5
⁶ Peter Seitel, Proposed Terminology for Intangible Cultural Heritage: Towards Anthropological and Folkloristic Common Sense in a Global Era. UNESCO International Round Table 'Intangible Cultural Heritage', 2001 p.9
8) Intangible Cultural Heritage (ICH)
Practices, representations, expressions, knowledge, and skills—as well as
the instruments, objects, artefacts, and cultural spaces associated therewith—that communities, groups, and in some cases, individuals
recognise as part of their cultural heritage. This intangible cultural heritage,
transmitted from generation to generation, is constantly recreated by
communities and groups in response to their environment, their
interaction with nature, and their history, and it provides them with a
sense of identity and continuity, thus promoting respect for cultural
diversity and human creativity.7

9) Intellectual Property (IP)
Legal rights that result from intellectual activity in the industrial, scientific,
literary, or artistic fields.8 Common types of intellectual property rights
include copyrights, trademarks, patents, industrial design rights, and trade
secrets.

10) Inventory Making
Drawing up one or more inventories of the intangible cultural heritage
present in territories to ensure identification with a view to safeguarding.9

11) Moral Rights
Owner’s right to claim authorship of the work and to object to any
distortion, mutilation, or other modification or derogatory action in
relation to the said work that would be prejudicial to the owner’s honour
or reputation.10

12) Practitioner
A member of a community who actively reproduces, transmits, transforms,
creates, and forms culture in and for the community by performing and
otherwise maintaining social practices based on specialised knowledge and
skills.11

13) Stakeholder
Various levels of agency in ICH information building and sharing activities,
including public and private institutions, and more specifically artists and
creators of the cultural communities concerned.12

14) Subjects of ICH
Bearers, practitioners, and communities.

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7Art.2 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, 2003
8World Intellectual Property Organization, WIPO Intellectual Property Handbook: Law,
Policy and Use, WIPO Publication No. 489(E). p.3
9Art.12.1. UNESCO Convention for the Safeguarding. opcit
10Art.6Bis Berne Convention for the Protection of literary and Artistic Works, Paris Text
1971
11UNESCO Glossary Intangible Cultural Heritage. opcit p.5
12Noriko Aikawa, State of Intangible Heritage Development in the Lead Up to the 2003
Convention. UNESCO Shanghai meeting in the lead up to the adoption of ICH Convention.
Training of the trainers. Asia and Pacific. Module 1. p.21
3. Specific Questionnaire

A. Institute Overview

1) Profile of the institute
   a) What is the name of institute?
   b) Where is the institute located? (City/Country)
   c) Please introduce the history of institute.
   d) What are objectives and functions of the institute?
   e) In what country/region have your institute’s activities been carried out?
   f) What kind of ICH is your institute specialised in?
      Ex: performing arts, dance, music, rituals, ceremonies, etc.

2) Characteristics of the institute
   a) Your institute can be classified as
      □ Government department
      □ Public institution
      □ Public enterprise
      □ Private enterprise
      □ NGO
      □ Other (Please explain the classification)
   b) Is your institute affiliated with other organisations? If yes, please describe the parent or affiliated organisations—name, classification, objectives and functions, specialisation, etc. (over 200 words in English)
   c) What are the institution’s sources of budget?
      Ex: a national budget, fund-raising activities, etc.

B. Information Building and Sharing Activities of Institute

3) Information building and sharing activities of the institute
   a) Please indicate the kinds of activities your institute has done or is doing.
      □ Identification
      □ Documentation
      □ Inventory making
      □ Database/Archive building
      □ Publication and distribution
      □ Utilising digital contents
      □ Other (Please explain other activities your institute has done)
b) Among your answers in [B-3-a], which activity does your institute mainly focus on? (multiple answers allowed)
   (1) Please explain the activity (over 250 words in English)
   (2) If any, please also provide guidelines, internal regulations, or other principles regarding the activity.

c) Regarding your answers in [B-3-b], please describe specific projects related to the activity by giving a set of answers below. If you have more than one project, please provide a set of answers for each one (One to three examples are recommended, but you can also give more than three examples)
   (1) Name of project
   (2) Duty department
   (3) Background of project (over 150 words in English)
   (4) Context of project (over 250 words in English)
   (5) Procedures of project
   (6) Outcomes/Effects

d) If you indicated in [B-3-a] that your institute did activities related to database/archive building, please provide an additional explanation about the activities.
   (1) How did/does your institute obtain ICH-related data or archives?
      □ Field work and documentation
      □ Purchase
      □ Donation
      □ Other (Please explain how your institute obtains(ed) ICH-related data or archives)
      If you checked more than one answer, what is the primary way your institute obtains(ed) ICH-related data or archives? Please arrange your answer according to the order of priority.
   (2) Please provide an index of data or archives of your institute by giving a set of answers below.
      (a) Name of data
      (b) Online/Offline data
      (c) Type of data
         Ex) text, photograph, recording, video, etc.
      (d) Source of data
         (Where did the data originate?)
      (e) Context of data
      (f) Person/Organisation who has rights on the data
      (g) Principle/Guideline of data management, if any.
C. Intellectual Property Issues in Institute

4) Does your institute have experience with a project regarding IP aspects of ICH?
   □ Yes
   □ No
   If yes, please describe the project by answering the questions below. If you have more than one project, please provide a set of answers for each one.
   a) Name of project
   b) Duty department
   c) Background of project (over 150 words in English)
   d) Context of project (over 250 words in English)
   e) Procedures of project
   f) Outcomes/Effects

5) Is there a department, a unit, or an individual undertaking tasks related to intellectual property?
   □ Yes
   □ No
   If yes, please provide information below.
   a) Name of department (which covers the unit or the individual)
   b) Name of duty person (in the department, the unit)
   c) Tasks of department
      (a) Main task
         (What is the main task of the department? [over 100 words in English])
      (b) Tasks relating to intellectual property
         (Please describe the tasks that are related to intellectual property [over 100 words in English])
   d) Contact information
      (a) Contact number and e-mail of department
      (b) Contact number and e-mail of duty person

6) Does your institute have a principle for protecting IP aspects of ICH?
   □ Yes
   □ No
   If yes,
   a) Please describe the principle (over 150 words in English)
   b) If any, please attach documents related to answers in [C-6-a].

ICH information building and sharing constitutes a series of activities that build and utilise ICH information, such as identification, inventory making, documentation, and digitisation. The process of ICH information building and sharing consists of several stages: a stage for preparation, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for utilising and disseminating information. Each stage is detailed below:

◦ The stage for preparation: conducting preliminary investigations, planning activities, selecting ICH objects to be investigated, undergoing prior consultation on an activity, etc.
◦ The stage for collecting and creating information: conducting field surveys (interviews, recording, filming, etc.), purchasing data, receiving donations, etc.
◦ The stage for maintaining information: building a database, keeping the data in its original form, classifying the data, constructing a security system for the data, etc.
◦ The stage for processing and producing information: editing, modifying, and upgrading information collected and maintained in the previous stages towards forms of documents, videos, web pages, etc.
◦ The stage for utilising and disseminating information: disclosing and disseminating information produced, distributing commercially, and utilising existing information for broadcasting, advertising, publicity, etc.

The management of ICH information raises equally different intellectual property issues from one category to another, be it in the phase of preparation, collection, production, or dissemination.

In the stage for preparation, intellectual property issues that could arise are below.

• Problems regarding identifying the nature of rights existing in ICH that will be targeted in information building and sharing activities
  - Identifying copyrighted works
  - Identifying unpublished or unknown authors' works
• Problems regarding compliance with a country's laws and regulations or customs concerning ICH information building and sharing activities
- Identifying a country’s laws and regulations or customs that could affect information building and sharing activities
- Examining the range of protection under national statutes of IP rights of ICH practitioners and creators
• Others
- Other intellectual property issues that could arise during the preparation stage

In the stage for collecting and creating information, the stage for maintaining information, the stage for processing and producing information, and the stage for utilising and disseminating information, intellectual property issues that could arise are below, grouped into categories of IP rights.

Ownership

• Identification of the owner of the copyright and related rights in the recordings, films, or manuscripts embodying ICH
• Determination of ownership of both the database itself and its contents
• Issue of bearers’ ownership rights in adaptations such as lawful inspiration or the borrowing of work based on one or several pre-existing ICH work(s)
• Custodians’, owners’, and/or managers’ rights of ownership of secondary materials embodying ICH (secondary materials include items such as films, sound recordings, photographs, and written documents.)
• Bearers’ ownership of ICH-derived materials that are legally owned by the creator of the document, recording, and/or database embodying ICH
• Issue of joint ownership in work involving ICH material

Prior Informed Consent or Approval

• Issue of an approval or an agreement related to collecting ICH information
  - Identifying the authority who has been granted power to approve (permission or agreement from bearers, practitioners, communities, or other stakeholders)
  - Determining the terms and scope of the approval or agreement from bearers, practitioners, communities, or other stakeholders
• Prior informed consent to the reproduction, use, and display of ICH material
• Bearer's, practitioner's, or community's objections to utilising and disseminating information
• Determination of the format of agreements: consent forms to access and use ICH materials, licenses, undertakings, etc.

Maintenance of Collected Information

• Determination of data classification in an area of protection under IP related law
• Determination of the database to be built according to its uniqueness in IP related law

Adaptations

• The issue of unauthorised adaptations
• Issue of legal rights that could arise during secondary utilisation of information
  - Permission from stakeholders about secondary utilisation, such as broadcasting, advertising, publicity, etc.
  - Intellectual property of the secondarily used information

Secret, Sacred, or Confidential ICH

• Issue of secrecy, sacredness, or confidentiality under customary laws and practices of ICH material collected
• Problems regarding disclosure of secret information

Access, Control, and Use

Communities’ Involvement

• Determination of communities’ participation in the recording, digitisation, and dissemination of ICH for safeguarding, promotional, and income-generating purposes
• Communities’ involvement in the decision-making processes related to the management of ICH elements held by institutes
• Authority of ICH subjects and their capacity to manage information once produced
• Bearers’ agreement on modification or transformation of ICH materials
• Determination of communities' legitimate rights holders
• Management of access and use of ICH information by communities
• General public's interests to benefit from and enjoy the information building and sharing activities of ICH

**Relationships**
• Issue of database users' interaction with bearers for use of ICH
• Issue of relationships between an institution that holds the material, and a bearer, be it the owner, custodian, or manager.

**Terms of Use of ICH Material**
• Code on management, access, and use of ICH information
• Compliance with restricted ICH use under customary laws and practices
• Establishment of IP-related protocols, policies, and practices

**Infringement of Rights and Responsibilities**
• Infringement of intellectual property rights existing in the ICH information
  - Copyrights in literary, musical, and artistic expressions
  - Related rights (performers', phonograms', producers', and broadcasting organisations' rights) in performances, rituals, recordings, etc.
  - Trademark in cultural names, signs, indications, marks, symbols, etc.
  - Indigenous know-how and knowledge protected under trade secrets, patent law, etc.
  - Design rights in cultural textiles, poetry, etc.
• Legal responsibilities of institutes leading the activities
  - Vis-à-vis communities from which the ICH was collected
  - Vis-à-vis users to whom ICH is delivered
  - Vis-à-vis website viewers of digitised ICH collections

**Licensing**
• Licensing by institutions of ICH material in a recording, database, or collection
• Terms of licensing
• Content of ICH material to be licensed
• Identification of the exact licensee and licensor
Bearers’ Moral Rights

- Disclosure of ICH ownership information on any related use
- Problems regarding the determination of the range of disclosure
- Case of derogatory work related to ICH
- Respect of bearers’ right to integrity

Sharing of Benefits

- Issue of respect of bearers’ economic rights
  - Right to translation
  - Right to reproduction
  - Right to communication to the public
  - Others
- Problems regarding the distribution of profit that comes from utilising and disseminating information
  - Economic compensation for bearers, practitioners, or communities
  - Economic compensation for other affiliated organisations or individuals, such as collectors, researchers, agencies, or collective management organisations

Unfair Use or Misuse of ICH

- Misappropriation of ICH material by an institute
- Misappropriation of ICH material by a third party

Portraits, Filming, or Reproduction of ICH Material

- Right to use for commercial purposes
- Respect of motion pictures right in ICH digitisation
- Moral rights of bearers in portraits or films
- Respect of the sacredness, secret, or sanctity of portraits or films
- Right to reproduction in digitising a photograph
- Exception to copyright in cases of promotional or educational purposes

Use of ICH as Trademark, Geographical Indication, or Domain Name

- Bearers’ approval in using ICH material as logos or product identifiers
- Misuse of cultural words as trade name, domain name, or geographical indication
7) Have any of the above issues arisen in any of the stages at your institute?
   □ Yes
   □ No

   If yes, please describe the issue by answering the questions below. If you have more than one issue, please provide a set of answers for each one.

   a) Please explain the activity your institute did.
      (a) Name of project
      (b) Sort of activity
         (What kind of information building and sharing activities did your institute do in the project?)
         Ex) identification, documentation, inventory making, database building, etc.
      (c) Objective of project

   b) What kinds of issues have arisen?
      □ Problems regarding compliance with a country’s laws and regulations or customs concerning ICH information building and sharing activities
      □ Problems regarding identifying the nature of rights existing on ICH that will be used in information building and sharing activities
      □ Problems regarding identifying the nature of rights existing in ICH
      □ Problems regarding ownership of ICH
      □ Problems regarding prior informed consent or approval
      □ Problems regarding maintenance of collected Information
      □ Problems regarding adaptations
      □ Problems regarding secret, sacred, or confidential ICH
      □ Problems regarding bearers’ moral rights
      □ Problems regarding sharing of benefits
      □ Problems regarding unfair use or misuse of ICH material
      □ Problems regarding portraits, filming, and reproduction
      □ Problems regarding the use of ICH as a trademark, geographical indication, or domain
      □ Other (Please indicate the issue)

   c) Please indicate all stages in which the issue has arisen.
      □ The stage for preparation
      □ The stage for collecting and creating information
      □ The stage for maintaining information
      □ The stage for processing and producing information
      □ The stage utilising and disseminating information
d) What was the cause and content of the issue? (over 500 words in English)
e) Who were the stakeholders involved with the issue?
f) What did the institute do to resolve the issue? Please describe the process and the results of the resolution. (over 500 words in English)
g) What was the institute's principle in the process of dealing with the issue?
h) Does your institute have a guideline, policy, or protocol regarding legal issues that could arise during the stage?
   □ Yes
   □ No
   If yes, please attach the copy of the guidelines, policies, or protocols.
i) Please attach any other forms (ex. form of agreement) that were used during the stage.
8) Through your institute's experience, what kind of legal issues regarding IP aspects of ICH do you think could arise in each stage? (over 400 words in English)
9) In relation to [D-7] and [D-8], what kind of alternatives, guidelines, policies, or protocols do you think should be prepared? (over 400 words in English)

E. Institute's Activities

Here are questions on issues that could arise in the entire process of the institute's activities.

10) What kind of relationship does your institute have with ICH subjects, such as informants, collectors, researchers?
   Ex) one-way asymmetrical relationship, one-way symmetrical relationship, two-way asymmetrical relationship, two-way symmetrical relationship, owner vs. custodian, etc.
11) Does your institute include intellectual property issues in the institute's vision, purpose, function, polices, etc.? If yes, please indicate your institute's vision, purpose, function, polices, etc. that addresses intellectual property issues.
12) Does your institute have a representative legal dispute regarding the institute's information building and sharing activities?
   □ Yes
   □ No
If yes, please describe the case. If you have had more than one case, please provide a set of answers for each one.

a) Name of project
b) Sort of activity
c) Purpose of project
d) Procedures and context (over 200 words in English)
e) Issue activated (over 200 words in English)
f) Response to the issue
   (Who or what department was in charge of the issue? How did the department cope with the issue? Were the principles or guidelines adjusted to the case? [over 300 words in English])

13) Does your institute have a case of guaranteeing the rights and the participation of ICH subjects (bearers, practitioners, or communities) in the institute’s information building and sharing activities?
   □ Yes
   □ No
   If yes, please describe the case below. If you have more than one case, please provide a set of answers for each one.
   a) Name of project
   b) Sort of activity
   c) Purpose of project
d) Participation of subject in the procedure (over 300 words in English)
e) Rights of subject guaranteed
f) Please attach related documents.

14) Have policies or guidelines for protecting intellectual property rights of ICH in the process of information building and sharing been well organised in your institute?
   □ Yes
   □ No
   If yes, please provide information on the policy or the guideline, including
   a) Context of the policy or the guideline
   b) Please attach related forms. (ex. form of agreement)

F. Related Legislation

15) In your institute’s country, is legislation or the legal system for the protection of cultural heritage organised?
   □ Yes
   □ No
If yes, please describe the legislation or the legal system below.
  a) Full title  
  b) The relevant sections or paragraphs  
  c) Date of coming into force  
  d) Details of the office responsible for administering the laws  
  e) Copies of laws and regulations  
  f) What are issues or problems regarding IP aspects of ICH that cannot be covered by the legislation or the legal system described above?  
  g) What kind of legal systems or devices need to be added for the protection of IP aspects of ICH?  
If no, please provide additional information below.
  h) Legal systems or regulations expected to be issued  
  i) Status of processing  

G. Future Plans

In case your institute has not been equipped with policies or guidelines for protecting intellectual property related aspects of ICH, please answer the following questions.

16) Does your institute have plans for organising guidelines or regulations for protecting ICH intellectual property related rights in the process of information building and sharing?
   □ Yes  
   □ No  
   a) If yes, please describe your institute’s future plans (manner and context) for organising guidelines or regulations. (over 250 words in English)  
   b) If a future plan is in the process of being organised, please provide additional information below.  
      (1) Guidelines or regulations expected to be organised  
      (2) Status of processing  

17) Does your institute have plans for projects regarding the protection of intellectual property related rights in the process of information building and sharing?
   □ Yes  
   □ No  
If yes, please describe the project below.  
   a) Purpose of project  
   b) Term and duration  
   c) Context  
   d) Anticipated procedures
H. Other Opinions

18) Please provide any kind of information related to the purpose of this survey.

4. Contacts

Please provide contact information of the person who is in charge of this survey report.

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5. Reference materials

Please provide all attached materials with information below.

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6. Results

Replies to this questionnaire should kindly be sent no later than the prearranged date to the following address.

