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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

Sixteenth Session
Geneva, May 3 to 7, 2010

POLICIES, MEASURES AND EXPERIENCES REGARDING INTELLECTUAL
PROPERTY AND GENETIC RESOURCES: SUBMISSION BY THE NIGERIA
NATURAL MEDICINE DEVELOPMENT AGENCY (NNMDA)

Document prepared by the Secretariat

1. At its fifteenth session, held from December 7 to 11, 2009, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore ('the Committee'):

“invited Member States and observers to make available to the Secretariat papers describing regional, national and community policies, measures and experiences regarding intellectual property and genetic resources before February 12, 2010, and requested the Secretariat to make these available as information documents for the next session of the Committee.” [...]

2. Further to the decision above, the WIPO Secretariat issued a circular to all Committee participants, dated January 15, 2010, recalling the decision and inviting participants to make their submissions before February 12, 2010.

3. Pursuant to the above decision, the Nigeria Natural Medicine Development Agency (NNMDA), an accredited observer to the Committee, submitted a document entitled “NNMDA Contribution to the Development of Genetic Resources and Intellectual Property” and requested it be made available as an information document for the sixteenth session of the Committee.

4. The document is reproduced in the form received and contained in the Annex to this document.

[Annex follows]

ANNEX

NNMDA CONTRIBUTION TO THE DEVELOPMENT OF GENETIC RESOURCES AND INTELLECTUAL PROPERTY

The Nigeria Natural Medicine Development Agency (NNMDA) was established in 1997 to enable the Federal Ministry of Science and Technology actualize its critical and strategic mandate to research, develop, document, preserve and promote the Nation's Natural Medicine defined as *Traditional (indigenous) Healthcare Systems, indigenous medication and non-medication healing arts, sciences and technologies* and assist facilitate their integration into the National Healthcare Delivery System, as well as contribute to the Nation's healthcare delivery, wealth and job creation effort.

Some of the critical and strategic mandates of the Agency are:

(i) Research, collate, document, develop, promote and preserve knowledge, practice and products of Natural Medicine (Traditional Systems, Traditional Medication and non-Medication Healing arts, Sciences and Technologies) with a view to assist facilitate its integration into the National Healthcare Delivery System.

(ii) Identify, document and maintain a comprehensive National Inventory of Nigeria's Medicinal, Aromatic and Pesticidal Plants (MAPPs), animal and animal parts and minerals and other natural products, indigenous medical knowledge, Science and technology, for human and veterinary/livestock healthcare delivery management, maintenance, care and support.

(iii) Assist promote the production of standardized extracts, nutraceuticals, health foods, dietary supplements, body care products and galenicals of Traditional remedies from local herbs and Medicinal, Aromatic and Pesticidal Plants (MAPPs) through appropriate public-private partnership schemes, for further research and commercialization.

(iv) Develop a Digital Virtual Library, a dedicated focal reference centre for research and development of Traditional Medicine and Medicinal, Aromatic and Pesticidal Plants (MAPPs) of Nigeria and promotion and safe guarding intellectual property.

(v) Training/Capacity Building.

(vi) Assist provide scientific evidence base for indigenous therapies medical knowledge, science and technology.

(vii) Assist initiate and develop and promote appropriate mechanisms for the development of Intellectual Property Right Regime (IPR) for Traditional Medicine Knowledge and Practice (TMKP).

The Agency since 2004 have developed a number of strategies, plans and initiatives to assist address these challenges and to maximize the potentials of the Nation's Natural Medicines for improved healthcare delivery, job and wealth creation aimed at improving the quality of life, and assist contribute to national economic growth and development, in line with the Federal Ministry of Science and Technology's goals, vision and mission and in

support of the Federal Government's effort at achieving the Millennium Development Goals (MDGS), National Economic Empowerment and Development Strategy (NEEDS) and the Seven Point Agenda of the Federal Government of Nigeria.

