

## In the News

The preservation, management and sustainable use of genetic resources and of associated traditional knowledge, as well as the sharing of the benefits that they offer, are headline news today. They are topics that occupy public debate in a wide range of sectors, including:

- food and agriculture;
- biological diversity and environment;
- innovation and regulation in biotechnology;
- economic, social and cultural development;
- cultural policy;
- human rights.

With the rise of modern biotechnology, genetic resources have taken on increasing economic, scientific and commercial value for a wide range of stakeholders. In addition, the traditional knowledge associated with those resources has attracted widespread attention from a growing audience.

At the same time other tradition-based creations, like folklore and the many forms in which it is expressed, have acquired a new economic and cultural potential, thanks to the multitude of commercial and dissemination options made available by the Internet and the global information society.

## Intellectual Property at the Center of New Issues

Many of those involved in these issues consider matters of genetic resources, traditional knowledge and folklore to be linked to the laws and practices covering intellectual property use and protection. Indeed, there is already some overlap between the intellectual property system and more “informal” means of protection in these areas. For these reasons WIPO is working closely with its Member States to clarify the intellectual property dimensions of these subjects.

Intellectual property is a legal concept which deals with creations of human ingenuity. Such creations, whether they be inventions, designs, trademarks or artistic works, such as music, books, films, dances, sculpture or photography are considered



and protected as property for a certain period in time, provided that the creators meet certain criteria, for example, originality, defined by the relevant laws.

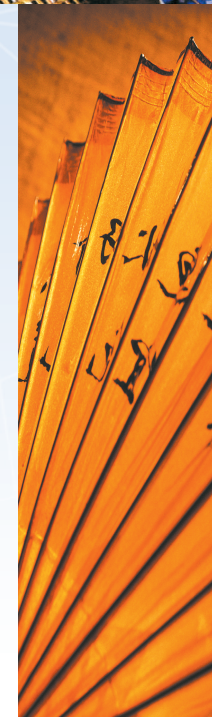
The intellectual property system is dynamic, characterized by its ability to evolve and adapt. Current technological advances, especially in information technology or biotechnology, as well as the evolution of society itself, necessarily call for constant reevaluation of this system. Changes rarely take place without first being discussed – and often disputed – at national and international levels.

## Many Issues, Much at Stake

While “genetic resources” are defined under several international instruments, there is to date no universally recognized definition for traditional knowledge as such.

“Traditional knowledge” itself has a number of different subsets, some of them designated by expressions such as “indigenous knowledge,” “folklore,” “traditional medicinal knowledge” and others. Contrary to a common perception, traditional knowledge is not necessarily ancient. It is evolving all the time, a process of periodic, even daily creation as individuals and communities take up the challenges presented by their social and physical environment. In many ways therefore, traditional knowledge, is actually contemporary knowledge. Traditional knowledge is embedded in traditional knowledge systems, which each community has developed and maintained in its local context. The commercial and other advantages deriving from that use could give rise to intellectual property questions that could in turn be multiplied by international trade, communications and cultural exchange.

As for genetic resources and the sharing of the economic and other advantages that their utilization generates, there are several different aspects to the link between access to those resources and intellectual property. For instance:



- Genetic resources (whether or not preserved in situ) may have been altered by human intervention and may have taken on characteristics that are not found in nature. When those alterations lead to a biotechnological invention which is new, involves an inventive step and is capable of application on an industrial scale, the invention may qualify for patent protection.

- Other altered resources, such as landraces or traditional varieties, are sometimes very important to local communities, and often to the future of plant genetic resources as well. They may not match the classical models of existing intellectual property regimes, but they would in certain cases qualify for protection by national legislation.

To give one example, any mention of ownership rights in a given invention achieved through access to genetic resources and traditional knowledge, or of the obligation to mention in patent documents the source of biological material and traditional knowledge, sets off wide-ranging and often contentious debate. This debate reflects the importance of the material, moral, and sometimes sacred interests at stake, and also of the practical applications that exist in fields such as pharmaceutical, chemical and agricultural research.

## The Role of WIPO

WIPO is expected by its member States to be present at international discussions relating to genetic resources, traditional knowledge and folklore, to help clarify as far as possible the implications for intellectual property. This involves identifying and addressing the relevant intellectual property issues. WIPO is also expected to engage in work and facilitate discussions with a view to bringing about progress in the consideration of the issues.

In this context, a WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore was established in September 2000 by WIPO Member States. The primary themes that it would address in the course of its work – beginning with a meeting in April 2001 – could include the intellectual property questions raised by:

- access to genetic resources and benefit-sharing;
- protection of traditional knowledge, whether or not associated with those resources;
- protection of expressions of folklore.





Besides WIPO's Member States, the many Non-Governmental Organizations (NGOs) that have observer status in dealings with WIPO will be invited to meetings of the Intergovernmental Committee. Other NGOs may be interested on a case-by-case basis.

Before the creation of the Intergovernmental Committee, WIPO had already held various meetings and carried out various activities on the subject. These included the drafting of a questionnaire to gather information on the protection of biotechnological inventions in the Member States of WIPO, including certain aspects regarding intellectual property and genetic resources, as well as a study on the Role of Intellectual Property Rights in the Sharing of Benefits Arising from the Use of Biological Resources and Associated Traditional Knowledge. This project was implemented in close collaboration with the United Nations Environment Programme.

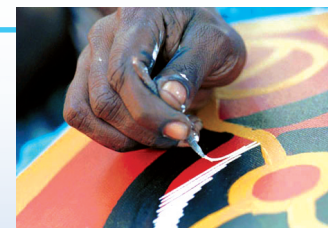
WIPO carried out nine fact-finding missions to the South Pacific, South Asia, Southern and Eastern Africa, North America, West Africa, Arab countries, South America, Central America and the Caribbean. Those missions identified and explored the intellectual property needs and expectations of holders of traditional knowledge, in order to strengthen the role of the intellectual property system in their cultural, social and economic development. The missions also provided an opportunity for stakeholders and practitioners in communities to consider present or future solutions to ensure that the intellectual property rights of the holders of traditional knowledge, innovations and culture are protected.

A Working Group on Biotechnology met in November 1999, which adopted a set of projects on intellectual property and the legal protection of biotechnological inventions. Two global roundtables were held to discuss the relationship between intellectual property and traditional knowledge, namely a Roundtable on Intellectual Property and Indigenous Peoples in July 1998 and a Roundtable on Intellectual Property and Traditional Knowledge in November 1999.

Four Regional Consultations on the Protection of Expressions of Folklore took place in 1999, for Africa, for Asia and the Pacific, for the Arab countries and for Latin America and the Caribbean. Each meeting adopted proposals for the continuation of the work undertaken. Finally, an interregional Meeting on Intellectual Property and Genetic Resources was held at WIPO in April 2000, which in particular took stock of the work being undertaken within WIPO on those subjects.

### To Find Out More

In an era characterized by the globalization of trade, culture and communications, we are witnessing a meeting between two areas: on the one hand, the intellectual property system as it is known today, and on the other, the areas of genetic resources, traditional knowledge and folklore.



As these areas are evolving rapidly, WIPO is putting in place new activities at the request of its Member States. The WIPO website, [www.wipo.int](http://www.wipo.int), has various pages devoted to biotechnology and to traditional knowledge. Many of the documents and other texts quoted in this information leaflet are provided there in full.

WIPO will be glad to reply to your inquiries on the website or at the following address:

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AND GENETIC RESOURCES,  
TRADITIONAL KNOWLEDGE,  
AND FOLKLORE**