**Ms Saymin Lee (Information & Research Section)**
Intangible Cultural Heritage Centre for Asia and the Pacific (ICHCAP)
National Research Institute of Cultural Heritage Bldg (4F)
132 Munji-ro, Yuseong-gu, Deajeon 305-380
Republic of Korea
Tel. +82 42 820 3513 / Fax. +82 42 820 3500

The survey may also be e-mailed to the address below, but in addition to the e-mailed materials, please kindly send the requested references materials to the above address.

E-mail: ichcap@gmail.com
smlee@ichcap.org

Reference materials can be submitted using Webhard.

Address: www.webhard.net
Id: ICHCAP
Password: ichcap

*Thank you for your valuable contribution to the survey.*
Annex 2 | Related Laws
1. Draft Broadcasting Law ...................................................083
2. Law of Mongolia on Copyright .......................................102
4. Law on Archives ..........................................................129
5. Law of Mongolia on Trade Names and Trademarks ..........140
Draft Broadcasting Law for Mongolia

CHAPTER ONE
General Provisions

Article 1. Purpose of the Law
The purpose of this Law is to provide for the regulation of broadcasting in the public interest, including through the establishment of an Independent Broadcasting Council.

Article 2. Legislation on Broadcasting
2.1. The Legislation on Broadcasting shall consist of the Constitution of Mongolia, this Law, the Law on Communications and other legislative acts and regulations consistent with those laws.
2.2. If the provisions of any international treaties which Mongolia has ratified are inconsistent with those in this Law, then the provisions of the international treaty shall prevail.

Article 3. Definitions in this Law
3.1. In this Law, the following terms shall be interpreted as follows:
3.1.1. “advertisement” means any public announcement intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea or to bring about some other effect desired by the advertiser, for which broadcasting time has been given up to the advertiser for remuneration or similar consideration;
3.1.2. “Advertising Code” means a set of standards governing broadcast content which constitutes an advertisement;
3.1.3. “Annual Report” is the report required to be prepared by the Council pursuant to Article 20.
3.1.4. “basic service” means the minimum package of television and/or radio channels which subscribers to a satellite or cable service are required to purchase;
3.1.5. “broadcasting” means the dissemination of broadcast programming, including through terrestrial transmitters, cable, satellite or any other medium, for public consumption and for simultaneous reception, whether or not by subscription, through a radio and/or television broadcast receiver or other related electronic equipment, but does not include communications internal to a private
organisation or government body, such as closed circuit television or internal address systems, or communications disseminated through the Internet;

3.1.6. “broadcaster” means an organisation that engages in broadcasting, be it a public service broadcaster, a commercial broadcaster or a community broadcaster;

3.1.7. “Broadcasting Frequency Plan” means a plan for the allocation of broadcasting frequency spectrum among the various uses such as television and radio, national and local licences, and public, commercial and community broadcasters;

3.1.8. “broadcasting frequency spectrum” means that part of the electromagnetic wave spectrum which is part of the public domain and which may from time to time be assigned to be used for broadcasting uses, but does not include other frequencies, such as those used for telecommunications purposes;

3.1.9. “broadcasting service” means a defined service which consists in the broadcasting of audiovisual or sound material to the public, sections of the public or subscribers to such service;

3.1.10. “commercial broadcaster” means a broadcasting organisation that is neither a public broadcaster nor a community broadcaster and which is operated on a for-profit basis;

3.1.11. “Commission” or “Communications Regulatory Commission” means the Commission established under the Law on Communications, 2001, to issue communications licences and otherwise regulate communications;

3.1.12. “community broadcaster” means a broadcaster which is controlled by a non-profit entity and operates on a non-profit basis, carries programming serving a particular community including by reflecting the special interests and needs of that community, and is managed and operated primarily by members of that community;

3.1.13. “Council” means the Independent Broadcasting Council established by Article 6;

3.1.14. “free-to-air” means terrestrial broadcasting which is provided without direct charge for reception to the recipient;

3.1.15. “independent producer” means an individual or company who produces programmes for radio or television and who is not controlled by any individual broadcaster;

3.1.16. “licence” means a licence issued by the Commission for purposes of providing a broadcasting service to the public;

3.1.17. “licensee” means an individual or organisation who has been granted a licence to provide a broadcasting service to the public;
3.1.18. “local content” means broadcast material produced by a licensee, by a permanent resident of Mongolia or by a company the majority of whose sharesholdings are held by permanent residents, or a co-production in which the above mentioned persons have at least a 50% financial interest but does not include advertisements;

3.1.19. “Minister” means the minister in charge of the ministry responsible for broadcasting;

3.1.20. “Ministry” means the ministry responsible for broadcasting;

3.1.21. “Programme Code” means a set of standards relating to general broadcasting content and practices;

3.1.22. “Programme Schedule” means a plan indicating the general types of programmes proposed to be broadcast, along with the proportion of broadcasting time to be devoted to such programmes and to advertising, and the target audience, but for cable or satellite services the Programme Schedule means a description of the basic service and of all other services provided;

3.1.23. “public broadcaster” means a broadcaster subject to public ownership which has a mandate to broadcast in the public interest;

3.1.24. “satellite broadcasting” means the dissemination of a broadcasting service by means of satellite transmission;

3.1.25. “sponsorship” means the participation of a natural or legal person who is not engaged in broadcasting activities or the production of audiovisual works in the direct or indirect financing of a programme with a view to promoting the name, trademark or image of that person;

3.1.26. “subscriber” means a person who receives a broadcasting service at a specific location in exchange for a prescribed fee, without further transmitting that service to any other person; and

3.1.27. “terrestrial broadcasting” means the dissemination of a broadcasting service via the electromagnetic wave spectrum for direct reception by homes or businesses without needing equipment other than radio or television equipment.

### Article 4. Name of this Law

4.1. This Law may be cited as the Mongolian Broadcasting Law 2010.

4.2. This Law shall come into operation on such date as the Minister may, by notification published in the Official Gazette, appoint, provided that in the absence of such notification, this Law shall come into effect six months after it has been passed by the Great State Hural.
CHAPTER TWO
Broadcasting Policy

Article 5: Broadcasting Policy
5.1. The airwaves are a public resource which shall be used to promote the public interest and the right of the public to a diverse range of information and ideas.
5.2. Broadcast regulation shall seek to promote the following policy goals:
   5.2.1. to uphold the Constitution of Mongolia, as well as human rights, democracy and the rule of law;
   5.2.2. to protect and promote freedom of expression;
   5.2.3. to encourage creative national broadcasting;
   5.2.4. to promote a diverse range of quality broadcasting services, including by licensing all three types of broadcaster, namely public, commercial and community;
   5.2.5. to enhance the public’s right to know through promoting pluralism and a wide variety of programming on matters of public interest;
   5.2.6. to prevent monopolisation of ownership and promote fair competition in the broadcasting sector;
   5.2.7. to promote accurate, informative and balanced programming;
   5.2.8. to encourage the provision of quality educational programming;
   5.2.9. to promote the widest possible geographic distribution of broadcasting services;
   5.2.10. to develop and promote broadcasting reflecting national and regional culture and identity;
   5.2.11. to promote the appropriate use of new technology; and
   5.2.12. to enhance the overall financial and competitive viability of broadcasting in Mongolia.

CHAPTER THREE
The Independent Broadcasting Council

Article 6: Establishment of the Council
6.1. The Independent Broadcasting Council is hereby established as a body corporate having perpetual succession and a common seal which may:
   6.1.1. sue and be sued;
   6.1.2. purchase, acquire, hold or alienate real and personal property; and
   6.1.3. do or perform such other things as bodies corporate may by law do or perform.
6.2. The Council is an independent institution which is accountable to the people through the Great State Hural.
6.3. The Council shall enjoy operational and administrative autonomy from any other person or entity, except as specifically provided for in this or any other law. This autonomy of the Council shall be respected at all times and no person or entity shall seek to influence its members or staff in the discharge of their duties, or to interfere with its activities, except in the discharge of a specific authority or duty provided for by law.

**Article 7: Appointment of Members**

7.1. The Council shall consist of five (5) Members, all of whom shall have some expertise, by virtue of their education or experience, in the areas of broadcasting, policy, law, technology, journalism and/or business and who shall be known for their high moral standards, integrity, impartiality and competence.

7.2. Each of the following bodies shall nominate one member to sit on the Council:
   7.2.1. The Bar Association.
   7.2.2. The National University of Mongolia.
   7.2.3. The Press Institute.
   7.2.4. The Gandantegchinlen Khiid Monastery.
   7.2.5. Human rights NGOs having been registered and active for at least three years.

[NOTE: THIS IS JUST AN INDICATIVE LIST WHICH SHOULD BE FINALISED TAKING INTO ACCOUNT THE LOCAL SITUATION]

7.3. The bodies listed in sub-article 7.2 shall publish the name of their proposed candidate and the public shall be given an opportunity to make representations concerning that candidate prior to appointment.

7.4. Members shall be appointed by the Prime Minister, provided that if the Prime Minister rejects any member proposed by the bodies listed in sub-article 7.2, he or she shall provide reasons for this and the proposing body shall have the right to nominate another member.

7.5. All Members of the Council shall be independent and impartial in the exercise of their functions, shall represent the public interest and not the body that nominated them or any other particular interest, and shall, at all times, seek to promote broadcasting policy as set out in Article 5.

7.6. Members of the Council must not actively engage in politics.

**Article 8: Disqualifications of Members**

8.1. No one shall be appointed as a Member of the Council if he or she:
   8.1.1. is not a citizen of Mongolia;
   8.1.2. is, or has been within the last two years, employed in the civil service or any other branch of government;
   8.1.3. holds, or has held within the last two years, an elected position in the Great State Hural or in any local government, or holds an official
office in, or is an employee of, a political party;

8.1.4. holds, directly or indirectly, significant financial interests in telecommunications or broadcasting;
8.1.5. is an undischarged bankrupt or insolvent; or
8.1.6. has been convicted of a violent crime and/or a crime of moral turpitude unless five years has passed since the sentence was discharged.

8.2. Where, by virtue of a will, gift or otherwise, a Member obtains an interest noted in sub-article 8.1.4, he or she shall, within a period of two (2) months, either dispose of the interest or resign from his or her position as Member.

8.3. In any case where sub-article 8.2 becomes applicable to a Member, he or she shall not take part in any decision-making process of the Council until he or she has disposed of the relevant interest.

Article 9: Tenure and Removal

9.1. Members shall serve on the Council for five (5) years and may be re-appointed to serve a maximum of two terms, provided that the Minister shall identify two (2) individuals from among the original group of appointees whose initial term of office shall be just two (2) years.

9.2. A Member may be removed from office only where that individual:

9.2.1. becomes, by virtue of sub-article 8.1, ineligible for appointment to the Council, subject to the provisions of sub-article 8.2;
9.2.2. commits a serious violation of his or her responsibilities under this Law, including by failing to promote broadcasting policy as set out in Article 5, by engaging in corrupt practices, or for gross negligence of duty;
9.2.3. is no longer able to perform his or her duties effectively, whether due to physical or mental disability or any other cause; or
9.2.4. fails, without valid excuse, to attend three consecutive meetings of the Council.

9.3. The Prime Minister may remove a Member from office but only upon receiving the agreement of either the body which nominated that Member or the other four Members.

9.4. No Member shall be removed from office without first being given an opportunity to be heard.

9.5. Any Member who is removed from office pursuant to this Article shall be provided with written reasons for his or her removal and shall have the right to appeal his or her removal to the courts.

9.6. A Member may at any time resign his or her office by giving notice in writing to the Minister.
9.7. Where a Member is removed from office, or a Member resigns or dies, that Member shall be duly replaced under the same conditions, and in the same manner, as he or she was appointed.

Article 10: Remuneration of Members
10.1. Members of the Council shall be compensated for actual expenses, including travel, accommodation and subsistence, incurred as a result of their duties as members of the Council.
10.2. Members of the Council shall receive compensation on an equal basis for attendance at Council meetings, based on a schedule which has been agreed in advance and approved as part of the process for agreeing the Council’s budget.

Article 11: Rules of Procedure
11.1. The Council shall appoint its own Chairperson and Vice-Chairperson from among its Members.
11.2. The Council shall, subject to this Law, adopt such rules, in relation to meetings and other matters, as it considers necessary and appropriate to enable it to perform its functions and all business shall be conducted in accordance with such rules.
11.3. The Council shall meet as often as it deems necessary and shall, in any case, meet at least once in every two months.
11.4. Meetings of the Council shall be convened by the Chairperson, or in his or her absence the Vice-Chairperson, provided that it shall be mandatory to convene a meeting within seven days of a request for such a meeting by not less than two Members.
11.5. The Chairperson or, in his or her absence the Vice-Chairperson, shall preside at all meetings of the Council.
11.6. The quorum for meetings of the Council shall be three members.
11.7. A decision at a meeting of the Council shall be adopted by a simple majority of the Members present and voting except as otherwise decided by the Council. In case of an equality of votes, the Member presiding at the meeting shall have a casting vote in addition to his or her original vote.
11.8. Minutes shall be kept in proper form of each meeting of the Council and shall be confirmed by the Council at the next meeting and signed by the Member presiding at the meeting.

Article 12: Disclosure of Interest
12.1. A Member of the Council who has, directly or indirectly, an interest in a matter under discussion by the Council shall disclose that fact and the nature of his or her interest to the Council.
12.2. A disclosure under sub-article 12.1 shall be recorded in the minutes of the Council or committee.

12.3. After a disclosure under sub-article 12.1, the Member in question:

12.3.1. shall not take part in nor be present during any discussion, deliberation or decision of the Council; but
12.3.2. may be counted for the purpose of forming a quorum of the Council.

CHAPTER FOUR
Functions, Duties and Powers of the Council

Article 13: Functions of the Council

13.1. The Council is charged with the oversight of broadcasting, consistent with constitutional and international guarantees of freedom of expression, and with promoting the public interest in the broadcasting sector.

13.2. The functions of the Council are:

13.2.1. to oversee the development of the Advertising Code and Programme Code;
13.2.2. to oversee the implementation of the Advertising Code and Programme Code; and
13.2.3. to ensure that the other rules provided for in this Law are respected by licensees.

13.3. In discharging its responsibilities, the Council shall endeavour to promote broadcasting policy as set out in Article 5.

Article 14: Powers of the Council

14.1. The Council shall have all such powers as may be reasonably necessary for the purpose of carrying out its functions under this Law and of regulating its own procedure.

Article 15: Investigations

15.1. The Council shall have the power to conduct investigations and hold hearings as necessary to discharge its responsibilities under this Law.

Article 16: Appointment of Secretariat

16.1. The Council shall, in accordance with the budget, establish a Secretariat, along with such staff as it considers necessary and appropriate to enable it to perform its functions.

16.2. The Secretariat shall be responsible to the Council for the proper administration and management of the functions of the Council in accordance with policy laid down by the Council.

16.3. Employees of the Council shall be independent and impartial in the exercise of their functions and shall, at all times, seek to promote broadcasting policy
Article 17: Limitation of Liability

17.1. No proceedings, civil or criminal, shall lie against the Council for anything it may do or fail to do in the course of the exercise or intended exercise of its functions, unless it is shown that it did not act in good faith or with reasonable care.

17.2. No proceedings, civil or criminal, shall lie against any member, officer or employee of the Council for anything done or said, or any failure to do or say anything in the course of the discharge of his or her duties as a member, officer or employee of the Council, unless it is shown that the person did not act in good faith or with reasonable care.

CHAPTER FIVE
Funding and Accountability of Council

Article 18: Fiscal Year
18.1. The Council's fiscal year shall be from the 1st day of January to the 31st day of December of each year.

Article 19: Funding for the Council
19.1. The Council may receive funds from the following sources:
   19.1.1. grants from the general budget;
   19.1.2. grants from local or foreign bodies;
   19.1.3. loans; and
   19.1.4. moneys received from other sources.

19.2. Not less than three months prior to the end of each fiscal year, the Council shall submit to the Great State Hural, through the Minister, a budget statement for the following fiscal year, including any operating funds requested by the Council from the general budget.

19.3. The Great State Hural may approve or modify the Council's proposed budget, provided that it shall not reduce the funds available to the Council by more than five (5) percent from the previous year.

19.4. Upon approval of the Council's budget by the Great State Hural, the Minister of Finance shall include that budget in the general budget and make payments to the Council for its operations on a quarterly basis in advance.

19.5. Notwithstanding any contrary provision in any other law, the Council shall not be liable to pay income tax on any property held or received, or on any income earned and the Council is hereby exempted from the payment of such tax.
Article 20: Audit and Annual Report

20.1. Within four (4) months after the end of each fiscal year the Council shall prepare a report of its activities during that fiscal year (the Annual Report).

20.2. The Council shall maintain accounts of all monies received and spent by it and shall, within four (4) months after the end of each fiscal year, commission an audited statement of accounts, prepared in accordance with generally accepted accounting practice.

20.3. The Council shall submit copies of the Annual Report and audited accounts to the Minister, who shall cause them to be laid before the Great State Hural as soon as practicable.

20.4. The Annual Report shall include the following information:

20.4.1. a copy of the auditor’s report;
20.4.2. a statement of financial performance and of cash flows;
20.4.3. the budget for the current fiscal year;
20.4.4. a description of the activities of the Council during the previous year;
20.4.5. information relating to complaints and research;
20.4.6. a description of any sanctions applied by the Council and the decisions relating thereto;
20.4.7. an analysis of the extent to which the Council has met its objectives of the previous year;
20.4.8. the Council’s objectives for the current year; and
20.4.9. any recommendations in the area of broadcasting.

20.5. The Council shall publish and distribute widely the Annual Report, along with its audited accounts, including through its website.

CHAPTER SIX
Frequency Planning

Article 21: Broadcasting Frequency Plan

21.1. The Communications Regulatory Commission shall consult with the Council and other key stakeholders to determine which part of the electromagnetic wave spectrum is from time to time assigned to be used for broadcasting uses.

21.2. The Commission shall, in close consultation with the Council, as well as with interested stakeholders and the Government, develop and from time to time revise a Broadcasting Frequency Plan, which shall include a locator map, in order to promote the optimal use of these frequencies and the widest possible broadcasting diversity.

21.3. The Broadcasting Frequency Plan shall ensure that, in accordance with broadcasting policy as set out in Article 5, the broadcasting
Therefore, the frequency spectrum is shared equitably and in the public interest among the three types of broadcasters, public, commercial and community as well as broadcasters of different geographic reach.

