

## VIETNAM

Response to Question 1 : In Viet Nam there still are very few legislative efforts to manage and control the use of genetic resources and almost none on the protection of traditional knowledge.

It is Vietnam patent law usually protects products, methods and usage. Accordingly, for traditional medicine products, methods and usage can be patented too. In addition of the protecting traditional medicine products, methods and usage industrial property law allows traditional knowledge can be protected as know-how, trademarks, trade secrets. However, for herbal medicines difficult to meet all the requirements of the law due to their intrinsic characteristic.

The procedure of the examination for traditional medicinal inventions are followed to the procedure of the patent examination for common inventions. The pharmaceutical product, which can be patented in the field of traditional medicine include traditional medical compositions, herbal preparations, extracts from herbal medicines or compositions, health foods with herbal medicines, etc. The methods that can be patented in the field of traditional medicine include methods for the preparing the pharmaceutical preparations, methods for extracting special substances from natural medicine materials. Vietnamese patent law protects the new indication of a known drug. There are some examples of traditional knowledge protected by existing intellectual property standards in Vietnam : traditional preparation of medicinal plants (trade name Cedemex) used for assistance in stopping drug -addiction is granted under patent No VN1017 ; traditional balm of medicinal plants are registered as Truong Son balm trademark No 30848 ; As appellations of origin : Phu Quoc fish soya sauce with registered number 1 and Shan Tuyet Moc Chautea with registered number 2.

Biological methods, including gene modification, are considered inventions and protected as such ; all regulations on application procedures, protection requirements, protection form, and duration of protection of these objects are same as for invention of other kind. Some biological objects as may be used in agriculture (plant varieties, animal species) are not considered as objects of invention protection, but can be protected similarly. However, the procedures for granting this type of patents are somewhat different from the procedure for other kind of invention. Protection requirements for plant varieties and animal species are novelty, stability, uniformity and effectiveness. Applications for protection of plant varieties and animal species are to be lodged with the Ministry of Agriculture. Here, they are subjected to examination by the Commission of varieties and species, which is responsible for management of new species used in culturing and cultivating. Applications are examined in procedure similar to that for invention application. The duration of examination is 18 months beginning on the official filing date. To date, more than 30 certificates have been granted for plant varieties and animal species, of which 27 are plant varieties.

Response to Question 2 : At present, there is no specific law draft providing for intellectual property protection of traditional knowledge in Vietnam.

Response to Question 26 : At present, the state of Vietnam has not established any special measures to assist beneficiaries to acquire, exercise, manage and enforce rights in the traditional knowledge.

Response to Question 27: Generally speaking, traditional knowledge could not be protected adequately by prevailing law on intellectual property. Below are some examples of perceived limitations:

Traditional knowledge can be protected as a patent or business secret, but these knowledge are rarely novel so that the holders seldom enjoy exclusive rights according to the patent system.

Traditional knowledge can be protected as a business secret but these knowledge are rarely documented and kept confidential.

Traditional knowledge can be protected according to copyright laws, but it is very difficult to determine actual authors, the date of publication or creation.

For the purpose of protecting traditional knowledge, it is necessary to establish *sui generis* law or regulation to protect traditional knowledge.