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**The Center for International
Environmental Law**



MEETING REPORT ON

**THE INDIGENOUS PEOPLES' CAPACITY-BUILDING WORKSHOP
ON THE INTERFACE BETWEEN THE WORLD INTELLECTUAL PROPERTY ORGANIZATION
(WIPO) AND THE CONVENTION ON BIOLOGICAL DIVERSITY'S (CBD) DEVELOPMENT
OF AN INTERNATIONAL REGIME ON ACCESS AND BENEFIT SHARING
CO-SPONSORED AND ORGANIZED BY THE INTERNATIONAL INDIAN TREATY COUNCIL,
INDIGENOUS PEOPLES' COUNCIL ON BIOCOLONIALISM & CENTER FOR
INTERNATIONAL ENVIRONMENTAL LAW**

A Preparatory Meeting to the Sixth Meeting of
CBD Working Group on Access and Benefit-Sharing
January 18, 2008, 9-10:55 am

Location: Maison des Associations , 15 Rues des Savoises, Geneva

Since its inception, discussions in the Convention on Biological Diversity's Working Group on Access and Benefit Sharing (ABS) have continuously referred to the World

Intellectual Property Organization. In particular, some delegations have argued that intellectual property related issues such as the protection of traditional knowledge and disclosure of origin in patent applications are best left to WIPO to negotiate and implement. In addition, WIPO has been an active participant in ABS deliberations, having been invited to present studies and research on work related to ABS discussions. The co-sponsors organized the meeting to meet a demand from indigenous, observer (NGO's) and other local community participants in the ABS discussions to gain more information and clarity regarding the nature and scope of the formal and informal relationship between the ABS Working Group and WIPO, particularly in the context of the states' elaboration and negotiation of a proposed international regime on access to genetic resources and traditional knowledge and benefit sharing. With the understanding that the proposed international regime will undoubtedly include intellectual property components and linkages with existing WIPO conventions, treaties and processes, Indigenous peoples require educational forums and opportunities to engage with Indigenous and other experts familiar with WIPO, the CBD and other relevant international bodies. This capacity-building workshop was organized to meet these identified needs.

The meeting was Chaired by Estebancio Castro Diaz from the [International Indian Treaty Council](#) (IITC) with speakers:

- Debra Harry, [Indigenous People's Council on Biocolonialism](#)
- Le'a Kanehe, [Indigenous People's Council on Biocolonialism](#)
- Dalindyebo Shabalala, [Center for International Environmental Law](#)
- Viviana Figueroa, [Juventud Indigena Argentina](#)

(Speakers from the Secretariat of WIPO's Intergovernmental Committee on Genetic Resources, Traditional Knowledge & Folklore and the CBD Article 8(j) Secretariat were unfortunately unable to join the workshop). The Agenda of the meeting is available as Annex 1.

Ms. Harry gave an Overview of the CBD's International Regime on Access and Benefit-Sharing ([link the preceding text to her Powerpoint presentation](#)). She outlined: the framework for the ABS discussions; the various positions taken by different country groups such as provider countries and user countries; key issues for future negotiations in the regime; and measures to ensure benefit sharing when genetic resources are used. Finally, she discussed the areas of particular concern to indigenous peoples such as:

- ABS negotiations require that indigenous groups recognize patents and the commodification of life forms and indigenous knowledge;
- ABS, as conceptualized, protects rights of states and industry, not Indigenous peoples;
- An uneven playing field in favor of industry and governments in negotiations;
- Culturally-biased decision-making that does not recognize the customary law of indigenous and other local communities.

Ms. Kanehe presented on the Interface of WIPO and CBD on Traditional Knowledge & Genetic Resources in Access and Benefit Sharing ([link the preceding text to her Powerpoint presentation](#)). She discussed: some of the relevant traditional knowledge related elements in the ABS discussions; the gap between member states' conception of traditional knowledge and indigenous rights and those of the indigenous groups themselves; and she noted the non-binding nature of most Traditional Knowledge or Indigenous related proposed provisions. Ms. Kanehe also outlined relevant provisions of the recently adopted UN Declaration on the Rights of Indigenous Peoples and the role it might play in future discussions.