21.4. The Broadcasting Frequency Plan, along with any revisions to it, shall be published and disseminated widely.

21.5. The Broadcasting Frequency Plan may reserve certain frequencies for future use for specific categories of broadcasters in order to ensure diversity and equitable access to frequencies over time.

CHAPTER SEVEN
Licensing by the Commission

Article 22: New Licences

22.1. The Commission shall, from time to time, determine whether it is in the public interest, based on the Broadcasting Frequency Plan, broadcasting policy, interest by potential broadcasters and market capacity, to issue a competitive tender with a view to issuing an additional licence(s) to provide a broadcasting service(s).

22.2. The Commission may also, in lower population density areas, receive applications, in the absence of a call for applications, to provide a broadcasting service.

22.3. The Commission shall adopt regulations in advance setting out the process to be followed to apply for a licence, along with a description of what information must be provided and a published schedule of the annual licence fees.

22.4. Where a tender is issued pursuant to sub-article 22.1, the Council shall publish widely a notice to that effect, including the information stipulated in sub-article 22.3.

22.5. Applicants for a broadcasting service licence must provide at least the following information:

22.5.1. their ownership structure;
22.5.2. their sources of finance and proposed financial plan;
22.5.3. their organisational and management structure, including the personnel and expertise available to deliver the service;
22.5.4. the programme schedule or, in the case of a cable or satellite service, information about the channels proposed to be provided within the basic service, as well as any other channels which may be purchased; and
22.5.5. the technical facilities for delivery of the service.

22.6. Applicants for a broadcasting service licence to operate at the sub-national level do not need a letter of endorsement for their application from
Article 23: Assessing Licence Applications

23.1. The process by which the Commission assesses licences shall be fair, nondiscriminatory and transparent.

23.2. Licence applications shall include consideration of the application by the Commission at a public hearing and anyone may provide written comments on the application.

23.3. The Commission shall cause any applications for a broadcasting licence to be published in the Official Gazette at least 60 days prior to the hearing referred to in sub-article 23.2, provided that such publication shall not include sensitive commercial or other information provided by the applicant.

23.4. The Commission shall take the following factors into account in deciding whether or not to issue a broadcasting licence:

23.4.1. the technical capacity of the applicant to deliver a quality service, taking into account the nature of the proposed service;

23.4.2. the nature and extent of the financial resources of the applicant and the financial viability of the proposal;

23.4.3. the effect of licensing the proposed service in terms of concentration of ownership, cross ownership and fair competition;

23.4.4. promotion of the widest possible diversity of programming, taking into account the proposed Programme Schedule, the demand and the need for that service, and the broadcasting services already being provided in that area; and

23.4.5. the need to promote locally produced programming which serves the needs and interests of the people of Mongolia.

23.5. The Commission shall provide written notice of its decisions to all applicants for broadcasting service licences. Where an application is refused, this notice shall include the reasons for the refusal, as well as information regarding the applicant’s right of appeal.

23.6. A licence shall not be issued to an individual who is not a resident or citizen of Mongolia, or to an entity which does not have recognised legal status in Mongolia or which is subject to majority control by non-residents or non-citizens.

23.7. Upon the grant by the Commission of a licence under this Article, it shall cause notification of that decision to be published in the Official Gazette.

Article 24: Licence Renewals

24.1. An application for the renewal of a licence shall be made at least four (4) months before the date of expiry of the existing licence.
24.2. A licensee shall be entitled to have its licence renewed, provided that the Commission may refuse to renew a licence where the licensee has operated insignificant breach of its licence conditions or where this is clearly in the public interest, based on broadcasting policy as set out in Article 5.

24.3. At the time of renewal, either a licensee or the Commission may propose amendments to the licence conditions and the Commission may accept or reject these amendments.

24.4. The Commission may, when considering an application for the renewal of a licence, require such new or additional information as it may deem necessary.

24.5. If at the expiry of a licence the Commission has not yet reached a decision in respect of an application to renew it, the licence shall continue in effect until the application for its renewal is granted or refused by the Commission.

24.6. The Commission shall provide a licensee with written reasons, in advance of a final decision, of any proposed decision not to renew a licence, and shall give the licensee an opportunity to make oral and/or written representations.

24.7. Where the Commission does not renew a licence, it shall provide written reasons for its decision.

CHAPTER EIGHT
Licence Conditions

Article 25: General Licence Conditions

25.1. Licences are not transferable without the prior approval of the Commission.

25.2. Compliance with all matters specified in the licence application, including the Programme Schedule, is deemed to be a licence condition.

25.3. Terrestrial broadcasters are required to keep a master recording of all programmes and advertisements broadcast for at least twenty-eight (28) days after they have been broadcast, provided that where specific broadcast material is the subject of a dispute, the relevant broadcaster shall, at the request of the Commission or Council, keep a master recording of that broadcast material until the matter has been fully resolved.

25.4. Satellite broadcasters are required to keep a register of the programme channels and advertisements distributed for at least twenty-eight (28) days after they have been distributed, provided that where specific broadcast material is the subject of a dispute, the relevant broadcaster shall, at the request of the Commission or Council, keep a
record of it until the matter has been fully resolved.

25.5. If a broadcasting service has not been initiated within six (6) months after the licence is granted, that licence shall lapse.

25.6. Licences shall be valid for the following periods of time:
   25.6.1. three (3) years for a community broadcasting licence;
   25.6.2. seven (7) years for a commercial radio broadcasting licence; and
   25.6.3. ten (10) years for a commercial television broadcasting licence.

25.7. Licensees are required to report annually to the Commission on their activities, including the observance of licence conditions.

Article 26: Copyright

26.1. Broadcasters may only broadcast programmes which they produced or for which they hold broadcasting rights and copyright must be clearly indicated as part of the credits displayed with each programme.

26.2. The name of the producer of every programme shall be displayed or read out at the end of the programme.

Article 27: Undue Concentration of Ownership

27.1. No legal or natural person shall exercise direct or indirect control over more than one national free-to-air television service.

27.2. No legal or natural person shall exercise direct or indirect control over more than two free-to-air radio services available in one geographical area (i.e. overlapping services).

27.3. No legal or natural person shall exercise direct or indirect control over a national free-to-air television service and a national free-to-air radio service.

27.4. No legal or natural person shall exercise direct or indirect control over a national free-to-air broadcasting service and a national newspaper.

27.5. For purposes of this Article, financial or voting interests of 20% or more shall be deemed to constitute control.

Article 28: Local Content Requirements

28.1. Every licensed broadcaster shall be required to include within each broadcasting service the following minimum quotas of local programming:
   28.1.1. 20% within 6 months of the coming into force of this Law;
   28.1.2. 30% within 2 years of the coming into force of this Law; and
   28.1.3. 40% within 3 years of the coming into force of this Law.

28.2. In exceptional circumstances, the Commission, after consultation with the Council, may agree to delay or waive the above requirements for a particular broadcasting service.
Article 29: Additional Terms and Conditions

29.1. The Commission may, from time to time, by notification published in the Official Gazette, adopt regulations setting out general licence terms and conditions either of general application for all licensees or for different types of licensees.

29.2. Such terms and conditions may, among other things, stipulate:
   29.2.1. the minimum amount of programming to be commissioned from local independent producers; or
   29.2.2. the categories of information that must be provided by licensees in their annual reports to the Commission.

Article 30: Specific Licence Conditions

30.1. The Commission may attach such reasonable conditions to a broadcasting service licence as it deems necessary to promote broadcasting policy as set out in Article 5.

Article 31: Licence Condition Amendments

31.1. Broadcasters may propose amendments to their licences to the Commission, which may approve or refuse such amendments, provided that if the Commission fails to respond to a proposal within 30 working days after receiving it, the Commission shall be deemed to have accepted it.

31.2. The Commission may, in respect of any particular licence, and after giving the licence holder an opportunity to make written representations, amend of its own motion any of the prescribed conditions, including adding further conditions:
   31.2.1. if the Commission is of the opinion that this is necessary to promote broadcasting policy as set out in Article 5; or
   31.2.2. in order to give effect to any international treaty governing broadcasting matters to which Mongolia is a party.

Article 32: Restriction on Licence Conditions

32.1. No licence conditions shall be imposed under Articles 29, 30 or 31 unless they:
   32.1.1. are relevant to broadcasting;
   32.1.2. further broadcasting policy as set out in Article 5; and
   32.1.3. are reasonable and realistic, given the licensee.

CHAPTER NINE
Advertising and Programme Codes

Article 33: The Advertising and Programme Codes
33.1. The Council shall, in consultation with broadcasters, journalists and other interested stakeholders, draw up, and from time to time review and amend, both an Advertising Code and a Programme Code for broadcasters.

33.2. The Codes shall be published and every licensee shall be provided with a copy of each Code.

Article 34: The Advertising Code

34.1. The Advertising Code shall address a range of issues relating to broadcast advertising, including the following:

34.1.1. all advertisements shall be clearly identified as such;

34.1.2. no broadcaster shall carry advertisements for medicines which are available only with a prescription;

34.1.3. the maximum daily and hourly advertising which may be carried by different licensed broadcasting services, which shall in no case exceed 20% of total daily programming, provided that, for this purpose, sponsorship shall not be deemed to constitute advertising;

34.1.4. except in accordance with this Article or any regulations promulgated by the election commissions or pursuant to the Law on the State Great Hural Elections of Mongolia or the Law on the Presidential Elections of Mongolia, no broadcaster shall carry any advertisement for or on behalf of any political party or candidate for election to public office; and

34.1.5. subject to any regulations promulgated by the election commissions or pursuant to the Law on the State Great Hural Elections of Mongolia or the Law on the Presidential Elections of Mongolia, the Council may, by notification published in the Official Gazette, adopt regulations regarding political advertisements during elections, provided that any such regulations shall be based on the principle that parties and candidates should be granted equitable, non-discriminatory access to licensees.

34.2. The Advertising Code may also set rules regarding programme sponsorship.

Article 35: The Programme Code

35.1. The Programme Code shall address a range of issues relating to programming, including, among other things, the following:

35.1.1. balance and impartiality in news and current affairs programming and the duty to strive for accuracy in these programmes;

35.1.2. protection of children;

35.1.3. classification of programmes, including films, according to the recommended age of viewers;

35.1.4. the terms, conduct and editing of interviews;
35.1.5. the use of covert recording and subterfuge;
35.1.6. keeping within accepted boundaries of taste and decency, including in relation to the portrayal of sexual conduct and violence, the use of stronger or abusive language, and the broadcasting of text messages sent in by viewers or listeners;
35.1.7. the coverage of crime and anti-social behaviour;
35.1.8. distinguishing between factual material and comment;
35.1.9. the treatment of religion, ethnic minorities, women and men, minors and disadvantaged groups;
35.1.10. respect for privacy; and
35.1.11. the use of subliminal images or sounds.

35.2. In developing and implementing the Programme Code, the Council shall have due regard to the rightful place in a pluralist democratic society of robust and challenging debate, of the strong expression of personal views, of the need for original, innovative and stimulating programme-making and of the potential for achieving proper balance over a series of programmes, or over time, rather than in every individual programme.

**Article 36: Compliance**

36.1. Compliance with the Advertising and Programme Codes are deemed to be mandatory licence conditions.

**CHAPTER TEN**

**Breach of the Codes**

**Article 37: Complaints and Monitoring**

37.1. Anyone who believes that a licensee has breached the Advertising Code or the Programme Code may lodge a complaint in writing with the Council and the Council shall investigate every such complaint, unless it considers the complaint to be frivolous or manifestly unfounded.

37.2. It shall be the duty of the Council to ensure that all licensees comply with the Codes and, to this end, the Council may monitor licensees and undertake an investigation where it believes there may have been a breach.

**Article 38: Investigations**

38.1. Where it conducts an investigation pursuant to Article 37, the Council shall provide the broadcaster with adequate written notice of any allegation of breach and with a reasonable opportunity to make representations. In the case of a complaint, the Council shall also provide the complainant with a reasonable opportunity to make representations.

38.2. The Council shall, absent exceptional circumstances, come to a decision
in relation to a complaint within two (2) months.

38.3. Where the Council decides that a licensee is in breach of the Advertising or Programme Code, it shall publish its decision, including reasons for its decision, any sanction to be imposed pursuant to Article 39 and notification of the broadcaster’s right to appeal from this decision. The Council shall provide the broadcaster and, where relevant the complainant, with a copy of its decision.

Article 39: Sanctions

39.1. Where the Council determines that a licensee is in breach of the Advertising or Programme Code, it may apply one or more of the following sanctions:

39.1.1. issue an internal instruction to the licensee;
39.1.2. issue a public written warning to the broadcaster;
39.1.3. order the broadcaster to broadcast a statement, correction or retraction at a specified time and in a specified form; or
39.1.4. order the broadcaster to take such action or desist from taking such actions as it deems necessary to rectify or prevent repetition of the breach.

39.2. In cases of repeated breach of licence conditions, the Council may order a licensee to pay a fine not exceeding 2% of its total revenues for the previous year, provided that such fines shall be paid into general government revenues.

39.3. In cases of repeated and gross breach of licence conditions, the Council may order the suspension of part or all of the Programme Schedule of a licensee, or terminate its licence.

39.4. For breach of a rule relating to broadcast content, the Council shall not impose the sanctions provided for in sub-articles 39.2 or 39.3 except as decided by at least three (3) Members and where other sanctions have failed to prevent further breach.

39.5. Failure to comply with an order of the Council under this Article shall be deemed to be contempt of court and, where a licensee fails within a reasonable time to comply with such an order, the Council may request the prosecutor to institute contempt proceedings.

Article 40: Appeals

40.1. Any person aggrieved by a decision of the Council under this Chapter may appeal to the courts for a review of that decision.
CHAPTER ELEVEN
Final Provisions

Article 41: Institutional Arrangements
41.1. Broadcasters already in existence on the date this Law comes into force shall make any necessary adjustments to comply with the provisions of this Law within six (6) months of that date.
41.2. The Council shall be established within six (6) months of this Law coming into force.

Article 42: Rules and Regulations
42.1. The Minister may, by notification published in the Official Gazette, make rules and regulations for carrying out the purposes of this Law, provided that such rules and regulations are not inconsistent with this Law.
42.2. In particular, the Minister may make rules or regulations relating to:
   42.2.1. the manner for appointing and/or removing members of the Council, pursuant to Articles 7 and 9; and
   42.2.2. remuneration of members of the Council, pursuant to Article 10.
42.3. The Council make, among other things, adopt rules relating to:
   42.3.1. its rules of procedure, pursuant to sub-article 11.2;
   42.3.2. dealing with conflicts of interest, pursuant to Articles 12;
   42.3.3. the conduct of investigations, pursuant to Article 15;
   42.3.4. the appointment of the Secretariat, pursuant to sub-article 16.1;
   42.3.5. the Advertising or Programme Codes, respectively, pursuant to Article 33;
   42.3.6. the process for conducting investigations pursuant to section 38; and
   42.3.7. the imposition of sanctions, pursuant to section 39.
42.4. The Commission make, among other things, adopt rules relating to:
   42.4.1. the tendering process for licences, pursuant to sub-article 22.3;
   42.4.2. the process for assessing licence applications, pursuant to Article 23; and
   42.4.3. additional licence terms and conditions, pursuant to section 29;
Law of Mongolia on Copyright and Related Rights  
(Unofficial Translation)

(Revised text)

January 19, 2006  
Ulaanbaatar city

(Turiin medeelel #7, 2006)

CHAPTER ONE  
GENERAL PROVISIONS

Article 1. Purpose of the Law  
1.1. The purpose of this law shall be to regulate matters related to the ownership, exploitation, administration and protection of works subject to the protection by copyright and related rights.

Article 2. Legislation on copyright  
2.1. The legislation on copyright and related rights shall consist of the Constitution of Mongolia\(^1\), Civil Code\(^2\), this law and other legislative acts adopted in conformity with these laws.  
2.2. If an international treaty to which Mongolia is a party to, provides otherwise than this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions of terms of the law  
3.1. The following terms used in this law shall be interpreted as follows:  
3.1.1. “Author” means an individual who has created a work as a result of his/her creative activity;  
3.1.2. “Rightholder” means an individual or a legal entity who holds an exclusive right to exploit the work in respect of the literary and artistic works;  
3.1.3. “Performer” means an individual who performs literary and artistic works, as well as expressions of folklore for the purposes of circus, stage, screen and artistic performances through acts such as singing, playing, acting, dancing and declaiming.  
3.1.4. "Expression of folklore" means a work of traditional literature and arts

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\(^1\)Constitution of Mongolia. Published in “State Bulletin” Issue No 1, 1992.  
\(^2\)Civil Code. Published in “State Bulletin” Issue No 7, 2002.
which is communicated by any means from one generation to another and the author of which is unknown;

3.1.5. “Backing track” means the recording of the sounds of a performance, or of a representation of sounds, other than in the form of recording incorporated in a cinematographic or other audiovisual work;

3.1.6. “Reproduction of a work” means making one or more copies of the copyrighted work, part of the work directly or indirectly by any means and methods;

3.1.7. “Publication” means making works subject to copyright and related rights available to the public with the consent of the rightholder, provided that the copies are offered to the public in a quantity sufficient to meet the public needs;

3.1.8. “Distribution” means distribution of works subject to copyright and related rights to the public in a way that the consumer has access to the work by wire and wireless means at the place and time chosen by him/her;

3.1.9. “Derivative work” means a work that has been changed, adapted, translated, converted, summarized, compiled or modified in other form through creative activity and based on the pre-existing work;

3.1.10. “Work of applied art” means an artistic work for household use, produced by industrial or handicraft methods;

3.1.11. “Work subject to related rights” means performance, first recording of audio and video, audiovisual recordings and broadcasts;

3.1.12. “Producer of a backing track” means an individual or a legal entity, who or which takes the initiative and has the responsibility for the first recording of the sounds of a performance or other sounds, or the representations of sounds;

3.1.13. “Audiovisual work” means a work that can present images along with sounds using equipment regardless of its tangible form.

3.1.14. “Rights management information” means information on the work, author, right holder and terms of use of the work contained in the work or marked to distribute the work to the public and the numeric or codified expression of such information.

