Capacity Building Strategies and Tools for the Protection of Traditional Knowledge and Traditional Cultural Expressions

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Building capacities: For Whom?

- **Indigenous / local communities**
  - For their own benefit
  - In consultation
  - With full respect for their values / customary laws

- **Policy makers**
  - Develop means of protection for TK/TCEs to achieve the goals and aspirations of local communities; clarify what to protect AGAINST, why and how?

- **Professionals (TK representatives, NGOs, students, lawyers, administrators, enforcement authorities, etc.)**
  - Build knowledge of IP and skills for feasible/enforceable implementation mechanisms
Building capacities: For What?

- Create in the **community** an awareness and an appreciation of the **value** of its TK/TCEs, thus giving it an opportunity to contribute to the wider society.

- Provide **policy-makers** with the means and the skills to consider the technical, legal and policy dimension of the issues at hand, including the creation of appropriate legal frameworks and infrastructure.

- Develop **professional skills** in the stakeholders in order to enable them to negotiate, advocate for, or enforce TK/TCE protection.
Building capacities: Where?

- At 4 levels – as is the case with policy options and practical programs:
  - Community
  - National
  - Regional
  - International

- The stronger the integration among these levels, the more useful the outcome
Building capacities: ... In what policy environment?

- Building capacities on IP approaches to TK/TCEs may complement other capacity building efforts in other *non-IP related* policy areas:
  - Safeguarding intangible cultural heritage
  - Promotion of cultural diversity
  - Protection of the rights of indigenous peoples
  - Conservation of biological diversity and sustainable development
  - Primary health care
  - Promotion of community-based economic activity
  - Promotion of innovation and cultural exchange
Building capacities: How?

- General awareness and capacity building
  - Fact finding missions
  - Surveys of national experiences
  - Case studies

- National and Regional Consultations
  - National and regional workshops
  - Overview of legal and policy options
  - Draft questionnaire
Building capacities: How?

- Legislative concepts and materials
  - Legislative advice on drafting laws and
  - Legal comments on draft laws
  - Compilation of laws on TK, TCEs and genetic resources
  - Comparative summary on *sui generis* legislation

- Practical tools and materials
  - Distance learning course
  - Creative Heritage Project
Building capacities: How?

- Creative Heritage Project
  - Practical guidelines when recording and digitizing TCEs for communities
  - Consultation draft on managing IP issues for cultural institutions
  - Database of practices relating to digitization of cultural heritage
  - Pilot training program and documentation toolkit
Building capacities: lessons learned

- Respectful consultation and dialogue with the community
- Technical assistance tailored to the community’s particular needs
- Consideration of customary laws and protocols as an alternative to conventional IP rights over TK/TCEs
- Importance of clarifying objectives:
  - What interests are involved? Preservation of TK/TCE against misuse and/or use for the community’s economic development?
  - Positive protection, defensive protection, or both?
Building capacities: lessons learned (cont.)

- Capacity building is one of three indispensable pillars; each one addressing a complementary need for the protection of TK/TCE:
  
  - Defining IP principles, where needed, and establishing norms or standards, where there are gaps (legal need)
  - Creating operational systems for the administration and enforcement of IP rights relating to TK/TCEs (practical need)
  - Creating awareness and skills among TK/TCEs holders, their representatives and policy-makers (capacity-building need)
Building capacities within a regional framework: The challenges

- Interrelationship between the three stakeholders leading to integrated capacity building approaches at the three levels

- A regional framework can operate at the levels of
  - Law (similar laws in all the countries)
  - Administration (centralized procedure for granting IP titles)
  - Information (uniform documentation standards and shared information)

- New capacities will have to be created with regard to all three levels
Building capacities within a regional framework: The benefits

- Pooling of expertise and resources, including financial and human resources
- Common approaches to awareness building
- Sharing legal and non-legal tools
- Central point to share information
- Channel of dialogue between countries, policy makers and professionals
- Common dispute resolution mechanisms and benefit-sharing
- Platform for testing new ideas and approaches, before insertion at international level
Thank you for your attention

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