Some of the activities include:

1. The identification and documentation of Medicinal, Aromatic and Pesticidals (MAPPs) Plants, animal/animal parts and minerals used in traditional medicines and the Nation's indigenous medication and non-medication, sciences and technologies, Bone-Setting, Massage therapy, manual technologies and exercises applied singularly or in combination to maintain well-being, as well as to treat, diagnose or prevent illness.
2. Development of a comprehensive National Inventory of Medicinal, Aromatic and Pesticidal Plants (MAPPs) of Nigeria and other indigenous medication and non medication, healing arts, science and technology.
3. Collation and documentation of all published research works on TMKP, products and MAP Plants Indigenous to Nigeria.
4. Development of a Digital/Virtual Library to serve as a Dedicated Focal Reference Centre for the development and promotion of Traditional Medicine Knowledge and Practice (TMKP) and assist Intellectual Property Rights (IPR) Protection, Preservation and Promotion.
5. Traditional Medicine Manpower Development/Capacity Building.
6. Development of Innovative Commercialisable Research and Development Products and Scientific evidence base validation.
7. Facilitation of Observational Studies for herbal therapies for topical health challenges.
8. Developing Laboratory Support Services for indigenous medical therapies development.
9. Developing an appropriate mechanism and legal framework for an Intellectual Property Rights (IPR) regime for traditional knowledge, practice and products
10. Develop Pilot/Experimental Medicinal, Aromatic and Pesticidals Plant (MAPPs) Farm/Nurseries in each of the six geopolitical zones.

Nigeria Natural Medicine Development Agency (Nmmda) And Intellectual Property Right (Ipr)

In Nigeria, the issue of IPR in relation to Genetic Resources has not been given adequate attention in spite of its vast indigenous biodiversity, bioresources and knowledge which are fast disappearing because of human and environmental activities and the custodians are not disclosing/documenting as they pass on. Importantly, also the knowledge is being exploited by local and international researchers and entrepreneurs without any benefit to the original custodians and communities in particular, and the country in general. As it affects bioresources, in addition to the above, there is excessive loss caused by unsustainable utilization and other human and corporate activities (oil exploitation, construction, logging) and environmental activities.

Before 2004, there had been little known effort to address the IPR regime in Nigeria with reference to Traditional Knowledge and Genetic Resources.

According to World Health Organization (WHO), one of the organizational arrangements required for institutionalizing Traditional Medicine (TM) into health care delivery system, amongst others, include the creation of appropriate IPR mechanisms to protect Traditional Medicine Knowledge and Practice (TMKP) and Genetic Resources.

The Nigeria Natural Medicine Development Agency, in its attempt to develop and promote Traditional Medicine is taking steps to attempt at providing and institutionalizing adequate protective mechanism for Traditional Knowledge and Genetic Resources as well as create awareness and sensitize all stakeholders on this issue.

As ways to assist address some of these challenges, the Agency has focused activities that:

- Create public awareness on the value and potentials of Medicinal Plants and Traditional Medicine in Nigeria and the inestimable roles of Traditional Medicine Practice and Products in healthcare delivery especially at the primary healthcare level.
- Highlight the Wealth and Job creation potentials of Traditional Medicine
- Build the capacity of Traditional Medicine Practitioners with a view to enhancing their practices, quality and safety of their products, and utility as agents for positive change in the communities where they practice and the nation as a whole
- Collate, Document, Research, Develop and Promote all aspect of Natural Medicine
- (Indigenous (Traditional) Health System, Medication and Non Medication, healing arts, Sciences and Technologies.

In December 2005, the Agency jointly organized a 3-day International workshop on IPR for TMKP with the National Office for Technology Acquisition and Promotion (NOTAP) both parastatals of the Federal Ministry of Science and Technology along with other national and international stakeholders and government ministries, including African Union/Scientific, Technical and Research Commission (AU-STRC), International Organization for the Promotion of Traditional Medicine (PROMETRA), African Regional Intellectual Property Organization (ARIPO), South African Government, Federal Ministry of Health (FMH), Federal Ministry of Justice (FMJ), Federal Ministry of Commerce (FMC), Federal Ministry of Education (FME), Federal Ministry of Agriculture, Nigeria Copyright Commission and Raw Materials Research and Development Council (RMRDC) among others organized an International Workshop on IPR–TMKP held on December, 1st – 3rd 2005 with the theme: “Appropriate Intellectual Property Right Regime, a necessity to maximize the potentials of Traditional Medicine for Improved Healthcare Delivery, National Economic Growth and Development”.



Cross section of participants at the conference The DG/CEO, NNMDA presenting a paper

As a follow-up of this workshop an International consultative Committee composed of experts co-chaired by Prof. Abayomi Sofowora and Prof. Maurice M. Iwu, was constituted to develop and produce a draft policy and legal instrument for an Intellectual Property Right (IPR) regime for Traditional Medicine Knowledge and Practice (TMKP).