CHAPTER TWO
Authorship and protected works

Article 4. Copyright holder
4.1. The following person shall hold the copyright under this law:

4.1.1. citizens of Mongolia, foreign nationals and stateless persons permanently residing in Mongolia, who have created work regardless
of whether their works were published or not;
4.1.2. foreign nationals whose work has been first published in Mongolia;
4.1.3. authors who placed their sculptures, architectural works and/or works
    of fine arts being component of buildings permanently placed in the
territory of Mongolia;
4.1.4. legal persons who are entitled to copyright under the legislation on
copyright;
4.1.5. citizens and legal persons of other countries which are parties to
international treaties of Mongolia.
4.2. A work of a foreign citizen shall be considered as having been first published
in Mongolia if it was published within 30 days from the date when it was first
published in any other country.
4.3. Persons provided in the law shall be entitled to copyright in case of works
which were published under a pseudonym or anonymously.

Article 5. Co-authorship
5.1. Co-authors mean two or more persons who produced a work by their joint
creative efforts for a common purpose.
5.2. Copyright in a joint work shall vest in the co-author jointly unless agreed
otherwise in the agreement.

Article 6. Works subject to copyright (Subject matter)
6.1. Any scientific, literary or artistic works involving creative activity of authors
shall be considered as works subject to copyright irrespective of their
content, purpose, value, importance and methods of expression.
6.2. Works subject to copyright shall be expressed in written, verbal, graphic and
other tangible forms regardless of whether they were published or not.

Article 7. Works to be protected by copyright
7.1. The following works shall be protected by copyright:
    7.1.1. all types of scientific and literary works whether in verbal or written
form, including computer programs;
    7.1.2. all types of musical works whether with or without lyrics;
    7.1.3. all types of works of fine art;
    7.1.4. works of decorative, applied and theatrical arts;
    7.1.5. works of architecture and sculptures;
    7.1.6. all types of choreographic works, works of contortionists and
pantomime;
    7.1.7. all types of plays and musical works created for the stage art;
    7.1.8. all types of photographic works and works created by methods similar
to photography;
7.1.9. audiovisual works;
7.1.10. derivative works;
7.1.11. glossaries, references, compilations and databases that are considered to be intellectual works by its structure and contents and have been created through creative activities such as selection and placement of materials;
7.1.12. derivative works based on the works of folklore.

**Article 8. Works not to be protected by copyright**

8.1. The following works shall not be protected by copyright:

8.1.1. texts of laws and other legal acts;
8.1.2. administrative decisions and official documents of legal entities and organizations;
8.1.3. court decisions, resolutions, judge’s decrees, other documents and speeches delivered during court hearings;
8.1.4. translation of documents specified in Subsections 8.1.1-8.1.3 of this law;
8.1.5. coats of arms, banners, flags, awards, orders and medals;
8.1.6. any news or information with facts and figures for the purpose of reporting the current events and results thereof;
8.1.7. works of folklore and national traditions;
8.1.8. any ideas, methods, procedures, scientific discoveries and mathematical concepts.

**CHAPTER THREE**

**TERM OF COPYRIGHT**

**Article 9. Establishment and certification of copyright**

9.1. Copyright in scientific, literary and artistic works shall start from the actual creation of the work.
9.2. No certification is required for establishment and enjoyment of copyright.
9.3. The owner of the exclusive rights may use the copyright protection notice for the purposes of information.
9.4. In the absence of documents proving the authorship, the author whose name is indicated on the original work or copies thereof shall be considered as the author.
9.5. The author may register his work or the agreement related to the transfer of his exclusive rights in the work with the government organization in charge of intellectual property matters (hereinafter to be referred to as “Intellectual Property Office”) on the voluntary basis.
9.6. The copyright notice specified in Section 9.3 of this law may be expressed as
follows:
9.6.1. Latin letter C in a circle;
9.6.2. The name of the owner of the exclusive rights;
9.6.3. The year of first publication.

Article 10. Rights of authors
10.1. The author shall have intangible and exclusive rights in respect of his work.

Article 11. Intangible rights of authors
11.1. An author is entitled to the following intangible rights in respect of his work:
   11.1.1. To publish his work under his real name, a pseudonym or anonymously;
   11.1.2. It shall be prohibited to alter or disclose an author's pseudonym without his/her consent;
   11.1.3. To require his/her name to be mentioned whenever his/her work is published or exploited;
   11.1.4. It shall be prohibited to modify, alter or change a work or its title in any manner or form without the author's consent.

Article 12. Exclusive rights
12.1. An author shall have exclusive rights over the exploitation of his/her work in any manner or form.
12.2. The exclusive rights over the exploitation of his/her work shall include the exclusive rights to allow or prohibit the following activities:
   12.2.1. reproduction of a work;
   12.2.2. publication of a work;
   12.2.3. distribution of a work;
   12.2.4. modification of a work into a derivative work;
   12.2.5. rental of a work.
12.3. The right specified in Section 12.1 of this law shall be assigned to others only with the author's consent and on the basis of an agreement.

Article 13. Term of copyright
13.1. The term of copyright protection in respect of a particular work shall begin from the day of its creation.
13.2. And author shall enjoy the exclusive rights for his/her lifetime and 50 years after his/her death.
13.3. The term of intangible rights of an author has no time limitations.
13.4. In the case of pseudonymous or anonymous works, the exclusive rights of an author in copyrighted works shall begin from 1st January of the year following the year the first publication of a work and be valid for 75 years.
13.5. If the name of the author of a work specified in Section 13.4 of this law is disclosed to the public, the term of copyright shall be determined in accordance with Section 13.2 of this law.

13.6. In case of the co-authorship, the copyright shall be protected for the lifetime of the authors and for a period of 50 years from 1st January of the year following the death of the last surviving author.

Article 14. Succession of copyright

14.1. The exclusive rights of an author in a copyrighted work shall pass to his/her heirs in accordance with the rules set forth in the Civil Code of Mongolia.

14.2. Succession of exclusive rights in joint works shall start on the day of death of the last surviving author.

CHAPTER FOUR

PARTICULARITIES OF CERTAIN WORKS

Article 15. Copyright in derivative works

15.1. Copyright in a derivative work shall not prejudice copyright in the original work and the author shall obtain permission provided in Subsection 12.2.4 of this law.

15.2. Copyright in a derivative work shall not prevent other authors from creating other derivative works based on the original work.

Article 16. Copyright in collections and other compiled works

16.1. The compiler of a compilation work shall not prejudice copyright of authors of original works and shall have the consent of authors provided in Subsection 12.2.4 of this law.

16.2. Unless otherwise provided in the agreement with the compiler, the authors of any original works shall have right to use his/her own work independently, irrespective of its inclusion in the collection.

Article 17. Copyright in a work created in the course of execution of official duties

17.1. The author of a work created in the course of execution of his/her duties shall enjoy non-economic intangible rights.

17.2. The employer may have the exclusive rights over the exploitation of the work created as part of the exercise of official duties if not otherwise stipulated in the contract.

Article 18. Commissioned works

18.1. Pursuant to the agreement for a commissioned work, the author shall
undertake duties to create and submit a work and the person commissioning the work shall undertake duties to pay the remuneration to the author.

18.2. The holder of exclusive rights shall be determined by the agreement.

CHAPTER FIVE
PROTECTION OF RELATED RIGHTS

Article 19. Persons entitled to related rights
19.1. According to the provisions of this law, the following persons shall be entitled to related rights:
19.1.1. A performer who made performance, broadcasted his/her performance or made first recording of his performance in Mongolia;
19.1.2. A producer of a backing track which has first been fixed and published in Mongolia;
19.1.3. A broadcasting organization the headquarters of which are located in the territory of Mongolia at the time of the broadcasting;
19.1.4. Citizens and legal persons of other countries members of the international treaties to which Mongolia is a party.

19.2. The holder of the related rights shall enjoy his/her rights without prejudice to the copyright of original works.

19.3. Establishment and enjoyment of related rights shall not be subject to any formalities.

Article 20. Performer’s rights
20.1. A performer shall have exclusive rights to authorize or prohibit the following activities in respect of his/her performance:
20.1.1. to perform, broadcast or transmit the recording of the performance of works, excluding those broadcasted before;
20.1.2. to make recording of a work;
20.1.3. to make a reproduction of audio and video recording;
20.1.4. to distribute the original and duplicate copies of the performance fixed in backing tracks through sale or assignment of rights;
20.1.5. to rent the recording of a performance;
20.1.6. to assign exclusive rights to others on a basis of an agreement.

20.2. A performer shall be entitled to intangible rights to claim authorship of the work as regards to their performances and to prohibit any distortion, mutilation or other modification of, or other derogatory action in relation to the said work, which would be prejudicial to his honor or reputation.

20.3. The term of protection to be granted to performers shall be 50 years from the date when the performance or the recording of the performance was
Article 21. Rights of producers of backing track
21.1. A producer of backing track shall have exclusive rights to authorize or prohibit the following activities in respect of his/her backing track:
   21.1.1. to make reproduction of the backing track directly or indirectly;
   21.1.2. to publish the original or duplicate copies of the backing track by means of sale or assignment of rights;
   21.1.3. to rent the original or duplicate copies of the backing track;
   21.1.4. to distribute the backing track;
   21.1.5. to assign his/her exclusive rights to others under an agreement.
21.2. The term of protection of rights of a producer of backing track shall be 50 years from the date of publication and if is not published, from the date of the first recording of the backing track.

Article 22. Rights of broadcasting organizations
22.1. A broadcasting organization shall have the exclusive rights to prohibit or allow the following activities related to its own programs:
   22.1.1. to record their broadcasts;
   22.1.2. to make reproduction of their broadcasts;
   22.1.3. to rebroadcast its programs through wireless communication;
   22.1.4. to transmit broadcasts simultaneously.
22.2. The term of rights in respect of rights of broadcasting organisations shall last for a period of 50 years from 1st January of the year following the year the first broadcast took place.

CHAPTER SIX
EXPLOITATION OF COPYRIGHTED WORKS

Article 23. Assignment of exclusive rights
23.1. The exclusive rights may be assigned fully or partially on a basis of the agreement.
23.2. The assignment agreement may consist of following provisions:
   23.2.1. method and form of exploitation of the work;
   23.2.2. duration and covered territories;
   23.2.3. regulations over the amount of remuneration, conditions of payment and deadlines;
   23.2.4. rights and obligations of the author;
   23.2.5. rights and obligations of the assignee;
   23.2.6. liabilities of the parties;
   23.2.7. dispute resolution.
23.3. The amount of royalties due to the author for exploitation of the work may be agreed by the author and assignee depending on the nature, specifics and magnitude of the work, form, quantity and duration for which the work shall be exploited.

23.4. It is prohibited to envisage in the assignment agreement any provisions limiting the right of the author to create further works on the same topic or in the same domain.

23.5. Author shall enjoy the right to redress rights assigned to the assignee if an infringement occurred as a result of negligence in implementing the obligations of the agreement.

**Article 24. Exceptions and limitations**

24.1. The following circumstances where the works were used without contradicting the normal exploitation of published works and without affecting the legal interests of the right holders shall not be deemed as copyright infringement:

24.1.1. To quote from published works in order to prepare a press review;
24.1.2. To quote from and to use parts of published works for research works, criticisms and information;
24.1.3. To reproduce parts of works used in the archives, museums and libraries;
24.1.4. To publish or broadcast works on current economic, political and religious issues, which were published in press or broadcasted through media, if the reproduction of such works is not specifically prohibited, and to inform them to the public through wire and wireless communications;
24.1.5. To publish speeches and presentations delivered at meetings for the purpose of information;
24.1.6. To publish works of architecture, fine arts and photography located in public places in order to show the surrounding areas of events while reporting the events to the public;
24.1.7. To use works for the visually impaired and people with hearing problems;
24.1.8. To reproduce works for private use;
24.1.9. To reproduce works for criminal, civil and administrative procedures.

24.2. The following conditions shall be considered in determining the circumstances provided in Section 24.1 of this law:

24.2.1. To have a non-profit purpose;
24.2.2. The extent of use and the importance of the used parts;
24.2.3. The value of the work and the effect of the used part on the market.
24.3. The name of the author and source must be mentioned when a work is used under Section 24.1 of this law.

**Article 25. Protection of copyright in the Internet**

25.1. An internet service provider shall be obligated to prevent any copyright violation in websites hosted on its own server and provide authors and right holders with the possibility to enforce their rights.

25.2. An internet service provider shall facilitate the receipt of reports on violation of copyrights and related rights and shall be obligated to close the website in question as soon as such violation is reported.

25.3. A judge or a state inspector shall impose liabilities specified in the legislation on an internet service provider, which failed to perform its duties provided in Sections 25.1 and 25.2 of this law.

25.4. The court shall resolve disputes related to closing down of websites.

**CHAPTER SEVEN**

**COPYRIGHT PROTECTION ORGANIZATION**

**Article 26. Intellectual Property Office**

26.1. The Intellectual Property Office shall be responsible for implementation of the public policy to protect copyright and shall perform the following functions:

- 26.1.1. to organize implementation of the copyright legislation nationwide;
- 26.1.2. to promote and improve the copyright legislation, to ensure that such legislation conforms with the international treaties and conventions of Mongolia and to develop recommendations to make amendments to the legislation;
- 26.1.3. to protect the interests of authors and copyright holders, to support their creative activities and to conduct activities to improve legal knowledge of authors;
- 26.1.4. to provide collective management organization specified in Article 27 of this law with professional and methodological guidance and to cooperate with them;
- 26.1.5. to register works of copyrights and related rights at the requests of authors and copyright holders, to issue certificates and to establish a database of registered works;
- 26.1.6. to conduct the state inspection to monitor the implementation of laws and regulations on intellectual property and to employ a state intellectual property inspector;
- 26.1.7. to conduct activities aimed at eliminating copyright violations and to provide references for resolution of disputes related to
copyrights;
26.1.8. to determine and certify the valuation of works pertaining to copyright;
26.1.9. to work with citizens and organizations on protecting works of folklore.
26.2. The Intellectual Property office shall be financed from its revenue and the service fee shall be established by the Cabinet Member in charge of intellectual property matters.
26.3. The rules of the state intellectual property inspection shall be approved by the Cabinet.

Article 27. Collective management organization
27.1. Authors and right holders may establish a Collective management organization for the purpose of protection of their rights.
27.2. The Collective management organization shall be established at the initiative of authors and right holders.
27.3. Collective management organization may be specialized in the protection of one or more categories of works
27.4. Collective management organization shall operate on the basis of cooperation agreement with Intellectual Property Office.

Article 28. Activities of the collective management organization
28.1. Collective management organization as a representative body of right holders of copyright and related rights shall carry out the following activities within a power of attorney given to them:
28.1.1 to conclude contracts for exploitation of works with member-authors or right holders;
28.1.2. to negotiate the amount of royalties and other conditions with a licensee, to collect the payment;
28.1.3. to distribute collected royalties among right holders of copyright and related rights;
28.1.4. to submit request to the Intellectual property office to take necessary measures for the infringement of rights of their members on the basis of collected information.

Article 29. Obligations of collective management organization
29.1. Collective management organization shall have the following obligations in order to protect the rights and interests of right holders of copyright and related rights:
29.1.1. to provide information on the exploitation of a work in course of distribution of royalties;
29.1.2. to distribute royalties collected on the basis of the license to right holders of copyright and related rights;
29.1.3. to distribute, after deduction of administrative expenses, collected royalties on a regular basis in proportion to the exploitation of a work.

CHAPTER EIGHT
PROTECTION OF COPYRIGHT, LIABILITY FOR COPYRIGHT INFRINGEMENT

Article 30. Protection of intangible rights
30.1. In the case of infringement of integrity of work or of other intangible rights of an author, the author of a work or his/her heir or successor, or the Intellectual Property Office (if there is no apparent heir or if such heir has waived or has been deprived of his/her right of succession) shall be entitled to demand from the infringer the restoration of the infringed rights and to file a complaint to the court.

Article 31. Liabilities for breach of the law on copyright and related rights
31.1. If a breach of the legislation on copyright is not to be subjected to criminal liability, it shall be subject to a fine by a judge or a state inspector in the amount of 2-6 times the minimum monthly wage in case of an individual or of 10-25 times the minimum monthly wage in case of a legal entity respectively, or a confinement by a judge of 7-14 days in case of a guilty individual or official, and a state inspector or a judge shall seize the infringing goods, products and items and the illegal income, transfer such income to the state treasury or give such income to the author or right holder and stop such activities.

31.2. If a forgery, fraudulent use, alteration or deletion of a copyright notice on a work, and introduction, smuggling for distribution and distribution of them to the public despite the fact, that the infringer knew or was able to know about unlawful alteration or deletion of the copyright notice on a work, is not to be subjected to criminal liability, it shall be subject to a fine by a judge in the amount of 2-6 times the minimum monthly wage in case of an individual or of 10-25 times the minimum monthly wage in case of a legal entity respectively.

31.3. Compensation for material damages due to an infringement of exclusive rights in copyrighted works shall be decided according to the provisions of the Civil Code of Mongolia.

31.4. If an author or right holder, whose rights were infringed, makes a request, the infringing goods may be given to him/her as compensation for his/her damages and if he/she does not make such request, a judge or a state
inspector shall take an action to destroy the infringing goods.

31.5. The equipment used in infringement of copyright and reproduction of works that are subject to copyright and related rights shall be seized by a decision of the court or other authorities.

**Article 32. Entry into force**

32.1. This law shall not have retroactive effect.

CHAIRMAN OF THE STATE IHKH KHURAL TS. NYAMDORJ
CHAPTER ONE
General Provisions

Article 1. Purpose of the law
The purpose of this law shall be to regulate the matters relating to the protection of the rights of authors of inventions, industrial designs and innovations and of patent owners, and to regulate the matters relating to the use of inventions, industrial designs and innovations.

Article 2. Legislation on patents
1. The legislation on patents is comprised of the Constitution, the Civil Code, this law and other relevant legislative acts of Mongolia.
2. If an international treaty, to which Mongolia is a party, stipulates otherwise than the patent legislation of Mongolia, then the provisions of the international treaty shall prevail.

Article 3. Definitions in this law
1. "Invention" means an absolutely new solution that relates to a product or a manufacturing process that has been created for the first time and the essence of which has been discovered based on a law of nature.
2. "Industrial design" means an absolutely new original solution that relates to the form and design of a product, which can be produced by an industrial method.
3. "Innovation" means a new useful solution that can be used in manufacturing and relates to a product, manufacturing process or means, or principal parts or organisation thereof. (This subparagraph was re-edited by Law of May 21, 1999)
4. "Patent" means a document issued by the competent state authority which certifies the recognition of the given solution as an invention or industrial design, and grants the author an exclusive right to own the invention or industrial design for a certain period of time.
5. "Innovation certificate" means a document issued by the competent state authority which registers the innovation in the state register and grants the author an exclusive right to own it for a certain period of time. (This subparagraph was re-edited by Law of May 21, 1999)

6. "License" means permission allowing the others to exploit a patented invention or industrial design.

