

SURINAME
BUSINESS CLIMATE AND INNOVATION PROGRAM (SUBCIP) SU-L1049
**“Baseline needs assessment study for the protection of Traditional Knowledge
in Suriname”**
Terms of Reference

1. Background

1.1 Although Suriname has experienced recent sustained economic growth over the last 10 years, its economy depends mainly upon gold, oil and bauxite, showing vulnerability to unpredictable swings in international prices of these main exports.¹ Revenues from commodity prices and bilateral grant flows did not promote a legal and institutional framework that favors private sector investment. Thus, the authorities seek to engage in structural reforms to transition to a new economic model—one with a diversified production basket, and a less vulnerable economic base that fosters greater participation of the private sector in economic activity. The Government of Suriname gives special consideration to good governance, social development, economic diversification, education for competitive skills and building a knowledge society, protection of natural resources, and management of the impact of climate change. Concerning the business climate, the Development Plan concentrates on enhancing governance, innovation and competitiveness. A clear and concise strategy to achieve these specific goals, in the context of a modern industrial policy making structure, is needed to guide public and private actors.

1.2 Suriname has an insufficiently modernized legal and institutional framework to promote private sector led growth, diversification and innovation. The current legal framework needs to be updated to support private sector activity. Suriname ranks 110 out of 148 countries in the Global Competitiveness Report 2014-2015², with institutions ranking 82 out of 148, technological readiness 105, and innovation 124. Furthermore, it ranks 165 out of 190 countries in the World Bank’s “Ease of Doing Business” – 2018- indicator, and 167 in the indicator of protecting investors. The lack of an adequate business climate and strong institutions hinder investor confidence, private sector activity and growth.³

¹ Fritz Krokow, et al. Suriname toward Stability and Growth. International Monetary Fund. 2009.

² Suriname was not included in the most recent reports (2015-2016).

³ NORTH, D. Institutions, Institutional Change and Economic Performance, Cambridge University Press.

1.3 Based on this background the Program Suriname Business Climate and Innovation Program will address among others, Sub-component III.1. Modernizing institutions in charge of the implementation of legal reforms. This sub-component will support the implementation of the legal reforms described in sub-component II.1.a, by supporting the modernization and capacity building of the ministry in charge of the reforms (MTI&T) and other governmental institutions to enhance their current functions. This component will finance a baseline needs assessments study for the set up and implementation of a system to protect Traditional Knowledge in Suriname.

1.4 Traditional Knowledge (TK) is not a new subject in Suriname. With the only exception of the Nagoya Protocol on Access and benefit sharing, Suriname has signed and is part of most of the existing international agreements on these subjects.⁴ Additionally, different groups have prepared draft laws and initiatives aimed to protect traditional knowledge in Suriname (positive protection).

1.5 However, it is also important to look into **defensive protection** (Databases and registries) aimed at protecting traditional knowledge in the short-term within the territory of Suriname. The primary objective of the **defensive protection** is the prevention of misappropriation of the disclosed TK existing in Suriname. Difficulties to reach agreement on definition and scope of TKs in a comprehensive law, made defensive protection (Databases/registries) a more practical option. The process to create a TK Data base/Registry helps also to build up trust between policy-makers and stakeholders. TK databases and registries should be the result of a collaborative effort among government, civil society (i.e. NGO), indigenous populations and other groups that also have TK. They focus on the identification and documentation of TKs and it helps to set the bases for a comprehensive legislation. Positive protection and defensive protection complement each other. Furthermore, most recent laws/models (both regional and national) include defensive protection, for example, art. 10 and 20 of the Caribbean Model.⁵

⁴ Convention on Biological Diversity: signed in 1992 and ratified in 1996; The Cartagena Protocol on Biosafety to the Convention on Biological Diversity: Accession 2008; UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Signed in 2007

⁵ SECTION 10

10(2) Competent authorities and relevant national authorities including Intellectual Property Offices may maintain registers, databases or other records of genetic resources, traditional knowledge and traditional cultural expressions, with the free, prior and informed consent and full and effective participation of Indigenous Peoples and Local Communities, for purposes of identification, preservation and protection of genetic resources, traditional knowledge and traditional cultural expressions.

SECTION 20 - DEFENSIVE PROTECTION WITH DATABASES AND REGISTERS

1.6. Before making a final choice which approach to choose from (directly legislation or first a database followed by legislation or a combination of both), it is important that all parties involved are on one line over the way forward, that all ideas, basic wishes, grieves, points of view and challenges playing a role in sustainable growth and protection of TK are being taken into account. Also to be addressed are questions how to deal with TK, from groups who have TK, which is already protected as TK in country of origin (e.g. India, Indonesia or African countries). To this end a baseline needs assessment study is necessary.

2. Objective(s) of the Assignment

2.1. A baseline needs assessment study for the design, development and implementation of a Traditional Knowledge protection in Suriname.

2.2. The needs assessment study shall address three distinct yet related areas: traditional knowledge in the strict sense (technical know-how, practices, skills, and innovations related to biodiversity, agriculture or health); traditional cultural expressions/expressions of folklore (cultural manifestations such as music, art, designs, symbols and performances); and genetic resources (genetic material of actual or potential value found in plants, animals and micro-organisms) – WIPO definition-.

2.3. The needs assessment study shall, amongst others, also address all matters concerning the relation between TK and land rights, TK in relation to country of origin.

