Roundtable 2
Regional and International Experiences: Transboundary ("Shared") Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions
Relevant International Instruments

1. Nagoya Protocol on Access and Benefit Sharing

   Article 10. Global Multilateral Benefit-sharing Mechanism

   Article 11. Transboundary Cooperation
Relevant International Instruments

2. International Treaty on Plant Genetic Resources for Food and Agriculture

Article 10 - Multilateral System of Access and Benefit-sharing

- Sovereign rights of states over their own plant genetic resources for food and agriculture

- Parties agree to establish a multilateral system for access and benefit-sharing
SHARED GRTKTCs

Examples:

- musical instruments
- gongs, xylophone, jaw harps
- bamboo instruments
- textile designs
- folk craft
- dances forms
**SHARED GRTKTCs**

Examples:

- plants/ medicinal plants
- marine resources
- e.g. The Coral Triangle
Comments and Experiences

- The Nagoya Protocol and the International Treaty on Plant Genetic Resources are international norms that cover GR and TK (TCEs).

- Require the Contractual Parties to establish modalities and cooperation on transboundary GR and TK associated with GR.
Comments and Experiences

Establishing the modalities may be through bilateral or regional agreements

1. ASEAN IPR Action Plan 2011-2015
   Strategic Goals and Initiatives cover GR, TK and TCE
   (e.g. establishment of Regional Databases)

2. ASEAN-Australia-New Zealand FTA
   Parties may establish appropriate measures to protect GR, TK and TCEs
National Programmes/Initiatives

Promotion of the Protection of TK & TCEs

a) Memorandum of Agreement: IPOPHL, National Commission for Culture and the Arts (NCCA) and National Commission on Indigenous Peoples (NCIP) in June 2011

creating the Tripartite Technical Working Group dedicated to study the Protection of Communal intellectual rights of the Indigenous People
b) Joint NCIP/IPOPHL Administrative Order (draft)

➢ aims to provide harmonized rules & regulations to prevent misappropriation of TK/IKSP of IPs and ICCs and encourage tradition-based creations and innovations
b) Joint NCIP/IPOPHL Administrative Order (draft)

- Key provisions: disclosure of TK/IKSPs used in patent applications including the source or geographical origin; the establishment of IKSP registry; certification of ownership of IKSP by NCIP; non-compliance to the disclosure requirement may result in the cancellation of the application, dispute resolution

- 1st public consultation was held in May 2015 (Metro Manila)
- 2nd public consultation is scheduled in Aug. 2015 (Baguio City)
National Programmes/Initiatives

Databases/Registers:

- www.tkdl.ph.com
- www.herbs.ph
- www.herdin.ph
National Programmes/Initiatives

- Inter-agency coordination

- IPOPHL is coordinating with DENR on issues on IPR and GRs

- participates in discussions on matters concerning the Nagoya Protocol or international regimes on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization
National Programmes/Initiatives

Inter-agency coordination

National Programme on Wealth Creation form the Philippines’ Biodiversity Resources

(Lead agency: Dept. of Environment & Natural Resources)
In summary, here are the Policy considerations:

- **At the Regional level:**
  - Establish modalities though a bilateral and regional agreements (relevant international instruments are Nagoya Protocol, Art. 10 & 11 and International Treaty on Plant Genetic Resources for Food and Agriculture, Art. 10).
  - In the ASEAN Region, these (existing) modalities are as follows:
    1. ASEAN IPR Action Plan 2011-2015
    2. ASEAN-Australia-New Zealand FTA

- **At the National level:**
  - Assess existing IP tools as possible mechanism for protection of TK based innovations and creations,
  - Address the gaps in existing legislation (IP CODE and IPRA); develop mechanisms to address these gaps. (Note: At present, IPOPHL/NCIP addresses these gap through the a Joint Administrative Order);
  - Consider input from public consultations in enhancing/revising this admin order.
  - Utilize existing databases (tkdl (tkdl.ph.com), herbs (herbs.ph), herdin (herdin.ph) as a form of defensive protection (e.g. in prior art searches) for Peoples and Indigenous Cultural Communities;
  - Consider (in coordination with UP Manila and DOST) these databases as the country’s contribution to the proposed Regional Database of GR, TK associated with GR.
THANK YOU!

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