7. "Filing date" means the date on which an application for an invention or industrial design is filed and registered by the Intellectual Property Office, or the date on which an application for an innovation is filed and registered by a particular entity. (Amendments were introduced by Law of May 21, 1999)

8. "Priority date" means the date on which an application for the same invention or industrial design was filed and registered in any other member state of the Paris Convention for the Protection of Industrial Property prior to the date on which an application is filed under this law. (Amendments were introduced by Law of May 21, 1999)

9. "Patent Owner" means an author who has obtained a patent for an invention or an industrial design, or an innovation certificate, and exclusive rights thereof according to procedures and grounds specified by law, or a person who has obtained such rights from the author.


11. "International ApplicationsSpecifying Mongolia Issued in Conformity with the Patent Cooperation Treaty" means applications for inventions and innovations with the priority date of the Convention issued in conformity with the Patent Cooperation Treaty. (Subparagraphs 9, 10 and 11 in this article were added by Law of May 21, 1999)

**Article 4. Criteria and eligibility for patents**

1. A patent shall be granted to authors of an absolutely new product or manufacturing process (invention), which involves an inventive step and is industrially applicable, or to individuals or legal entities to whom the author has assigned his/her right.

2. An invention shall be regarded as involving an inventive step if it has advantageous properties that are obvious to a person skilled in the relevant field. An expert appointed by the Intellectual Property Office shall determine the existence of an inventive step. (Amendments were introduced in this paragraph by Law of December 19, 1996)

3. An invention shall be considered industrially applicable if it can be made by
industrial methods or used in industry.

4. A product or manufacturing process shall be considered absolutely new if it is proved that it has advantages compared to the current technical level.

5. The following shall not be considered as inventions:
   1) discoveries, scientific theories and mathematical methods;
   2) computer programs and algorithms;
   3) schemes, rules or methods for doing business, performing mental acts or playing games;
   4) solutions that are contrary to social order, ethics, environment and human health;
   5) methods of treatment and diagnosis of human and animal diseases;
      (This subparagraph was added by Law of December 19, 1996)
   6) biological methods for obtaining plant varieties and animal breeds other than microorganisms. These do not include non-biological and microbiological activities. (This subparagraph was added by Law of December 19, 1996 and re-edited by Law of May 21, 1999)

6. A patent shall be granted to authors of an absolutely new, original solution (industrial design) relating to the form or design of an industrially applicable product that has not been disclosed anywhere in the world by publication or made known in any manner in this country prior to filing an application, or to individuals or legal entities to whom the author has assigned his/her right.

**Article 5. Intellectual Property Office**

1. The Intellectual Property Office, an executive agency of the Government, shall be responsible for dealing with matters concerning inventions, industrial designs and innovations within the scope of functions of the Minister of Justice, and will carry out the following functions:
   1) receive and review applications for inventions and industrial designs and make decisions on them;
   2) grant patents and innovation certificates;
   3) maintain a state register of inventions, industrial designs and innovations, trademarks and license contracts;
   4) compile a unified information database of inventions, industrial designs, innovations and trademarks;
   5) publish information on inventions, industrial designs, innovations, and trademarks;
   6) provide references for settling disputes on patents;
   7) determine the design of patents and innovation certificates;
   8) notify appropriate organizations if legal entities or individuals are considered to have violated the Patent Law;
   9) invalidate a patent according to procedures and grounds specified by law;
10) protect and represent the rights of an author or patent owner;
11) initiate measures for the enforcement of the Patent Law within the authority conferred upon it;
12) receive claims and appeals concerning patents and make decisions on them;
13) select and issue permission to an individual or legal entity that intends to practice as a patent attorney;
14) determine the value of an invention, industrial design or innovation at the author’s request;
15) employ a state inspector in charge of intellectual property, exercise state control on the fulfillment of the intellectual property legislation. (This subparagraph was added by Law of May 21, 1999)

2. The Intellectual Property Office shall be financed by income from activities. (Paragraphs 1 and 2 of this article were re-edited by Law of December 29, 1996)

3. The Government shall approve the charter of the Intellectual Property Office. (Amendments were introduced in this paragraph by Law of December 29, 1996)

4. State central and local administrative bodies shall conduct work in the field of inventions, industrial designs and innovations as part of their technology policies.

CHAPTER TWO

Filing and Examining Applications for Inventions, Industrial Designs and Innovations

Article 6. Filing applications for inventions and industrial designs

1. An application for an invention or industrial design shall be filed with the Intellectual Property Office by the author of the invention or industrial design, or by the individual or legal entity to whom the author has assigned his/her right. (Amendments were introduced in this paragraph by Law of December 29, 1996)

2. A separate application shall be filed for each invention. One application may be filed for a group of inventions or industrial designs, which have one purpose and will be used in a combined way. (Amendments were introduced in this paragraph by Law of May 21, 1999)

3. The application for an invention shall consist of a request, a description of the invention, a formulation and a brief explanatory note. If required, appropriate drawings and certificates can be attached to the application. The description of the invention must contain a package of information that explains in a sufficient and fully understandable manner the method for use of an
invention and its advantages to professional users in the sector, to which the solution applies, and specifies the properties of the solution to attain the objectives of the invention that are distinctly different from the previous technical level. The formulation of the invention must be understandable, brief and clear and must specify the distinctly different properties of this invention and establish the right’s scope of protection. One invention may have one or several formulations. The description and drawings must explain in details the formulation’s contents. The brief explanatory note shall provide only technical information and shall not be used for determining right’s scope of protection for the invention. (Amendments were introduced in this paragraph by Law of May 21, 1999)

4. The application for an industrial design shall consist of a request, a description and a drawing of the industrial design. If required, it shall also contain relevant materials concerning the drawing and the description. The application for an industrial design must be submitted by the applicant to the Intellectual Property Office. (Additions to this paragraph were made by Law of May 21, 1999)

5. The application shall state names and addresses of the author of the invention or industrial design, the applicant and their patent attorneys, the filing date of the application, request for a patent and name of the invention or industrial design. If the applicant is not the author of the invention or industrial design, he/she must attach to the application a document evidencing his/her right to obtain a patent for the invention or industrial design. If the invention or industrial design is related to food supply and hygiene of people, a certificate issued by the organisation responsible for epidemiology and hygiene must be attached certifying that the invention or design will not harm the human body or health. (Additions to this paragraph were made by Law of December 29, 1996)

6. In the request, the applicant may claim priority over earlier national, regional or international applications. A copy of the application requesting a priority date filed in a member state of the Paris Convention and the World Trade Organisation must be attached at the request of the Intellectual Property Office. (Amendments were introduced in this paragraph by Law of May 21, 1999)

7. An applicant may be represented by a patent attorney. A patent attorney must be registered with the Intellectual Property Office. The Intellectual Property Office shall establish regulations on the activities of patent attorneys. A patent attorney must be a citizen of Mongolia over the age of 25 years who has worked in the field of intellectual property for at least three years, with higher education and no previous criminal record. The Ministers of Justice and Finance shall jointly determine the amount of remuneration for a patent attorney. Ten percent of the patent attorney’s income shall be retained.
by the Intellectual Property Office. (This paragraph was re-edited by Law of December 19, 1996)

8. An application shall be executed in the Mongolian language. If it is executed in a language other than Mongolian, the applicant shall furnish a Mongolian translation of the application within two months from the date of receipt of the application by the Intellectual Property Office. If a translation has not been submitted within the prescribed time, the application shall not be considered as submitted. (Amendments were introduced by Law of December 19, 1996)

9. One application may contain up to 50 similar industrial designs that fall under one international category.

10. An applicant may withdraw the application during the period prior to the issuance of a final decision concerning the application. (Paragraphs 9 and 10 were added by Law of May 21, 1999)

Article 6. Filing an international application in conformity with the Patent Cooperation Treaty

1. The filing date of international applications for inventions or innovations filed with the name of Mongolia shall be determined by this law, or the date of international registration according to the Patent Cooperation Treaty.

2. The Intellectual Property Office or the World Intellectual Property Organisation shall be the receiving organizations for international applications filed by Mongolian citizens or foreign citizens and stateless persons residing in Mongolia.

3. The receiving organisation shall receive an international application in the language specified in the treaty and shall charge a fee.

4. If the applicant specifies Mongolia in his/her application to obtain an invention patent or an innovation certificate, the Intellectual Property Office shall be the specified organisation.

5. If the applicant chooses Mongolia in his/her application to perform a preliminary international certifying examination, the Intellectual Property Office shall be the selected organisation.

6. The selected organisation shall receive the report of a preliminary certifying examination of the application within the period specified in the treaty.

7. In case of an international application selecting Mongolia, the applicant must pay the fee prior to the beginning of examination activities under the Patent Cooperation Treaty.

8. The Intellectual Property Office shall perform all the activities to be done on international applications according to appropriate treaty, rules and guidelines. (This article was added by Law of May 21, 1999)
Article 7. Filing applications for innovations
1. An application for an innovation shall be filed by the author or by the person who has obtained the right from the author and shall be submitted to the Intellectual Property Office. The formulation of an innovation must determine the distinctive properties of this solution and establish the right's scope of protection.
2. If the application does not satisfy the requirements specified in paragraph 1 of this article, or the applicant is not a lawful author or beneficiary of the innovation, the innovation shall not be registered. (This article was re-edited by Law of May 21, 1999)

Article 8. Determining the filing date of an application for an invention or industrial design
1. The Intellectual Property Office shall verify the completeness of the application within 20 days of the date of receipt of the application and shall record the date of receipt of the application as the filing date if the application satisfies the requirements.
2. If the Intellectual Property Office finds that the application does not satisfy the requirements, it shall notify the applicant of the necessity to make the required corrections and amendments.
3. If the applicant files the required corrections and amendments within 3 months from the date of receipt of the notification referred to in paragraph 2 of this article, the Intellectual Property Office shall record as the filing date the initial date of receipt of the application. If no correction or amendment is made within 3 months, the application shall be considered as rejected. (Amendments were introduced to this article by Law of December 19, 1996)

Article 9. Determining the filing date of an application for an innovation
The Intellectual Property Office shall record as filing date the date of receipt of a complete application for an innovation. (This article was re-edited by law of May 21, 1999)

Article 10. Examination of applications for inventions and industrial designs
1. After recording the filing date, the Intellectual Property Office shall examine whether the invention or industrial design satisfies the criteria specified in article 4 of this law.
2. The applicant shall supply to the Intellectual Property Office at its request information on any application for a patent or other form of entitlement to protection, which has been filed by the applicant in any other country and which relates to the same, or essentially the same, invention as the one to
which the application filed with the Intellectual Property Office relates.

3. During the examination procedure, the applicant may introduce corrections or amendments in the application, provided that the correction or amendment shall not go beyond the scope of the initial description. The examination procedure may be postponed at the applicant’s request. The duration of any postponement shall be consistent with the timelimits provided for in paragraph 5 of this article.

4. During the examination procedure, the applicant may divide the application into two or more applications, provided that each separated application shall not go beyond the scope of the initial description. In this case, the filing date or the priority date of theseparated application shall be determined by the initial application. Prior to the issuance of a final decision, an application for an invention can be converted into an application for obtaining an innovation certificate and vice versa. In this case, the date of the initial application shall remain as the filing date. (Additions to this paragraph were introduced by Law of May 21, 1999)

5. The Intellectual Property Office shall make a decision as to whether or not to grant a patent within 9 months from the filing date of the application based on the examination report. If required, the Intellectual Property Office may extend this period for up to 12 months.

6. If it is decided to grant the patent, the formulation of the invention or the drawing of the industrial design and the particulars concerned shall be published in the Patent Gazette.

7. If the invention or industrial design has not been recognised, a copy of the examination report shall be sent to the applicant within 30 days from the date of issuing the examination report, and the application shall be kept in the patent library.

8. If the industrial design, for which an application is filed, is not distinctly different from the previously known designs or from their distinctive properties, such design shall not be considered as a new and original design. (Additions and amendments to this paragraph were introduced by Law of December 19, 1996 and May 21, 1999)

Article 11. Examination of applications for innovations

1. An expert shall examine whether the innovation is new within 1 (one) month from the date of receipt of the application, and issue a conclusion.

2. An innovation certificate shall not be issued in the following cases:
   1) the given solution has become publicly known in Mongolia prior to registering the innovation;
   2) the given solution has been introduced and used in Mongolia, prior to registering the innovation; or
3) has been published in the national and foreign press. (This article was re-edited by Law of May 21, 1999)

CHAPTER THREE
Grant of Patents and Innovation Certificates

Article 12. Grant of patents for inventions and industrial designs
1. If, after the expiry of three months from the date of the publication in the Patent Gazette of the formulation of an invention or the drawing of an industrial design together with the particulars concerned, the Intellectual Property Office has received no notice of opposition and no dispute has arisen, it shall grant the patent. The request for a patent should be submitted within 10 years of the filing date of the application. The patent for an invention can be extended for a period of 20 years at the request of its owner. (Amendments to this paragraph were introduced by Law of December 19, 1996 and May 21, 1999)

2. If a notice of opposition is received or a dispute arises, the grant of the patent shall be deferred until the opposition or dispute is settled in accordance with the established procedure.

3. Patented inventions and industrial designs shall be registered in the state register and applications shall be kept in the patent library.

Article 13. Grant of innovation certificates
The Intellectual Property Office shall grant a certificate within 1 (one) month from the date of receiving an experts’ conclusion to recognise the innovation. (This article was re-edited by Law of May 21, 1999)

Article 14. Validity of patents and innovation certificates
Patents for inventions and industrial designs shall be valid for terms of 20 and 10 years, respectively, and innovation certificates shall be valid for a term of 7 years, and each such term shall run from the date on which the patent or certificate is granted. (Amendments to this article were introduced by Law of December 19, 1996 and May 21, 1999)

Chapter Four
Rights of Authors of Inventions, Industrial Designs, Innovations and Patent Owners

Article 15. Rights of authors of inventions or industrial designs
1. The author of an invention or industrial design shall be entitled to:
   1) own his/her invention or industrial design;
2) assign his/her right to a patent to others;
3) name his/her invention or industrial design;
4) take part in the drafting of technical documentation, testing and implementation of his/her invention or industrial design during the production process, and exercise author's control;
5) receive an appropriate fee from the profits earned as a result of using his/her invention or industrial design. (This subparagraph was added by Law of December 19, 1996)

2. The right to a patent for an invention or industrial design, which was created jointly, shall belong to all the authors. A joint author may not assign his/her rights to a patent to others without the consent of the other authors.

3. If two or more persons independently create the same invention or industrial design, the right to a patent shall belong to the author who first submits an application to the Intellectual Property Office. However, if a priority date is filed, the author who first submits an application with a priority date shall have the right to a patent. (Amendments to this paragraph were introduced by Law of December 19, 1996)

4. (This paragraph was annulled by Law of December 19, 1996)

Article 16. Rights of authors of innovations
1. Authors of innovations shall be entitled to:
   1) own, possess and use his/her innovation;
   2) allow others to use his/her innovation with a charge.
2. In the event several persons jointly hold the innovation certificate, they shall jointly enjoy the ownership right. (This article was re-edited by Law of May 21, 1999)

Article 17. Rights of patent owners
1. Patent owners shall have the exclusive right to exploit their invention or industrial design.
2. Patented inventions or industrial designs shall be exploited only with the permission of the patent owner.
3. Patent owners shall have the right to assign to others their right to a patent.

Chapter Five
Exploitation of Inventions, Industrial Designs and Innovations

Article 18. Exploitation of patented inventions and industrial designs
1. Making a product using an invention or industrial design, selling, using as well as storing or importing an invention or industrial design for such purposes shall be recognised as exploitation of the invention or industrial design.
2. The use of patented inventions or industrial designs in the following ways shall not constitute an infringement of the exclusive rights of the patent owners:
1) use of articles that have been put on the market in this country by the patent owner or by another person with the patent owner’s consent;
2) use for scientific research or experimental purposes in Mongolia;
3) use of an invention or industrial design in the transportation means belonging to another country, which have temporarily or accidentally entered the airspace or territory of Mongolia.

3. If another person was using the given invention or industrial design, or has provided in advance all the conditions for use prior to the filing date of the application, he/she may exploit it without the consent of the patent owner. The amount and scope of using the invention or industrial design may not be extended.

4. The Intellectual Property Office shall establish the State Reserve Fund of Inventions to ensure the effective use of patented inventions and industrial designs. Based on the contract signed with the patent owner, the Intellectual Property Office shall hold the patent rights for all inventions, which form part of that fund.] (This paragraph was added by Law of December 19, 1996 and amended by Law of May 21, 1999)

**Article 19. License contracts**

1. Any interested person may exploit a patented invention or industrial design by concluding a license contract with the patent owner.

2. The license contract shall specify:
   1) the method, scope and term of exploitation of the invention or industrial design;
   2) rights and responsibilities of the parties to the contract;
   3) the amount of payment for the exploitation of the invention or industrial design and the payment terms.

3. A license contract shall be registered with the Intellectual Property Office. (Amendments to this paragraph were introduced by Law of December 19, 1996)

4. (This paragraph was annulled by Law of May 21, 1999)
5. (This paragraph was annulled by Law of May 21, 1999)
6. The license contract must not contradict the third party interests. The parties to the contract shall keep the contents of the license contract confidential. (This paragraph was re-edited by Law of May 21, 1999)

7. The owner of a patent may submit a request to the Intellectual Property Office to issue to any interested party a license to use his/her invention freely. (This paragraph was added by Law of December 19, 1996)

8. The license contract can not be concluded on conditions restricting fair
Article 20. Compulsory licenses
1. In accordance with the request of an interested person, a compulsory license in respect of a patented invention can be granted by the decision of the Intellectual Property Office in the following cases:
   1) the invention must be used in the public interests such as national security, food supply or health of the population;
   2) the invention has not been used at all for a period of four years from the filing date of the patent application or three years from the date of granting the patent (whichever period expires last) and the patent owner fails to prove to the Intellectual Property Office that there have not been circumstances for the use of the invention in Mongolia;
   3) the patent owner considers that the way of using the patented invention under the license contract bears the features of unfair competition. (This subparagraph was reedited by Law of May 21, 1999)
2. If the patent owner disagrees with the decision of the Intellectual Property Office to grant a compulsory license, he/she may appeal to the court.
3. In the event of signing a contract on compulsory use of the license, the party obtaining the license shall pay the patent owner the payment for the use of a patented invention. (This paragraph was added by Law of May 21, 1999)

Article 21. Exploitation of innovations
1. The holder of an innovation certificate shall sign a contract while allowing the others to use this innovation.
2. The contract must specify the terms and conditions of use, scope, duration, payment and procedures for making the payment. (This article was re-edited by Law of May 21, 1999)

Article 22. Obligations of business entities or organisations and patent owner exploiting an invention, industrial design or innovation
1. A business entity or organisation exploiting an invention, industrial design or innovations shall report the profit earned during the exploitation on its financial statements and shall keep the confidentiality of the production.
2. If the owner of the patent for an invention or industrial design, or the holder of an innovation certificate changes, a written notification thereof must be sent to the Intellectual Property Office. Such a change must not affect the third party interests. (This paragraph was reedited by Law of May 21, 1999)
Article 23. Inventions and industrial designs regarded as a state secret
Relations arising in connection with inventions and industrial designs regarded as a state secret shall be regulated by an appropriate law.