Some other members of the Committee include:

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| 1. TF Okujagu (DG, Nigeria Natural Medicine Development Agency - NNMDA) | Member |
| 2. Dr. David A. Okongwu (National Office for Technology Acquisition & Promotion – NOTAP) | Member |
| 3. Prof. Johnson A. Ekpere (Consultant, AU-STRC) | Member |
| 4. Prof. Jonathan Okafor | Member |
| 5. Prof. A. A. Elujoba (Obafemi Awolowo University, Ife) | Member |
| 6. Mr. Emmanuel K. Sackey (ARIPO) | Member |
| 7. Mr. John Asein (Nigeria Copyright Commission) | Member |
| 8. Mr. Yauri S. Adamu (Fed. Min. of commerce & Industry) | Member |
| 9. Dr. Muhammed I. Jawa (Traditional Medicine Practitioner) | Member |
| 10. Dr. Bumi Omoseyindemi (Lagos State Board of Traditional Medicine – LSBTM) | Member |
| 11. Mr. Alex Muoka (Intellectual Property Law Asso. of Nig.) | Member |
| 12. Ms Ngozi Aligwekwe (BDCP) | Member |
| 13. Mr. Sam O. Etatuvie (NNMDA) | Member |
| 14. Ms Stella N. Mbah (NNMDA) | Secretary |



Members of the expert Consultative Committee on IPR at different sessions

The Committee has developed a draft policy as well as a draft legal framework, titled: “TRADITIONAL KNOWLEDGE AND BIOLOGICAL RESOURCES PROTECTION ACT”.

Highlights Of The Draft Legal Documents

The draft IPR documents deal with:

- (i) Policy objectives and
- (ii) Principles (core and substantive).

Policy Objectives of the TK:

The way in which a protection system is shaped and defined will depend to a large extent on the objectives it is intended to serve. A key initial step, therefore, of the development of any legal regime or approach for the protection of TK is to determine relevant policy objectives.

Protection of TK should not be undertaken for its own sake as an end in itself, but as a tool for achieving the goals and aspirations of relevant peoples and communities and for promoting national, regional and international policy objectives.

The policy objectives are the things which are to be achieved by protecting traditional knowledge. The draft policy objectives draw on the common goals expressed within the Committee as the common objectives for international protection. These provisions are non-exhaustive and they give a common direction to the protection established in the principles.

The policy is made up two parts:

Part 1 is the general background which includes:

- Brief introduction and history of traditional knowledge in Nigeria.
- Overview of the need for the policy.
- Objectives of the protection of traditional knowledge.
- Vision.
- Mission.
- Expected Outcome of the Policy.
- Goals

Part 2 covers issues that will form the basis for a proposed bill such as:

- Recognition of the value of traditional knowledge.
- Promotion of respect for traditional knowledge systems and holders.
- Meeting the needs of communities and holders of traditional knowledge.
- Empowering communities and individual holders of traditional knowledge.
- Support for traditional knowledge system.
- Preserving and safeguarding traditional knowledge.
- Preventing unlawful acts.
- Consistency with relevant international agreements and processes.
- Promoting innovation and creativity.
- Promoting intellectual and technological exchange.
- Promoting equitable benefit sharing.

- Promoting community development and legitimate trading activities.
- Precluding the granting and exercising of improper IP rights.
- Enhancing certainty, transparency and mutual confidence.
- Complementing the protection of expressions of folklore.
- Intellectual Property Rights and Indigenous Knowledge of traditional medicine.
- Technical cooperation among countries.
- Allocation of financial resources.
- Statement on implementation strategy for the Policy.

The Draft Bill:

The substantive provisions seek to give legal expressions to certain general guiding principles.

This provision builds on an international consensus that traditional knowledge and genetic resources should not be misappropriated, and that some form of protection is required to achieve this.

The rights of holders to the effective protection of their knowledge against misappropriation should be recognized and respected.

Elaboration and discussion of such principles is a key step in establishing a firm foundation for development of consensus on the more detailed aspects of protection.

Protection should reflect the actual aspiration, expectations and needs of traditional knowledge holders, and in particular should; recognize and apply indigenous and customary practices, protocols and laws as far as possible and appropriate; address cultural and economic aspects of development; address insulting, derogatory and offensive acts; enable full and effective participation by all traditional knowledge holders; and recognize the inseparable quality of traditional knowledge and genetic resources for many communities.

The draft bill is divided into various sections and covers the following major principles:

- Title
- Establishment of the Traditional Knowledge and Biological Resources Management Board.
- The scope of Protection.
- Beneficiaries.
- Duration.
- Protection of Traditional Knowledge.
- Civil and Criminal Liability.
- Exception clause.
- Regulation of Access to Biological Resources.
- Benefit Sharing.
- Institutional Arrangements.