20(1) Subject to section 10, the Intellectual Property Office may consult existing databases and registers as well as establish databases and registers of genetic resources, traditional knowledge and traditional cultural expressions and their derivatives and by-products, in order to:

- (a) avoid granting of erroneous intellectual property rights;
 - (b) prevent misappropriation;
 - (c) ensure free, prior and informed consent of the relevant beneficiaries;
 - (d) ensure fair and equitable benefit sharing with the relevant beneficiaries;
 - (e) ensure transparency, traceability and mutual trust, taking into account access and benefit sharing objectives and principles, such as provided for by WIPO, the CBD and the Nagoya Protocol.
- (...)

3. Scope of Services, Tasks (Components) and Expected Deliverables

3.1. Duties and Responsibilities:

- Assessment of the stakeholders for TK;
- Define a strategy to assure the participation of stakeholders and to collect the information necessary to come to a form of TK protection.
- Come up with recommendations how to move forward with the protection of TK in Suriname, both short term and long term.

3.2. Methodology:

The consultant will define a strategy to assure the participation of stakeholders and to collect the information necessary to make the baseline needs assessment study and to give recommendations for protection, both short term and long term. Actions that should be implemented at least are:

- 1) Identification of all the stakeholders. Activists, NGOs and academia should be included. Most of them have been working actively on these subjects and have implemented practical solutions to collaborate with and within the communities. Stakeholders that should be included comprise, among others the Association of Indigenous Village Leaders in Suriname, the Association of Saramaka Authorities and the Forest Peoples Program, etc.
- 2) Establishment of rules of engagement that define people's functions, and whether they are leaders or followers. It is important to have complete agreement on the narrative of the project, the deliverables, and what people's roles are, and the scope of the discussions. For example, in the specific case of land issues, it is important to agree how to manage cases like the Saramaka dispute to avoid further disruptions.
- 3) Practice of good communication and empathy. The consultant must determine the frequency of communication and what it should be concise, focus on progress and value, and should be meaningful to all stakeholders. Good communication includes also the ability to understand different arguments, identify different goals and contexts. It is also important to spend time building trust. Empathy is crucial to reach a satisfactory outcome.

3.3. Products and deliverables:

1. A strategy to assure the participation of stakeholders;
2. An inception report with work plan;
3. A midterm report (progress);
4. A final report holding:

- a. the outcome of the assessment, including answers on questions concerning the relation with land rights and with country of origin;
- b. recommendations how to deal with the possible outcome;
- c. recommendations on how to go about the protection of TK (including traditional cultural expressions and genetic resources) in Suriname short term and long term.

4. Reporting Requirements and Time Schedule for Deliverables

	Report*	Dates	Submission Name and Address
1	Work Plan (WP)	1 week after the contract approval	MOTI –CUS
2	Inception	2 weeks after the approval of the WP	Idem
3	Mid -Term	2 months after the contract approval	Idem
4	Final report	3½ months after de contract approval	Idem

*Reports have to be submitted electronically in Word and Pdf.

5. Coordination and Supervision

The consultant will work under the supervision of MOTI/CUS and will report to MOTI/CUS.

6. Characteristics of the consultancy

- 6.1. Type of consultancy: International Individual Consultant
- 6.2. Duration: 4 months with 40 non-consecutive days
- 6.3. Place of work: Suriname

7. Qualifications

7.1. Basic qualifications

The consultant must be a Community specialist with skills in Stakeholders Management (SM) and proven knowledge of Traditional Knowledge (TK), International Patent Classification (IPC), be able to carry out:

- a comprehensive and in-depth study of all stakeholders (indigenous populations, local NGOs, private sector, government departments, and local research institutions) in Suriname;
- assessment of possible TK's and research on forms of protection of TK.

7.2. Required skills and experience:

A. Education and skills

- A relevant Bachelor's degree (e.g. anthropology, sociology, or another relevant subject in the area of knowledge of societies and communities);
- Knowledge and understanding of the civil society dynamics (e.g. indigenous, maroon and other population, private sector, academy) in Suriname and sort like countries;
- Proven knowledge of TK, IP and biodiversity issues in Suriname and sort like countries;
- Familiarity with relevant government policies and structures;

B. Experience

- Minimum 5 years' relevant experience and/or training or equivalent combination of education and experience;
- Experience in a similar research capacity, and in synthesis and preparation of strategic information for decision-makers;
- Experience of working in multi-cultural environment and with NGO's.

4.3. Core Competencies

- maturity and professional ability to handle sensitive information and ability to respect the confidentiality of the information while working and after the contract ends.
- systematic and efficient approach to work assignments;
- good judgment and analytical ability;
- ability to manipulate large data sets, and excellent attention to detail;
- employs a proactive approach to foresee road-blocks and resolve them;
- excellent communication skills;
- fluency in English, knowledge of Dutch as well as familiarity with Sranan Tongo and the Maroon/Indigenous languages is an asset.

8. SCHEDULE OF PAYMENT

The consultants will receive a per diem for travel and accommodation for three (3) trips to and from Suriname, this amount will be included in the contract between the firm and MTIT. The costs for translation(s) and stakeholder sessions will be also included in the contract.

The consultant will receive 3 lump sum payments as follows:

- a. 20% after submission and approval of the Inception report and work plan;
- b. 40% after submission and approval of the midterm report;
- c. 40% after submission and approval of the final report.