Article 24. Patent and license fees
1. Fees shall be paid for filing an application for an invention, industrial design or innovation, maintaining the validity of the patent and registering the license contract. The fees shall be collected by the Intellectual Property Office. (Additions to this paragraph were introduced by Law of May 21, 1999)
2. The amount of the fee shall be established by law.

Article 25. Deadline for payment of the fee
1. The fee for maintaining the validity of the patent shall be paid at fixed intervals.
2. The fee for maintaining the validity of the patent for the first three years shall be paid within six months of the date of the decision to grant the patent. The fee for the subsequent period shall be paid six months prior to the commencement of this period.
3. If the patent owner fails to pay the fee for maintaining the validity of the patent by the deadline specified in paragraph 2 of this article, he/she may pay the fee within six months from the expiry of this period. In this case, a surcharge of the same amount as the fee for that period shall also be paid.
4. A person interested in maintaining the validity of the patent may pay the patent fee with the consent of the patent owner. (This paragraph was added by Law of December 19, 1996)

Article 26. Invalidation of patents
1. An interested person may submit to the court an application to invalidate a patent.
2. If the patent is granted in violation of articles 4, 6, 8, 10 and 12 of this law, the court shall invalidate the patent. In this case, the Intellectual Property Office shall record the corresponding changes in the state register of inventions and industrial designs, and shall publish a notice of invalidation in the Patent Gazette. (Amendments to this paragraph were introduced by Law of December 19, 1996)
3. In the event of refusal to own the patent or pay the patent fee, or non-payment of the fee by the deadline specified in paragraph 3 of article 25 of this law, the Intellectual Property Office shall invalidate the patent. In such a case, the right to any patent in respect of an invention or industrial design that must be under state control shall be transferred to an appropriate state administrative authority.
4. If the patent was invalidated due to non-payment of the patent fee, this patent...
may be restored at the request of the patent owner within the total period of the patent's validity. (This paragraph was added by Law of December 19, 1996)

Chapter Six
Miscellaneous Provisions

Article 27. Settlement of disputes and complaints
The Intellectual Property Office shall review within six months a complaint filed in connection with the examination of an application for an invention or industrial design, and shall give a reply in writing. If the disputing party disagrees with this decision, it may appeal to the court within 30 days from the receipt of the decision. (This article was re-edited by Law of December 19, 1996)

Article 28. Liability for violation of the patent legislation and rights of authors and patent owners
1. If the violation of the patent legislation does not result in criminal liability, an state inspector shall fine an individual for up to 5,000 togrogs and a business entity or organisation for up to 50,000 togrogs and a judge shall fine an individual for up to 50,000 togrogs and a business entity or organisation for up to 250,000 togrogs, or detain an individual or official at fault for up to 7-14 days, and confiscate illegally earned profits in favour of the state, destroy the goods and stop the production. (This paragraph was re-edited by Law of May 21, 1999)

2. A person who infringes the rights of authors and patent owners shall be liable to sanctions under the laws of Mongolia.

3. The procedure for payment of the compensation for material losses caused by infringement of the patent owner's rights shall be determined in accordance with the Civil Code of Mongolia.

Article 29. Entry into force of the law
1. This law shall come into effect on September 1, 1993.

2. This law shall not apply retrospectively.

Chairman of the State Ih Hural of Mongolia
N. Bagabandi

General Secretary of the Secretariat of the State Ih Hural of Mongolia
N. Rinchindorj

Ulaanbaatar
25 June 1993
CHAPTER ONE
General provisions

Article 1. Purpose of this law
1.1. The purpose of this law shall be to regulate matters relating to the use, retrieval, preservation and security of archive documents, a fund of National archives and its composition, and establish the principles, management and structure of State archives in Mongolia.

Article 2. The legislation on archives
2.1. The legislation on archives is comprised of the Constitution of Mongolia, this law and other relevant legislation, which is consistent with this law.
2.2. If an international treaty to which Mongolia is a party is not consistent with this law, then the provisions of the international treaty shall prevail.

Article 3. The documents of the archives and their classification
3.1. The "documents" of the archives are all those documents that need to be preserved to be used for cognition, politics and science and which are in permanent storage in the archives.
3.2. The documents shall be classified in to the uniquely valuable, valuable, ordinary.
3.3. The National archives shall establish an index of documents in the archives that are uniquely valuable, valuable and ordinary.

Article 4. A fund of archives
4.1. A "fund of archives" means archive documents that have been preserved as a complex of documents correlated by logic and derivation with each other.

Article 5. Archives
5.1. The archives are an organization and or entity with the duty to receive, preserve and protect archival documents to be used by others in accordance with the procedure specified in this law.
Article 6. The fund of National archives and its composition
6.1. The fund of Mongolian national archives shall consist of all archive documents that have social, political, economic and cultural significance for the life of the Mongolian people, their historical development and for scientific research. State archives shall analyze selections of documents and decide whether or not they relate to the composition of the fund of National archives.
6.2. The fund of the National archives of Mongolia shall be under state protection irrespective of the type or source of origin, sectional relationship, type of the information supplier, storage or ownership.
6.3. The fund of Mongolian National archives shall be divided into the two parts: State and non-State.
6.4. The fund of State archives shall consist of the following documents:
   6.4.1. archive documents of the Mongolian President, National Security Council, State Ih Hural and other bodies accountable to it, Government, ministries, agencies, and local self-governing bodies;
   6.4.2. archive documents of the Constitutional Court, Court, and Prosecutor's office;
   6.4.3. archive documents of organizations within the state budget, wholly and partially state-owned legal entities;
   6.4.4. archive documents of political parties and coalitions, which have seats in the State Ih Hural;
   6.4.5. archive documents of parties, non-governmental and religious organizations transferred to the state archives;
   6.4.6. private documents transferred to the state archives;
   6.4.7. archive documents that are created and bought by the state by its own capital and that are presented for preservation by domestic and foreign organizations and citizens;
   6.4.8. transcripts of State archives considered as original documents.
6.5. The fund of non-State archives shall consist of the following documents:
   6.5.1. archive documents of non-governmental organizations;
   6.5.2. archive documents of political parties and religious organizations;
   6.5.3. archive documents of private business entities;
   6.5.4. archive documents of business entities and organizations with foreign investments;
   6.5.5. personal documents.

Article 7. Right to own archival documents
7.1. The right of the owner of archive documents shall be protected by law.
7.2. Documents of the fund of State archives shall be State property.
7.3. Documents of the fund of non-State archives shall be the property of the legal
entities referred to in paragraph 6.5. of this law.

7.4. If the owner organization has fully achieved its mission and/or the citizen has died and there is no statutory and inherited heir, the fund of the non-State archives shall be transferred and stored in the relevant State archives and become State property.

7.5. If archive documents that are uniquely valuable and/or valuable are in a position to be lost or damaged or if the owner refuses to transfer them voluntarily, on request of the State archives the Court shall decide whether to transfer ownership of the archival documents.

CHAPTER TWO
Principles, management and structure of activities of the State archives and their rights and duties

Article 8. General principles of the activities of the State archives
8.1. State archives shall maintain its activities under the following principles:
   8.1.1. be open to the public;
   8.1.2. be united and centralized;
   8.1.3. be independent from political parties;

Article 9. Right of state organizations to keep official work and archives
9.1. State Hural shall have the following rights relating to the maintenance of official writings and archives:
   9.1.1. to determine State policy regarding the maintenance of official writings and archives.
   9.1.2. to decide matters pertaining to the transfer of ownership rights of documents relating to the fund of State archives to others.
9.2. The Government shall have the following rights relating to the maintenance of official writings and archives:
   9.2.1. to enforce and monitor legislation on the maintenance of official writings and archives;
   9.2.2. to establish a general regulation, in accordance with the law, on the maintenance and monitoring of official writings and archives, storing, furnishing and using documents and information saved in a special carrier and/or installed in a memory;
   9.2.3. to take unified measures to finance the improvement of the maintenance of official State writings and the preservation and protection of the archives fund;
   9.2.4. to give permission for documents of the State archives to be taken abroad temporary.
9.3. The member of the Government responsible for the archives shall have the
following rights:

9.3.1. to organize the enforcement and implementation of the legislation and decisions of the Government on the maintenance of official writings and archives;

9.3.2. to appoint and remove the Director of the National Central Archives;

9.3.3. to appoint and remove the Senior Inspector and inspectors of the State office monitoring the maintenance of State official writings and archives;

9.4. Agency shall have the following rights relating to the maintenance of official writings and archives:

9.4.1. to organize activities to enforce the legislation on the maintenance of official writings and archives by its sub-offices and to monitor their implementation;

9.4.2. to submit annual reports about the composition, modification of and adjustments to documents relating to the fund of State archives;

9.4.3. to provide support for conducting unified statistics on State and non-State archive documents.

9.5. Governors of the aimag, capital, soum and district shall have the following rights regarding the maintenance of official writings and archives:

9.5.1. to organize activities to enforce legislation and State policy on the maintenance of official writings and archives in their respective territories and to monitor their implementation;

9.5.2. to organize and provide support for conducting unified statistics on State and non-states archives documents as well as provide relevant information and reports.

Article 10. Management of State archives

10.1 The Government agency responsible for the archives - the National Central Archives (hereinafter referred to as "the National archives") shall implement State policy on archives and coordinate the activities of the archives using by professional methodology throughout the territory of the country.

10.2. The Agency shall be guided in its activities by this law and other relevant laws.

Article 11. Duty of the National archives

11.1. National archives shall have the following duties:

11.1.1. to establish and conform with unified methodological principles and standards themaintenance of official writings and archives, their preservation, protection, use and retrieval of the fund of the National archives in Mongolia;

11.1.2. to organize activities to implement legislation on the maintenance of
official writings and archives throughout the country;

11.1.3. to approve and implement regulations on the activities of State archives;

11.1.4. to provide professional assistance and coordinate the activities on preservation, use, protection and retrieval of archival documents of State organizations at all level;

11.1.5. to provide the State archive with professional staff and train them in their specialties;

11.1.6. to keep State records about documents in the archival fund and to maintain a unified information network on their content, composition and location;

11.1.7. to conduct a unified policy on staff, material supplies and activities of the State archives;

11.1.8. to develop cooperation with foreign countries and international organizations on archival matters;

11.1.9. to organize activities to discover, reproduce and/or purchase archives documents in foreign countries that are relevant to the culture and history of Mongolia.

Article 12. Structure of the State archives

12.1. The structure of State archives shall be comprised of National archive and aimags' and capital city's archives.

Article 13. National archive

13.1. National archive shall be the state central archive with rights and duties to store and use permanently and gather documents related to the state history throughout the country irrespectively of the type of documents and sectional relationship.

Article 14. Branch offices of the National archive

14.1. National archive shall have the following branch offices:

14.1.1. documentation center on geology
14.1.2. documentation center on geodesy and cartography;
14.1.3. documentation center on citizens;
14.1.4. weather and environment information center;
14.1.5. others;

Article 15. Rights and duties of State archives

15.1. State archives shall have the following rights and duties:

15.1.1. to collect, select and investigate archive documents, which have significance for history and scientific research;
15.1.2. to retrieve funds;
15.1.3. to store archive documents in a designated building in accordance with the appropriate/special instructions;
15.1.4. to reinstate and renew archival documents;
15.1.5. to reproduce documents that are uniquely valuable and valuable;
15.1.6. to categorize and classify documents that are received by the archives and to establish archives funds from these documents;
15.1.7. to maintain statistical records on archive documents;
15.1.8. to establish an information reference fund exhibiting the content and composition of the archival documents;
15.1.9. to study, promote and publish archival documents;
15.1.10. to utilize the archival documents of others;
15.1.11. to provide methodological and professional assistance to organizations establishing archives funds and to monitor the implementation of legislation on archives;
15.1.12. to store and save archival documents in the memory of a special carrier and/or computer.

Article 16. Appointment and remove the management of State archives
16.1. The Director of the National Central Archives shall be appointed and removed by the Government member responsible for archives based on the recommendation of the head of the National Archives.
16.2. The directors of branches of the National Central Archives shall be appointed and removed by the relevant head of the government agency on the recommendation of the head of the National Archives.
16.3. The directors of the aimags and capital city's archives shall be appointed and removed by the aimags and capital city's governor upon consultation with the head of the National Archives.

Article 17. Financing of the State archive
17.1. Activities of the State archive shall be financed by the state and local budgets.
17.2. The source of capital to supply the State archives with designated buildings, equipment, and techniques and to purchase archives documents that are uniquely valuable and valuable shall be reflected every year in the State and local centralized budgets.

Article 18. Support of non-State archives
18.1. Upon the request of an owner the State archives shall provide methodological and professional advice and organize training on the preservation, protection, retrieval and use of archival documents of non-
State organizations relating to the fund of the National archives.

18.2. Upon the request of a possessor of non-State archive documents, in order to ensure their safety the documents may be transferred to the State archives for preservation.

CHAPTER THREE
Protection, preservation, retrieval and use of archival documents

Article 19. Protection of archival documents
19.1. Archives security shall guarantee the reliable protection of the fund of the National archives from loss and/or damage by natural disaster, fire, flood and unforeseen danger, attacks and/or other unexpected consequences.

19.2. Business entities and organizations other than those engaged in archival services shall be prohibited a place in the building housing of the National archives.

19.3. The owner and possessor of documents acquired by contract shall be responsible for the safety of documents relating to the fund of the National archives.

19.4. Organizations referred to in paragraphs 6.4.1, 6.4.2 and 6.4.3 of this law shall be responsible for the placement and safety of the archival documents originated in the process of maintaining official writings and for transferring the documents to be preserved permanently by the State archives within the period prescribed by this law.

19.5. National Central Archives shall be under State protection.

19.6. The member of the government responsible for the archives shall approve a regulation on firesafety of the State archives’ fund and the National archives and the State fire department shall supervise its enforcement.

19.7. The documents of the State archives shall be preserved in designated buildings, special shelves and bookcases.

19.8. For protection, copies of archive documents that are uniquely valuable and valuable shall be made and preserved separately from the original documents.

19.9. Documents that are uniquely valuable and valuable related to the fund of the National archives are prohibited from being destroyed or transferring to another’s possession without the proper authorization of the National archives and State archives.

19.10. The State archives shall purchase any documents of national interest that are being sold by non-State archives.

19.11. Original archive documents relating to State property shall be not
privatized, sold and/or given away as a present (gift).

19.12. Original documents transferred for permanent preservation in the State archives shall not be removed from the archives building.

Article 20. Preservation of archives documents
20.1. The documents of the fund of State archives shall be classified and preserved in unified form as archives fund, compilation and safeguarding units in order to provide probability to use in accordance with the national interests, establish unification and provide safety.

20.2. Only the National Central Archive, capital city and aimags' archives shall have the right to preserve permanently the documents of the State archival funds.

20.3. The organizations referred to in paragraphs 6.4.1, 6.4.2 and 6.4.3 of this law shall have the right to preserve the documents of the State archives for the period provided in Article 23 of this law.

20.4. Every organization shall have its own archives so as to enforce standards and regulations for maintaining official writings and archives, and transferring to the State archives after the fixed period prescribed by this law selected documents to be preserved permanently, receive documents, founded during maintenance of state official writings, from the organizing entities and register, classify, and ensure their safety and use in management’s activities.

20.5. Organization archives shall be graded as sub-archives and first-level depending upon the peculiarity of the activity, importance and composition of the documents.

20.6. The courts, prosecutor’s office and external relations, defense, national security and police departments may have sub-archives to centralize preservation of the original agreements, contracts and relevant documents related to the compilation of court cases, investigations, natural defense, and national security.

20.7. The documents described in this section shall be centrally preserved in the sub-archives by periods prescribed in paragraph 23.1.12 of this law. Sub-archives shall have the same status as State archives.

Article 21. Retrieval of the archives
21.1. The fund of National archives shall be entitled to retrieve the documents arising from the activities of the organizations referred to in paragraph 6.4 of this law.

21.2. The archives of the aimags and capital city shall be retrieved by the documents of the local administrative organizations, locally owned legal entities and legal entities with local ownership.
21.3. The National archives shall approve regulations for retrieving archive funds by scope and content, composition or by various lists of names of the documents preserved permanently in the State central archives.

21.4. In the National interest, individual persons and legal entities may transfer to the National archives archival documents under State protection.

21.5. If State organizations or State-owned industries are terminated, reorganized and/or privatized, their documents shall be transferred for preservation to the relevant State archives.

21.6. The archives of the museums, libraries, non-State organizations shall be prohibited to be retrieved from the original documents relating to the funds of the State archives.

Article 22. Maintenance of state official writings
22.1. The officer responsible for the maintenance official writings of State and non-State organizations and business entities shall have the following duties:
   22.1.1. to supervise maintenance official writings in conformity with established regulations and standards;
   22.1.2. to preserve documents in secure condition and ensure their safety;
   22.1.3. to compile the records by classifying them according to the list of the names of maintained documents, to put the official writings in order according to established procedures, and to transfer the fully-field documents to the archives of organizations after the period for preservation is over.

22.2. Information and documents saved and/or kept in the memory of a special carrier shall have the same value as original archival documents and matters relating to their utilization, preservation and improvement shall be conducted in accordance with regulations approved by the Government in accordance with this law.