To ensure joint ownership and acceptance by all stakeholders, these documents are at present, being subjected to wider critical review and input by stakeholders nationally before

its finalization and onward transmission to the Federal Executive Council for consideration and approval and subsequently to the National Assembly for further necessary action.

Presently, stakeholders' forum is being conducted in the six geo-political zones of the country for this purpose.

As at December 2009, stakeholders' forum on IPR has been conducted in the following geopolitical zones of the country: South-West, North-East, South-East, South-South and North-West Zones of Nigeria.

It is presumed that at the end of this stakeholders exercise, the draft legal document would have been reviewed and enriched by stakeholders thereby giving it a general acceptance by all. Traditional Medicine Knowledge in Nigeria would thus be on the way to contributing to national economic growth and development.

The experiences/outcome of these for a so far are very educative and indicate tremendous acceptance by stakeholders.

The Agency also uses these forums to educate Traditional Medicine Practitioners on IPR and Traditional Medicine Knowledge and Practices, providing the general view and, enlightening them on the need and benefit of protecting their knowledge, practices and products for development.

Similarly, the IPR stakeholders' forums is aimed at creating awareness and sensitize all stakeholders on the need and benefits of IPR, as well as educate them on how they can harness the potentials for their benefits.

In order to stimulate active participation of Traditional Medicine Practitioners (TMPs) for the development and promotion of Traditional Medicine, the Agency conducts continual interactive sessions structured to cover the six geopolitical zones of the Nation. The Agency is presently in its second Phase of the training sessions. To date the Agency has had 30 interactive sessions nationwide with 10,000 Traditional Medicine Practitioners (TMPs) participating.

The Agency maintains linkages and collaborations with TMPs and TM stakeholders through its Consultancy & Extension Services Unit. This is to bridge the gap between TMPs, stakeholders and the Government, build trust and promote Public Private Partnership initiatives.

To further aid the conservation and preservation of the Nation's bioresources, the Agency conducts surveys to collate and document the nation's bioresources aimed at developing a detailed comprehensive national inventory of Medicinal, Aromatic and Pesticidal Plants of Nigeria. The Agency is developing a dedicated MAPPs Herbarium and has published 5 books on inventory of Medicinal Plants in Nigeria (South West, North Central and South East Volumes I). A summary of the publication is available on Pictorial canvasses.

The Agency through its Product Development Unit aims to assist promote value addition to TMPs by assisting to develop, formulate and produce pilot/sample herbal medicines, galenicals, nutraceuticals, health foods, dietary supplements based on established scientific research findings in line with Good Manufacturing Practices (GMP).

Most importantly, the Agency is developing a Digital Virtual Library on TM to serve as a Dedicated Focal Reference Centre for Research Development and Promotion of Traditional Medicine and Medicinal, Aromatic and Pesticidal Plants (MAPP) of Nigeria. Through this, it collates, develop, manage and disseminate information on TMKP nationally and internationally. Data on research, documentation and collation will be domiciled here for ease of referencing and reduce research and development duplication. This also forms part of the support base for IPR for TMKP.

Conclusion

The protection of Traditional Medicine Knowledge and Practice Knowledge (TMKP) and Genetic Resources is important for communities in all countries, particularly in developing and least developed countries. This is because TMKP plays very important and critical roles not only in health care delivery but also in the economic and social life of the citizenry of these countries. Placing value on such knowledge helps strengthen cultural identity and the enhanced use of such knowledge to achieve economic social and development goals, such as sustainable agriculture, affordable and appropriate public healthcare delivery, and conservation of biodiversity.

The importance of protecting the knowledge, innovations and practices of indigenous local communities is increasingly recognized in international forums. The immediate task is to ensure that the benefits of cumulative innovation associated with TMKP and Genetic Resources accrue to their holders while enhancing not only their socio-economic development but that of their communities, countries, regions and mankind.

While protection of IPR on TMKP and Genetic Resources are necessary, it is not sufficient to only foster its preservation and further development, it is also important to harness TMKP and Genetic Resources for development and trade. Developing countries need assistance to build national capacities in terms of raising awareness on the importance and potential of TMKP and Genetic Resources for development and trade; develop institutional and consultative mechanisms on Genetic Resources protection and innovation; and facilitating the identification and marketing of Genetic Resources based products and services.

The stronger the integration and coordination between each level and all levels, (i.e. the community, national, regional and international dimensions), the more likely the overall effectiveness of an IP regime and its positive utilization and benefit to mankind.

[End of Annex and of document]