

# Interface of WIPO and CBD on Traditional Knowledge & Genetic Resources in Access and Benefit Sharing

A Preparatory Capacity-Building  
Workshop for Indigenous Peoples

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# Possible TK-related provisions (COP7)

- (x) Measures to ensure compliance with **prior informed consent** of indigenous and local communities holding traditional knowledge associated with genetic resources, **in accordance with Article 8(j)**.
- (xiv) **Disclosure of origin/source/legal provenance** of genetic resources and associated traditional knowledge in applications for intellectual property rights.
- (xv) **Recognition and protection of the rights of indigenous and local communities** over their **traditional knowledge** associated to genetic resources **subject to the national legislation** of the countries where these communities are located.

# Possible TK elements (continued)

- (xvi) **Customary law and traditional cultural practices** of indigenous and local communities.
- (xviii) **Code of ethics/code of conduct/models of prior informed consent** or other instruments in order to ensure fair and **equitable sharing of benefits** with indigenous and local communities.

# States discussion of protection of rights

- Prior informed consent
- Disclosure of origin in patents
- Certificate of origin
- For the purpose of benefit sharing (\$ and non-\$) in the process of utilizing genetic resources

# “Non-binding” elements proposed at WGABS-5

- Sui generis protection
  - (1) New international sui generis system
    - WIPO-IGC GRTKF & WTO-TRIPs
      - IPRs over TK?
      - Database rights?
      - Disclosure of TK & GR
  - (2) Recognition in national law of local sui generis systems of Indigenous Peoples (Indigenous/customary law)
    - Canada
- Ethical code of conduct (for researchers, botanical gardens, corporations)

# UN Declaration on IPs Rights - Article 26

1. Indigenous peoples have the **right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.**
2. Indigenous peoples have the **right to own, use, develop and control the lands, territories and resources** that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. **States shall give legal recognition and protection to these lands, territories and resources.** Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

# UN Declaration on IPs Rights - Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

# WIPO Intergovernmental Committee on Genetic Resources Traditional Knowledge and Folklore

1. Must apply for accreditation of organization as observers of IGC at least 60 days before IGC
2. To apply for funding, the Voluntary Fund application must be submitted at least 60 days before the IGC
3. Reviewed by member states at IGC and then if approved, you may participate at the following IGC