Article 23. Duration for preservation of the documents of fundsof the State archives in organizational archives
23.1. The duration for the preservation documents in the archives of an organization that have historical and scientific value and are transferred to the State archives shall be accounted from the first day of January of the following the compilation at the documents and be fixed as follows for:
   23.1.1. the President and his seal office - 20 years;
   23.1.2. the National Security Council - 30 years;
   23.1.3. the State Ih Hural (parliament), its seal office - 20 years;
   23.1.4. the Constitutional Court - 20 years;
   23.1.5. the Government of Mongolia and its Secretariat - 20 years;
23.1.6. other bodies accountable to the State Ih Hural - 15 years;
23.1.7. Ministries and agencies of government - 15 years;
23.1.8. State-owned and partially State owned legal entities and bodies within the state budget - 10 years;
23.1.9. local administrative and self-governing bodies - 8 years;
23.1.10. project documents of principal organizations - 20 years;
23.1.11. documents relating to the science, technology and patents of principal organizations - 15 years;
23.1.12. the designated archives of respective organizations - 40 years;
23.2. Original copies of the movies, photographs and sound and visual recordings, which are financed from the State budget, shall be transferred to the relevant State archives within a year.

Article 24. Statistics of the archival documents
24.1. All documents of the State and non-State archives shall be included in the state-unified statistics.
The National archives shall approve a regulation for requiring the unified statistics to be kept by the funds.
24.2. Unified statistics on documents relating to the fund of the State archives shall be compiled once in 4 years.

Article 25. Use of archival documents
25.1. Persons, business entities and organizations may use documents of the State in accordance with procedures established by the National archives.
25.2. Citizens and legal persons shall have rights to use archival documents as follows:
   25.2.1. to obtain a copy and reference from archival documents;
   25.2.2. to review and study in the reading room;
25.3. The archives, at its own initiation, may promote archival documents through use of the mass media.
25.4. Citizens and legal persons shall pay a service fee using archival documents of the State archives in accordance with procedures established by the National archives.
25.5. Business entities, organizations and persons shall have the right to use without a service fee document they have transferred to the State archives.
25.6. Others may use documents of private origin that are preserved in the State archives under contract by permission of the owner and/or possessor.
25.7. Documents in the archives relating to State and other secrets and protected by law shall be permitted to be used by the public after 30 years.
25.8. Documents relating to the national security and which have significance for State interests shall be made available for use by the public after 50 years, and documents relating to the private life of a citizen and/or to his/her
property shall be available for use by the public after 70 years.

25.9. A person and/or an organization who wishes to publish documents from a State archive shall obtain permission from the State archives and the State archives shall inspect the conformity of the published documents to the originals.

**Article 26. Travel aboard of archival documents**

26.1. Unless specified otherwise in international treaties signed by Mongolia, original documents of the State archives and documents that are uniquely valuable, valuable of the non-State archives shall be prohibited to be taken aboard.

26.2. Whether documents referred to in paragraph 3.2 of this law may be taken abroad for a temporary period shall be decided in accordance with the law on the protection of items of the historical and cultural value.

**CHAPTER FOUR**

**Other provisions**

**Article 27. Liability for breaches of this legislation**

27.1. Archivists and/or other persons in breach of this legislation on archives shall bear criminal and administrative responsibility depending upon their culpability, the nature of their offence, and the amount of damage caused as a result of the breach.

Chairman of the State Ih Hural of Mongolia R. Gonchigdorj

Ulaanbaatar
Mongolia
Chapter One
General Provisions

Article 1. Purpose of the law
The purpose of this law is to ensure legal guarantees for trademarks and trade names, to protect the rights and legal interests of their owners, and to regulate relations concerning the ownership, use and disposal of trademarks and trade names.

Article 2. Legislation on trademarks and trade names
1. The legislation on trademarks and trade names shall consist of the Constitution of Mongolia, the Civil Law, this law and other legislative acts issued in conformity with them.
2. If an international treaty to which Mongolia is party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions in this law
In this law the following terms shall have the following meanings:

1) “trademark” means letters, numerals, figurative shapes or a combination of those means of expression which have particular significance and which are used by a legal person or individual who is in the business of production or the provision of services, in order to distinguish that production or service from that of others;

2) “collective mark” means a trademark used by members of an association of business entities, which is established in accordance with provisions specified in legislation for carrying out similar production or providing similar services, for goods or services with cooperative characteristics and used under the supervision of the association;

3) “place of origin” means the name of the country, city, village or place where goods are produced which have characteristics directly linked with its geographical conditions and the customs of its people;

4) “trade name” means a name used by a legal person in accordance with the relevant regulations for carrying out its activities;
5) "registered mark" means a trademark or trade name registered in the State register by the Intellectual Property Office and in respect of which a certificate is issued in accordance with relevant procedures;

6) "owner of a trademark" means a person who acquires the right to own, use, and charge for the use of a registered mark in accordance with the procedure provided by law;

7) "application" means an application along with any other documents required by law which is submitted to the Intellectual Property Office by a legal person or individual in order to register a trademark or trade name;

8) "examination" means the check performed by an authorised officer of the relevant organisation on whether a similar trademark or trade name has previously been registered and in respect of which a certificate has been issued;

9) "licence" means the permission given by the owner of a trademark or trade name to another person to use the trademark or trade name after registration by the Intellectual Property Office;

10) "filing date" means the date on which an application for a trademark or trade name is received by the Intellectual Property Office in accordance with article 7 of this law;

11) "priority date" means the date on which a trademark is received for registration in any member State of the Paris Convention for the Protection of Industrial Property or to be given a priority date in accordance with article 4 of that Convention;

12) "international categories for trademarks" refers to the Nice Agreement of 1957 concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks and the Vienna Agreement of 1973 establishing an International Classification of the Figurative Elements of Marks.

**Article 4. Registrable trademarks and requirements for registration**

1. Trademarks that meet the requirements provided in paragraph 1 of article 3 of this law shall be registered.

2. The following items shall not be considered to be trademarks:
   
   1) words or figurative shapes which represent things and phenomena;
   
   2) common names, formulae, figurative shapes, common geometrical shapes, numerical expressions or indecipherable letters or marks;
   
   3) words or figurative shapes which explain the origin, quantity, weight, quality, purpose or price of goods, the name of the manufacturer or
themethod or date of manufacture;
4) anything which could be in any way misleading;
5) place names or abbreviations of them or maps or signs showing locations;
6) human names expressed in an undistinctive manner;
7) common expressions of common undistinctive places.

3. The following marks shall not be registered:

1) trademarks that are identical or similar to the national emblem, flags, wholeor abbreviated names of mass or international organisations, or officialbadges of Mongolia or other foreign countries;
2) whole or abbreviated names, portraits, pictures or signatures of famouspeople used without their permission or that of their heirs;
3) names, pseudonyms, portraits, pictures or titles of imaginative orhistorical persons of Mongolia used without permission of the competentauthorities;
4) words or figurative shapes protected by copyright or industrial designpatents of Mongolia used without permission of the author or the owner ofrights with respect to them;
5) trademarks which are similar to trademarks used for other goods andservices which are registered in Mongolia or which have been submitted forregistration;
6) trademarks similar to common trademarks of Mongolia;
7) trademarks whose content is prejudicial to public order and morality.

4. The name of the origin of goods shall be registered only by way of a collective mark.

Article 5. Requirements for the registration of trade names

1. A business entity shall have a name and the exclusive right to use it.
2. Rights with respect to trade names shall begin after entry in the State register andthe issuance of a certificate.
3. A trade name shall not be registered in the following cases;
   1) if it is similar/identical to a previously registered trade name;
   2) if it expresses the legal status of the business entity;
   3) if the business entity is not established and registered in accordance withlaw;
   4) if the trade name is expressed by numbers.
4. A trade name shall be brief and written in Cyrillic script. A business entity mayregister a trade name written in Cyrillic script together with a trade name
written in the Latin alphabet if it so wishes.

5. The form of the business entity shall be written after the trade name.

6. A trade name consisting of two or more words shall be written in the following way:

1) if the trade name consists of two words and the second one starts with a consonant, it shall join the first word;

2) if the trade name consists of two words and the second one starts with a vowel, it shall be preceded by a hyphen (-) and start with a capital letter;

3) if the trade name consists of three words and the second one starts with a consonant, the first and second words shall be joined and the third word shall be written after a one-letter space, the first letter to be in lower case;

4) if the trade name consists of three words and the second one starts with a vowel, the second and third words shall be written with a one-letter space between them and the first letter of the third word shall be in lower case.

7. A trade name need not have any particular meaning or may have a meaning expressed in brief or may consist of a single letter or syllable and in that case its letters shall all be written in capitals. The letters shall be joined with no symbol between them.

8. A business entity may register its trade name as a whole or in an abbreviated form convenient for daily use and may use the shorter form of the trade name as a trademark. In that case, the trade name shall be registered in accordance with the law in the same way as a trademark.

Article 6. Duties of the Intellectual Property Office with respect to trademarks and trade names

1. The Intellectual Property Office shall carry out the following functions with respect to the registration of trademarks and trade names:

1) receive and decide upon applications for trademarks and trade names;

2) register trademarks and trade names and issue certificates;

3) provide facts for the settlement of disputes by courts with respect to trademarks and trade names;

4) decide on applications and complaints as provided by law;

5) establish a design for certificates of trademarks and trade names;

6) keep a single State register of trademarks, associated contracts and tradenames, establish a unified database and publish related information;
7) cancel trademarks and trade names for the reasons and on the basis of regulations provided by law;

8) perform the functions set out in sub-paragraphs 8, 10, 11, 13 and 15 of paragraph 1 of article 5 of the Patent Law and sub-paragraphs 11 and 12 of paragraph 1 of article 6 of the Copyright Law.

2. On the request of an author, the Intellectual Property Office may value works related to trademarks and trade names.

Chapter Two

Registration of Trademarks and Trade Names and the Issuance of Certificates

Article 7. Applications for trademarks and trade names

1. A legal person or individual who wishes to register a trade name or trademark shall make an application with respect to that trademark or trade name to the Intellectual Property Office.

2. An application for a trademark shall consist of the application and 10 copies of a graphical representation of the trademark.

3. An application for a trade name shall consist of the application, an enlargement of the written form of the trade name and a copy of the State registration certificate of the business entity.

4. An application should include the surname and name, address and nationality of the applicant or his authorised representative, the date and number of the application, the type of business of the applicant, a request for registration of the trademark or trade name and a graphical representation of the trademark or trade name.

5. If an applicant wishes to register a sign, a collective mark of form of volume, or of colour, he or she shall address this in the application and shall attach a copy of the procedure for use of the mark to the application.

6. If an applicant wishes to register the name of the origin of the goods, he or she shall address this in the application and attach documents confirming the name of origin and his or her right to use it to the application.

7. If trademarks and trade names are expressed in scripts other than Cyrillic or the Latin alphabet, the script shall be transliterated into the Latin alphabet and included with the application.

8. An application for a trademark may specify one or more international categories of goods or services.
9. Prior to State registration of a trade name, an applicant may inquire whether a selected name is similar/identical to a previously registered name.

10. If the selected trade name is only different from a name previously registered by a legal person by virtue of a marginal sign of type, number, letter, or word showing the form of the business entity, the selected name shall be considered to be similar and shall not be registrable.

11. The provisions of paragraphs 6, 7 and 8 of article 6 of the Patent Law of Mongolia shall also apply.

**Article 8. Filing date for applications for trademarks and trade names**

1. Within 20 days of receiving an application for a trade name, the Intellectual Property Office shall examine the materials relevant to the application and, if the application meets the requirements set out in articles 4 and 5 of this law, shall record the date it received the application as the filing date.

2. If the Intellectual Property Office finds that the application does not meet the requirements set out in articles 4 and 5 of this law, it shall require the applicant to make amendments and alterations within 2 months and shall return the application to the applicant. If the applicant makes amendments and alterations during that period and resubmits the application, the Intellectual Property Office shall record the date of that receipt of the application as the filing date.

3. If the required amendments and alterations are not made and submitted to the Office within the period set out in paragraph 2 of this article, the Intellectual Property Office shall refuse to accept the application.

4. If an individual or legal person applies to register a trademark within 6 months from the date of exposing the goods in the following exhibitions, the filing date shall be recorded as the date of exposure of the goods at the exhibition:
   
   1) an exhibition organised by a competent central or local administrative body;
   
   2) an exhibition organised on the authority of a competent central or local administrative body;
   
   3) an exhibition organised in a foreign country;
   
   4) an exhibition organised in the territory of a member country of the Paris Convention by, or with the permission, of the Government of that country.

**Article 9. Examination of applications for trademarks and trade names**
1. If the Intellectual Property Office finds that an application meets the necessary requirements, it shall examine whether the symbol may be registered as a trademark or tradename in accordance with this law.

2. While the matter is being examined, an applicant may change the application other than by altering the trademark or trade name or by amending the list of names of goods and services. A new application shall be submitted if any change in the list of names of goods is to be made.

3. While the matter is being examined, the applicant may make a separate application with respect to a different category of goods or services.

4. An applicant may withdraw the application while it is being examined. In that case, the applicant shall lose the right to reapply for that trademark or trade name.

5. If a final decision to reject the application or refuse the registration is made by an expert or a court, it shall be considered that such an application was not submitted.

6. Based on the conclusions of its examination, the Intellectual Property Office shall decide whether to register a trademark or trade name within six months from the filing date of the application. If necessary, the Intellectual Property Office may extend the term for up to six months.

Article 10. Registration of trademarks and trade names and the issuance of certificates

1. If the Intellectual Property Office decides to register a trademark or trade name, that trademark or trade name shall be entered in the State register, a certificate of trademark or trade name shall be issued and the application shall be stored in the database of trademarks and trade names. The application for a trademark or trade name registered by the Intellectual Property Office shall be stored for a period of 10 years from the expiry of the certificate.

2. The surname and name, address, type of business of the owner of the trademark, the main characteristics of the trademark, the number and date of the decision to issue a certificate, the filing date of the application, and the term of validity of the certificate shall be included on the trademark certificate and the member of the Government authorised to do so shall sign and stamp it.

3. The name of the business entity, the type of business it is engaged in, the decision of the authority that issued the certificate, the filing date and the period of validity of the certificate shall be included on the trade name certificate and the member of the Government authorised to do so shall sign and stamp it.
4. If the Intellectual Property Office refuses to register a trademark or trade name, a copy of the application and the conclusion of the examination shall be sent to the applicant within 30 days from the date of the decision. If the applicant does not agree with the decision, he or she may apply to the court within 30 days from the date of receiving the decision refusing registration.

5. The Intellectual Property Office shall publish in the press the bibliography and graphical representations of registered trademarks and trade names.

Article 11. Term of validity of certificates of trademarks and trade names and their extension

1. A certificate of trademark or trade name shall be valid for a period of 10 years from the date of its issuance.

2. The period of validity of a certificate of trademark or trade name may be extended on the application of the owner for a period of ten years.

3. An application for extension of the term of validity of a certificate shall be made to the Intellectual Property Office during the last year of validity of the certificate. Unless submitted before expiry of the period, an application may be made within six months from the expiry date.

4. In extending the period of validity of a certificate, the list of categories of goods and services to which the trademark or trade name applies shall not be amended.

5. If the name or address of the owner of a trademark or trade name changes, the Intellectual Property Office must be notified in writing within six months. The Intellectual Property Office shall publish in the press each decision to extend the term of a certificate of trademark or trade name and any change in the State register of trademarks and trade names.

Article 12. Fees for certificates of trademarks and trade names

1. For granting or extending the term of a certificate of trademark or trade name, a fee shall be paid in accordance with the rate and amount provided in the Law of Mongolia on Stamp Duties.

2. The fee shall be paid within three months from the date of making the decision to grant the certificate of trademark or trade name or to extend the term of validity of a certificate of trademark or trade name.
Chapter Three
Rights of Owners of Trademarks and Trade Names, Ownership, Use and Disposal of Trademarks and Trade Names

Article 13. Rights of owners of trademarks and trade names
1. The registration of trademarks and trade names shall give their owners exclusive rights with respect to them.
2. An owner of a trademark or trade name has the following rights:
   1) to use the registered trademark or trade name for his or her own goods and services;
   2) to own, exploit, and/or dispose of his or her registered trademarks or tradename;
   3) to permit others to use the registered trademark or trade name by way of licence contract;
   4) to transfer the trademark to others;
   5) to get information and confirmation from the Intellectual Property Office on registered trademarks and trade names;
   6) if his or her registered trademark or trade name is used unlawfully by others, to require such to cease and to be protected against breach of his or her rights;
   7) to demand cessation of the use of trademarks or trade names that are similar to previously registered trademarks and trade names and to be compensated for losses suffered.

Article 14. Use of trademarks
1. The following actions shall be considered as being appropriate uses of a trademark:
   1) use of trademarks for goods, packaging and services;
   2) supply of goods with trademarks for trade or supply or storage purposes;
   3) the import or export of goods with trademarks;
   4) the use of trademarks on official letters, other documents or advertisements;
   5) an owner of a trademark may use Latin letter “c” in circle beside the trademark to show that the trademark is registered.
2. If a person uses a trademark which is similar to a registered trademark for similar goods or services without the authority of the owner of that trademark, such shall be considered a breach of the owner’s rights.
3. It shall not be considered to be a breach of ownership rights if registered trademarks are used in the following ways:

1) if the owner of a trademark or a person with the owner’s authority uses the trademark in any of the ways set out in paragraph 1 of this article within the country;

2) if the owner of a trademark or a person with the owner’s authority uses that trademark in connection with goods if those goods with that trademark are already in the market of that country.

**Article 15. Use of trade names**

1. While participating in civil activities, a legal person shall use a trade name to advertise its goods by way of packaging, introductions, official documents and exhibitions.

2. Trade names may be used in the same way as trademarks. If there is a discrepancy between a trademark and a trade name, the trademark shall prevail.

**Article 16. Transfer of trademarks to others and termination of rights to own trademarks**

1. An owner of a trademark may transfer, in whole or in part, the right to own the trademark to others by way of inheritance or other means.

2. The right to own a trademark may be transferred by way of contract. The contract shall be in writing and executed with the signature of both parties, and may be certified by notary if they so wish.

3. A contract for transfer of a trademark shall be registered in the Intellectual Property Office.

4. The right to own a trademark shall not be transferred if the type, origin, quality, purpose of goods or services or the name of the place or means of manufacture mislead consumers. The right to own a trademark shall be terminated in the following cases:

   1) the complete transfer to others by way of law or contract;
   2) the loss of rights of ownership for reasons provided in law;
   3) the death of the owner or a declaration that he or she is deceased;
   4) the dissolution of a legal person;
   5) other reasons provided by law.
Article 17. Transfer of trade names
Transfer of exclusive rights to use trade names shall be prohibited except where a legal person is restructured or wholly transferred to the ownership of others.

