Intellectual Property and GRs, TK and TCEs: Work at the International Level

Wend Wendland
Director
Traditional Knowledge Division
WIPO

Ankara
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• Legislative vs. practical options

• IP vs. non-IP options

• ‘Positive’/‘Defensive’

• More effective use of existing IP system vs. new *sui generis* norms

• National vs. international
WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
IGC mandate 2016-2017: “... reaching an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs). ...”
From “non-normative” (2001 to 2009) to “normative” (from 2010); “binding” and/or “non-binding”

Tri-angulating “objectives and principles”, “substance/content” and “process”

Balancing “separate but equal” treatment and “cross-cutting issues”
Significance

• For indigenous peoples and local communities:

  New collective rights

  Community entrepreneurship, rural development, SMEs

• For international IP policy development:

  A profound re-imagining of the IP system
  First developing country-led normative process of this breadth and complexity
  Squarely in line with Development Agenda
Challenges

• Substance
  – Complex menu of issues
  – Limited experience at national/regional level
  – Interface with other instruments and processes

• Process
  – Diverse demandeurs, diverse objectives, limited leverage
  – Over-negotiated mandates
  – Efficiency vs. transparency and inclusivenessness
  – “All or nothing” approach
How, if at all, to protect “publicly available” traditional knowledge
<table>
<thead>
<tr>
<th>Nature of TK</th>
<th>Secret</th>
<th>Closely held</th>
<th>Publicly available</th>
<th>Widely diffused</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nature of rights</td>
<td>Exclusive property rights</td>
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<td></td>
<td>Moral rights</td>
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<td></td>
<td>Unfair competition</td>
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<td>Compensation/ Benefit-sharing</td>
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Seminar on IP and Genetic Resources:
May 26 and 27, 2016

IGC 30 (genetic resources):
May 30 to June 3, 2016

- Consolidated document
- Outstanding/pending issues
- Proposed recommendations
- “Experiences”
Proposed mandatory disclosure requirement

- Objectives
- Scope
- Content
- Exceptions and limitations
- Consequences of non-compliance
- Trigger
- No disclosure option
WIPO’s capacity-building program

1. Facilitate

2. Inform

3. Train
Traditional knowledge (TK) is a living body of knowledge passed on from generation to generation within a community. It often forms part of a people’s cultural and spiritual identity. WIPO's program on TK also addresses genetic resources (GRs) and traditional cultural expressions (TCEs).

WIPO’s Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is negotiating international legal instrument(s) on intellectual property (IP) and GRs, TK and TCEs.

- Indigenous Portal
- Frequently asked questions | Glossary of key terms

**Looking for information on the IGC?** [IGC website] | IGC: What is happening now
Questions and comments?
WIPO’s TK Updates and Newsletters: email us at grtkf@wipo.int

Access all resources: www.wipo.int/tk/en

Wend Wendland wend.wendland@wipo.int

WIPO WORLD INTELLIGENTUAL PROPERTY ORGANIZATION