Finally, she outlined the discussion on traditional knowledge at WIPO, focusing on the requirements for gaining accreditation to WIPO's Intergovernmental Committee on Intellectual Property and Genetic resources, Traditional Knowledge and Folklore (IGC)

Mr. Shabalala presented on the Relationship between WIPO and the CBD ABS Working Group ([link the preceding text to his MSWord text presentation](#)). He examined: the role that WIPO had been asked to play in the mandate of the ABS Working Group; the political uses to which WIPO's name had been put by industrialized countries; the nature and scope of WIPO's technical contributions to ABS discussions; and the consequences of such interventions at WIPO itself. Mr. Shabalala concluded with a discussion on whether and how the CBD ABS Working Group should strengthen its linkages with WIPO and the role that indigenous groups can play in ensuring that WIPO and the ABS attend more closely to their needs.

Ms. Figueroa explained the process of the negotiations on an international regime on access and benefit sharing. She provided an update on the fifth meeting of the Working Group on ABS and the fifth meeting of the Working Group on Article 8(j) and focused on the relationship between the two working groups and the mandate from the Conference of the Parties for the two working groups to collaborate. Ms. Figueroa highlighted the fact that the Working Group on Article 8(j) failed to provide input to the ABS negotiations on relevant elements to the proposed international regime related to utilization of traditional knowledge, particularly in regards to Indigenous peoples' rights as traditional knowledge holders.

The Workshop was attended by Indigenous peoples from Central and South American, African, Asian, Russia & Far East and Pacific regions in preparation for their participation with the International Indigenous Forum on Biodiversity during the sixth meeting of the Working Group on ABS. Interpretation was provided in Spanish, English, French, and Russian, including volunteers from the Indigenous Peoples' Centre for Documentation, Research and Information (DoCIP) (www.docip.org).

Discussions during the questions and answer sessions focused on:

- Concerns about governments' implementation of existing commitments on the rights of indigenous peoples and what this suggested about any commitments that they might make at WIPO and in the CBD;

- Strategies and methods for engaging with governments during WIPO and CBD meetings;
- The need for more capacity building on definitions and concepts such as disclosure of origin and “derivatives” of genetic resources;

Annex 1

INDIGENOUS PEOPLES' CAPACITY-BUILDING WORKSHOP ON THE INTERFACE BETWEEN THE WORLD INTELLECTUAL PROPERTY ORGANIZATION AND THE CONVENTION ON BIOLOGICAL DIVERSITY'S DEVELOPMENT OF AN INTERNATIONAL REGIME ON ACCESS AND BENEFIT SHARING

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AGENDA

TIME	TOPIC	PRESENTER
9:00-9:05	Welcome Opening Remarks	Moderator: Estebancio Castro Diaz (IITC)
9:05-9:30	CBD International Regime on Access and Benefit Sharing – General Overview Possible Intellectual Property and Protection of Traditional Knowledge Aspects of an International Regime on ABS	Debra Harry Le`a Kanehe (IPCB/COE)
9:35-9:40	Question & Answer	Moderator: Estebancio Castro Diaz
9:40-9:55	Observations on the Interface between CBD & WIPO regarding ABS & TK Protection	Dyebo Shabalala (CIEL)
9:55-10:00	Question & Answer	Moderator: Estebancio Castro Diaz
10:00-10:15	Update on Working Group on Article 8(j) Meetings	Viviana Figueroa, Juventud Indigena Argentina
10:15-10:20	Question & Answer	Moderator: Estebancio Castro Diaz
10:20-10:55	Discussion & Question & Answer for Workshop Participants	Moderator: Estebancio Castro Diaz (IITC)

Organized by the *International Indian Treaty Council (IITC)* and the *Indigenous Peoples Council on Biocolonialism (IPCB)* in partnership with the *Center for International Environmental (CIEL)*