Article 18. Licence contract
1. An interested person shall make a licence contract to use a trademark or trade name with its owner. A licence contract shall be recorded in writing and signed by both parties. In case of a use of a trade name under a licence contract, the parties shall agree on measures to prevent the misleading of consumers.
2. The following shall be agreed in the licence contract:
   1) the methods, scope and period of use of the trademark or trade name, quality requirements and the inspection of relevant goods or services;
   2) the rights and duties of the parties;
   3) the amount and procedures for payment of fees for the use of the trademark or trade name;
   4) the range of territory where the licence contract is to be effective.
3. A licence contract shall be registered in the Intellectual Property Office.
4. Collective marks and use of the names of the geographical origin of goods shall not be transferred to others by licence contract.

Chapter Four
Miscellaneous Provisions

Article 19. Cancellation of certificates of trademarks and trade names and consideration as invalid
1. If an interested person considers that a trademark has been registered in breach of the provisions of sub-paragraph 1 of article 3 or, if necessary, sub-paragraphs 2 and/or 3 of article 3 and paragraphs 1, 2 and/or 3 of article 4 or a that trade name has been registered in breach of the provisions of paragraphs 3-7 of article 5 of this law he or she may request a court to cancel that trademark or trade name.
2. If an interested person considers that a trademark has been registered in breach of the provisions of sub-paragraphs 4, 5 and/or 6 of paragraph 3 of article 4 of this law, he or she may request a court to cancel the certificate within the period of 5 years from the registration date of the trademark.
3. If, after examination, the court considers the request justified, it shall decide
tocancel the registration of the trademark or trade name and shall inform the 
Intellectual Property Office in writing.

4. The Intellectual Property Office shall treat a certificate of trademark or trade 
name as invalid in the following cases:

1) if an application to extend its term is not submitted within the period of 
6 months from its expiry date;
2) if the fee provided in article 12 of this law is not paid on time;
3) if the owner of the trademark or trade name repudiates in writing the 
rights of ownership to registered trademarks or trade names;
4) if, on dissolution, the business entity that owns the trademark or 
trade name does not transfer the right to own that trademark or trade name 
by way of licence contract;
5) if the owner of the trademark or trade name does not, without any 
reason, use the trademark for 5 years or trade name for 3 years from 
its registration.

5. An interested person may apply to the court within 30 days if he or she 
disagrees with a decision to cancel a certificate of trademark or trade name.

6. An interested person may, with respect to the provisions of sub-paragraph 5 
of paragraph 4 of this article, submit an application for cancellation of a certificate 
of trademark to the Intellectual Property Office.

7. If a certificate of trademark or trade name is cancelled, the Intellectual 
Property Office shall make any necessary amendments in the State register of 
trademarks and tradenames and shall publish that in the press.

**Article 20. Settlement of disputes and grievances**

1. The Intellectual Property Office shall settle the following disputes and 
grievances with respect to trademarks and trade names:

1) examination of applications for trademarks and trade names;
2) the according of filing and priority dates;
3) rights of authorship.

2. The Intellectual Property Office must settle disputes and grievances and 
respond within a period of 30 days from the date of their receipt.

3. If the disputing parties disagree with the decision of the Intellectual Property 
Office, they may apply to the court within 30 days from receiving the decision.

4. The court shall settle all disputes and grievances except those falling within 
the jurisdiction of the Intellectual Property Office by law.
**Article 21. Liability for breach of legislation on trademarks and trade names**

1. If a breach of the legislation on trademarks and trade names is held not to constitute a criminal offence, a judge shall impose on an offending person a fine of up to 2,000-50,000 togrogs or on an offending business entity or organisation a fine of up to 10,000-250,000 togrogs, profits gained from the unlawful use of a trademark or trade name shall be paid to the owner of the trademark or trade name, profits gained from the sales of goods shall be transferred to the State ownership and production and service activities shall be stopped.

2. A person who breaches the rights of owners of trademarks or trade names shall be liable under the legislation of Mongolia.

**Article 22. Enforcement of the legislation on trademarks and trade names**

Unless it is contrary to the interests of the parties, a court may use the regulation previously enforced with respect to the rights and obligations arising with respect to trademarks and trade names prior to the passage of the Law on Trademarks and Trade Names.

**Article 23. Effective date of the law**

This law shall come into effect on 1 February 1997.

Chairman of the State Ih Hural of Mongolia R. Gonchigdorj
Annex 2 | *PCT Applicant’s Guide*
INTELLECTUAL PROPERTY OFFICE OF MONGOLIA
AS DESIGNATED (OR ELECTED) OFFICE

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List of abbreviations:
Office: Intellectual Property Office of Mongolia
MPL: Mongolian Patent Law
MPR: Regulations on the Drafting, Filing and Processing of an Application for a Patent for Invention

(14 January 2010)
## MN INTELLECTUAL PROPERTY OFFICE OF MONGOLIA

Summary of requirements for entry into the national phase

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<th>Requirement</th>
<th>Requirement Details</th>
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<tr>
<td>Time limits applicable for entry into the national phase:</td>
<td>Under PCT Article 22(3): 31 months from the priority date Under PCT Article 39(1)(b): 31 months from the priority date</td>
</tr>
<tr>
<td>Translation of international application required into: ^5</td>
<td>Mongolian</td>
</tr>
<tr>
<td>Required contents of the translation for entry into the national phase: ^3</td>
<td>Under PCT Article 22: Description, claims (if amended, both as originally filed and as amended, together with any statement under PCT Article 19), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts has been amended, both as originally filed and as amended by the annexes to the international preliminary examination report)</td>
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<tr>
<td>Is a copy of the international application required?</td>
<td>No</td>
</tr>
<tr>
<td>National fee: ^2</td>
<td>Currency: Mongolian tugrik (MNT) Annual fee for the period from the 1st to the 3rd year: 8,000</td>
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<td>Exemptions, reductions or refunds of the national fee:</td>
<td>None</td>
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<tr>
<td>Special requirements of the Office (PCT Rule 51(6s)): ^3, 4</td>
<td>Name and address of the inventor if they have not been furnished in the &quot;Request&quot; part of the international application Appointment of an agent if the applicant is not resident in Mongolia Inventor’s declaration Assignment deed where the applicant is not the inventor Translation to be furnished in two copies</td>
</tr>
<tr>
<td>Who can act as agent?</td>
<td>Any natural or legal person resident in Mongolia, registered to practice as a patent agent before the Office</td>
</tr>
<tr>
<td>Does the Office accept requests for restoration of the right of priority (PCT Rule 49(6w.2))?</td>
<td>Yes, please refer to the Office for the applicable criteria and/or any fee payable for such requests</td>
</tr>
</tbody>
</table>

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^1 If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to furnish a complete translation within two months from the date of the invitation.

^2 If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to comply with the requirements within a time limit fixed in the invitation.

^3 Due to the new time limit applicable under PCT Article 22, the Office should be consulted for the time limit applicable for the payment of this fee.

^4 The list of special requirements is still subject to confirmation by the Office.

^5 This requirement may be satisfied if the corresponding declaration has been made in accordance with PCT Rule 417.

(29 May 2008)
THE PROCEDURE IN THE NATIONAL PHASE

MN.01 FORM FOR ENTERING THE NATIONAL PHASE. The Office has available a special form for entering the national phase (see Annex MN.II). This form should preferably (but need not) be used.

MN.02 TRANSLATION (CORRECTION). Errors in the translation of the international application can be corrected with reference to the text of the international application as filed (see National Phase, paragraphs 6.002 and 6.003). If the translation furnished to the Office contains only the description, the Office will invite the applicant to furnish the missing part and will excuse the late furnishing provided that the scope of the disclosure contained in the translation furnished to the Office is not broadened thereby.

MN.03 FEES (MANNER OF PAYMENT). The manner of payment of the fees indicated in the Summary and in this Chapter is outlined in Annex MN.I.

MN.04 INVENTOR'S DECLARATION. For details, see the model of such declaration in Annex MN.III. Legalization is not required.

MN.05 ASSIGNMENT DEED. For details, see the model of such deed in Annex MN.IV. Legalization is not required. If the applicant has obtained the right to file the international application through the intermediary of one or more other persons and not directly from the inventor, the assignment deed linking the inventor and the applicant must be produced.

MN.06 POWER OF ATTORNEY. An agent must be appointed by power of attorney. A model is given in Annex MN.V.

MN.07 FEE FOR GRANT. The fee for grant must be paid within six months after receipt by the applicant of the decision to grant the patent. Where the applicant fails to pay the fee within that time limit, he can make this payment, together with a 100% surcharge for late payment, within six months from the date of the expiration of the above-mentioned time limit. The amount of the said fee is indicated in Annex MN.I.

MN.08 AMENDMENT OF THE APPLICATION; TIME LIMITS. Within three months after entry into the national phase, the applicant has the right to amend or correct the description, claims or drawings on his own initiative, without paying any fee for that purpose, provided that the amendments or corrections do not modify the subject matter of the claimed invention or utility model beyond the original disclosure.

MN.09 ANNUAL FEES. Fees for the maintenance of a patent must be paid for fixed periods as indicated in Annex MN.I. The maintenance fees for the first three years must be paid within six months from the date when the decision to grant the patent was made. The fees for the subsequent periods must be paid during the six months prior to the commencement of those periods. If no payment is made in time, it can still be made within six months from the date of expiration of the time limit, together with a 100% surcharge for late payment. The amounts of the annual fees are indicated in Annex MN I.

MN.10 EARLY START OF NATIONAL PHASE. If the applicant wishes the examination of his application by the Office to start earlier than the expiration of the time limit applicable under PCT Article 22 or 39(1), he can file an express request in writing therefor.

(14 January 2010)
MN.11 **UTILITY MODEL.** If the applicant wishes to obtain a utility model registration on the basis of an international application instead of a patent, for international applications filed before 1 January 2004, this must have been indicated in the international application (in Box No. V of the request) when filed, for international applications filed on or after 1 January 2004, since the request form no longer provides for the furnishing of such an indication, the applicant, when performing the acts referred to in Article 22 or 39, shall so indicate to the Office.

MN.12 **If the international application is for a utility model instead of a patent, the requirements are basically the same as for a patent, except that the applicant is not required to make a request for substantive examination.**

MN.13 **REVIEW UNDER ARTICLE 25 OF THE PCT.** The applicable procedure is outlined in paragraphs 6.018 to 6.021 of the National Phase. If, upon review under PCT Article 25, the Office denies an error or omission on the part of the receiving Office or the International Bureau, an appeal against this decision may be lodged within two months from the date of receipt of the decision.

MN.14 **EXCUSE OF DELAYS IN MEETING TIME LIMITS.** Reference is made to paragraphs 6.022 to 6.027 of the National Phase. Restoration of rights may be requested where the applicant has failed to observe a time limit during the international phase or before the Office. A request to waive the requirement which was not observed is also possible. Any such request must state the reasons for missing the time limit or for the failure to observe a requirement and must be accompanied by evidence in support of the statements made.

(14 January 2010)
FEES

(Currency: Tugrik)

Fee for grant ................................................................. 960

Annual fees
  - for the period from the 1st to the 3rd year ........................................... 8,000
  - for the period from the 4th to the 6th year ........................................... 14,200
  - for the period from the 7th to the 10th year ........................................ 28,800
  - for the period from the 11th to the 15th year ..................................... 56,500
  - for the period from the 16th to the 20th year .................................... 94,200

Surcharge for late payment of fees ................................................. 100% of the applicable fee

How can payment of fees be effected?

Applicants who are foreign nationals or foreign entities must pay all fees (including annual fees) in freely convertible currency through an agent chosen from the list of agents appointed by the Office.

(July 1996)
Манык
Патент М1

ФАУУНУУ ОМЧИЙН ГААЗАРТ

Уланынбатар 46
Сага тойррү 49

Шинк бүтөлдөй аргемдөл
/24/ Мәдүүлөгү үлсүү бүртөлөкүү
дуагар
/22/ Акчаңгы оттөө
он сүр элүөр
/32/ Даяаргайлык оттөө
он сүр бутар
/51/ Олон улсүү эндүүлөлөө

/54/ Шинк бүтөлдөй нәр
Шинк бүтөл дөөлөк үндөсүнү мәдүүлөг гаражчы

...............................................................
...............................................................
...-ңың нәр дүүр патент өлүүүүүүу

/71/ Мәдүүлөг гаражчын
нәр
Шуудандың
хааг,дуагар

/72/ Зоюгчычын овоң нәр
Шуудандың
хааг, утас

Өөрөөн улсүү нәр...
Оршын сууга арын нәр....
/72/ Зоюгчычын овоң нәр
Шуудандың
хааг, утас

Өөрөөн улсүү нәр...
Оршын сууга арын нәр...
/72/ Зоюгчычын овоң нәр
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Оршын сууга арын нәр...
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Оршын сууга арын нәр...
/72/ Зоюгчычын овоң нәр
Шуудандың
хааг, утас

/72/ Зоюгчычын овоң нәр
Шуудандың
хааг, утас

Тойрөө: /21/, /22/, /51/ нүг Патенттөө газар өөжүү бүтөлөө.

(January 1998)
Бүрдэл хэвлэх засаглал:

Энэхүү мадуулагт даравч баримт, нөтөлгөг хавсаргааг:
1. Бүгд идээг ...... хүлээс
2. Сүүлдийн хүлээс ...... хүлээс
3. Тамжин ...... хүлээс
4. Бүгд тайлбар ...... хүлээс
5. Хураамж ...... хүлээс
6. Хуралдааны ажиллагааны тайлбар
7. Хуралдааны төслийн тасалбар
8. Хуралдааны зураг
9. Хуралдааны бүрэн бичиг
10. Бүрэн бичиг

Бүгд .... хүлээс, .... хувь

Шинэ бүтээлээг нийтэд мадээлэх тухай:

Хэрэг боловно.
Нууцлийн түл хэвлэж болохгүй.
Sample Patent MI

To Intellectual Property Office

Ulaanbaatar 46
Bayan toirus 49

Patent application

(21) National registration No.
(22) Filing date (year/month/day)
(32) Priority date (year/month/day)
(51) International classification

(54) Name of invention

Please grant a patent to the name of applicant Mr/Ms ..............................................................
on the basis of abstract of invention.

(71) Name of applicant

(72) Inventor’s name
Name of country of origin
Name of country of residence

(72) Inventor’s name
Name of country of origin
Name of country of residence

(72) Inventor’s name
Name of country of origin
Name of country of residence

(72) Inventor’s name
Name of country of origin
Name of country of residence

Note: The Patent Office will fill in (21), (22), (51).

(January 1998)
(74) Name of Patent attorney (In case if whether inventor or applicant act as an attorney, their address shall be written).

Telephone  Telex  Telefax

Please fix the filing date for invention according to the following that suits.

Date of application to Patent Office;

Date of amendments made;

Date of application in the Paris Union country:

<table>
<thead>
<tr>
<th>Application No.</th>
<th>Date of application after amendments</th>
<th>International Classification</th>
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<tbody>
<tr>
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<td>3.</td>
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</table>

Signature, seal of inventor, inventors, applicant, attorney. (in case of representing of somebody, credential should be enclosed)

List of required documents,

1. Application … pages  6. Copy of credential
2. Definition … pages  7. Copy of application of Convention
3. Abstracts … pages  8. Receipt of payment of fee
5. Drawings … pages  10. Others

Total … pages … copies.

Communication of invention to public:

Publication allowed.

Publication prohibited for secrecy reason.

(January 1998)
 Porn GUL
 INVENTOR'S DECLARATION

I (We) the undersigned

... subject of

With domicile

here declare that the invention filed in Mongolia under the title

has not been borrowed from anybody, and that I am (we are) the true inventor(s) of it.

Signature of the inventor(s)

(1 January 2002)
MONGOLULC

ШИЛЖҮҮЗЭХ АКТ

Би (Бида) ......................................................
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MONGOLIA

ASSIGNMENT DEED

I (We) ..........................................................
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дээр заагдсан эрхийг хулах нөхцөл мэдээлэе.

declare that I (we) have transferred all the rights resulting from my (our) invention under the title

ээр заагдсан эрхийг хулах нөхцөл мэдээлэе.
declare that I (we) accept the aforesaid rights.

Эрх шилжүүлээн авч чийг гарын үсэг

Signature of the assignee

Эрх шилжүүлэх чийг гарын үсэг

Signature of the assignor

Date

(1 January 2002)
MONGOLIA
POWER OF ATTORNEY

The undersigned duly appointed agent to

wishing to obtain a patent in Mongolia
based upon international patent application No

hereby appoints

Full name and address of Mongolian agent

to file a corresponding patent application with the Mongolian Intellectual Property Office, and to represent me (us) in respect of the said application and on my (our) behalf to receive services and empowers the appointee to sign the petition and drawings, to amend the specification and drawings, to prosecute the application, and to receive the patent granted on the said application; and ratifies any act done by the said appointee in respect of the said application.

Place ( Date )

Applicant's signature

( 1 January 2002 )

MONGOL ULSC
ITGEMJLX

Доор гарын угсг аурын (бид )

Оргөөл гаргаччин наа, хаяг

Олсон учсон оргөөлтөй

Шинэ бүтэнэл Монголд патент авахтай холбогдох эхлээ зөвлөл болгож итгээ бүрэн ар эмдлээг олгоно.

Монголын итгэмжлэгдээ төлөөлөгчийн бүрэн наа, хаяг

Намайг (биднийг) төлөөлөн бух терлийн оргөөлд, бариимт тодорхойлолт, зурагдал зэрэг бичиг хэрээт гарын угсг зурах, патентын оргөөлдөө Охууны өмчийн газарт бүртгүүлэх бух терлийн бариимт бичүүдийг явуулах ба хүлээн авах, өнгөнөөс бариимт бичиг, патент хүлээн авах, баталжих тодорхойлолт ба зурагдал зохион бөгөөд засвар, сайжирчих хийх, материалын бүрэн зэрэг зөвшөө эргүүлж авах, хусэлт ба татгалзах өгөх, шинэ бүтэнэл ологдсон патентын хичээл зөв хэлбээр эхэлж ар га хэмжээ ажна.

( огноо )

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