

# LESSONS LEARNED FROM NATIONAL AND REGIONAL INITIATIVES ON INTELLECTUAL PROPERTY AND TRADITIONAL CULTURAL EXPRESSIONS: THE OAPI EXPERIENCE

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# PLAN

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- Background of the initiative;
- Steps towards policy formulation;
- Key elements of legislations;
- Challenges faced;
- Personal experience and lesson learned

# I. BACKGROUND OF THE INITIATIVE

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- The Annex 7 of the revised Bangui Agreement (2001)
  - TCEs as part of traditional cultural heritage (art. 67 and 68)
  - Consequence: TCEs are part of public domain
- Lack of regional protection of TK and TCEs
  - Failure of the 2008 Niamey (Niger) Annex on protection of TCEs
  - Lack of ratification by member states
  - Missing opportunity of the 2015 Bamako Agreement
- The Initiative (WIPI Mandate): Drafting annex on protection of TCEs

# STEPS TOWARDS POLICY FORMULATION

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- Brainstorming
  - Discussing about the initiative (five sessions of discussion with Pr A. Tankoano)
  - Determining problematic and critical issues (beneficiaries, scope of protection, transboundary TCEs, ...) and division of tasks between experts
  - Considering political and economical context (AfCFTA, PAIPO, African Group at IGC)
- Drafting the text
  - (one and half month)
- Reviewing the text
  - (one month of exchanges with Pr A. Tankoano)

# KEY ELEMENTS OF THE BILL

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- Tiered or differentiated approach
- Disclosure of origin
- Beneficiaries
- Exceptions
- Customary law as ground for Alternative Dispute Resolution (ADR)



# CHALLENGES FACED

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- Accessing information from OAPI member states
- Finding a balance between needs of OAPI, position of the African Group and objectives of the PAIPO and the AfCFTA
- Definition of beneficiaries
- Choosing a regional approach over the national approach
- Including customary law as part of the new IP legal framework

# PERSONAL EXPERIENCE AND LESSON LEARNED

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- Considering different aspects (political, social, cultural and economical) and interests of stakeholders without forgetting the main goal: legal protection of IP rights of indigenous people and local communities

# ANY QUESTIONS?

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- Thank you
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