

Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions



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Why Use this Booklet?

The objective of this booklet is to offer general and basic information on the interface between intellectual property (IP) and traditional knowledge (TK), traditional cultural expressions (TCEs), and genetic resources (GRs). It briefly addresses the most important questions that arise when considering the role that IP principles and systems can play in protecting TK and TCEs from misappropriation, and in generating and equitably sharing benefits from their commercialization, and the role of IP in access to and benefit-sharing in GRs.

It covers such issues as:

- What are TK, TCEs and GRs?
- Why provide IP protection to TK, TCEs and GRs?
- What does “protection” mean?
- Who should benefit from the IP protection of TK and TCEs?
- And many others...

However, this booklet does not delve into all the specific issues that can emerge when addressing the IP protection of TK, TCEs and the relationship of IP with GRs; it is complemented by a series of “Briefs” (indicated in *italics* throughout this booklet) that tackle in greater detail the following areas, among others:

- Traditional Knowledge and Intellectual Property
- Intellectual Property and the Documentation of Traditional Knowledge
- Policy Options for National Systems
- The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)
- Intellectual Property and the Protection and Promotion of Handicrafts
- Intellectual Property and Arts Festivals
- Customary Law and the Protection of Traditional Knowledge and Traditional Cultural Expressions
- Traditional Medical Knowledge
- Traditional Knowledge and Alternative Dispute Resolution

Other resource documents are also available for those interested in obtaining more information on particular topics. These are also referenced throughout the booklet and are indicated in *italics*.

This booklet also gives an overview of the work of WIPO in this vast area and can serve as a guide to navigate through the complex policy, legal, and practical concerns that surface when exploring traditional creativity and innovation.

More information is available on the WIPO website at *www.wipo.int/tk*, including an FAQ and a Glossary of key terms. The Traditional Knowledge Division may be contacted at *grtkf@wipo.int*.

Background to the Need for the Protection of Traditional Knowledge, Traditional Cultural Expressions, and Genetic Resources

The Issue in a Nutshell: Intellectual Property for Traditional Forms of Creativity and Innovation

IP refers to creations of the mind such as inventions, designs, literary and artistic works, performances, plant varieties, and names, signs and symbols.

In recent years, indigenous peoples, local communities, and governments—mainly in developing countries—have demanded IP protection for traditional forms of creativity and innovation, which, under the conventional IP system, are generally regarded as being in the public domain, and thus free for anyone to use. Indigenous peoples, local communities and many countries reject a “public domain” status of TK and TCEs and argue that this opens them up to unwanted misappropriation and misuse.

Box 1 The Public Domain

The debate about appropriate protection centers on whether, and how, changes should be made to the existing boundary between the public domain and the scope of IP protection. Hence, an integral part of developing an appropriate policy framework for the IP protection of TK/TCEs is a clear understanding of the role and boundaries of the public domain.

The term “public domain” refers to elements of IP that are ineligible for private ownership and the contents of which any member of the public is legally entitled to use. It means something other than “publicly available” – for example, content on the Internet may be publicly available but not in the “public domain” from an IP perspective.

A WIPO document, *Note on the Meanings of the Term “Public Domain” in the Intellectual Property System with Special Reference to the Protection of Traditional Knowledge and Traditional Cultural Expressions/Expressions of Folklore*, WIPO/GRTKF/IC/17/INF/8, provides a detailed analysis of the application of this concept to the protection of TK and TCEs. See www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_17/wipo_grtkf_ic_17_inf_8.pdf

For example:

- a traditional remedy could be appropriated by a pharmaceutical company and the resulting invention patented by that company;
- an indigenous folk song could be adapted and copyrighted, without any acknowledgement of the indigenous community which created the song and without sharing any of the benefits arising from the exploitation of the song with the community.
- inventions derived from GRs could be patented by third parties, raising questions as to the relationship between the patent system and the conservation and sustainable use of biodiversity and the equitable sharing of benefits.

Recognizing those traditional elements as protectable IP would enable their holders to have a say in their use by others. This does not mean that conventional IP systems are being forced upon TK, TCEs and GRs, but rather that values and principles embedded in IP law (such as that creations of the human mind should be protected against misappropriation) could be adapted and redeployed for new subject matter and for new beneficiaries.

But indigenous peoples and local communities have unique needs and expectations in relation to IP, given their complex social, historical, political and cultural dimensions and vulnerabilities. They face challenges unlike any other that IP law has yet presented: the protection of TK and TCEs intersect every category of IP and often involve other legal issues, as well as ethical and cultural sensitivities, reaching well beyond IP.

Importantly, human rights form a crucial part of the context for protection of TK, TCEs and GRs, insofar as the needs and interests of their holders are concerned. In 2007, the United Nations General Assembly adopted the *United Nations Declaration on the Rights of Indigenous Peoples*. The Declaration recognizes that “indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity” (Article 2). Article 31 provides that indigenous peoples “have the right to maintain, control, protect and develop their Intellectual Property over such cultural heritage, traditional knowledge and traditional cultural expressions.” The Declaration is frequently referred to in WIPO’s work.

Box 2 A Broad Policy Context

TK and GRs are discussed in the area of biological diversity, where several important international instruments exist. These include the Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, the International Treaty on Plant Genetic Resources for Food and Agriculture of the Food and Agriculture Organization, the International Union for the Protection of New Varieties of Plants (UPOV), and the 1994 UN Convention to Combat Desertification (UNCCD).

TK, TCEs and GRs are also raised in the context of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). While the TRIPS Agreement has no specific provisions on the issue of TK, the Doha Declaration, in 2001, instructed the TRIPS Council to examine the protection of TK and TCEs. Furthermore, discussions on the relationship between the TRIPS Agreement and the CBD are taking place within the TRIPS Council since the built-in review of Article 27.3 (b) in 1999.

The protection of TCEs raises issues related to the preservation and safeguarding of cultural heritage, notably within the ambit of the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Convention (1972) and Convention for the Safeguarding of Intangible Cultural Heritage (2003). It also forms part of the context of the promotion of cultural diversity and of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).

TCE protection is discussed in such contexts as the respect for cultural rights, the promotion of artistic development and cultural exchange and the promotion of tradition-based creativity and innovation as ingredients of sustainable economic development.

What are Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources?

Traditional Knowledge

The term “traditional knowledge” or its abbreviation “TK” is sometimes used as shorthand for the entire field of TK and TCEs.

However, nowadays, WIPO most often distinguishes between TK and TCEs, because, from an IP standpoint, a different set of policy questions arises and distinct legal tools are likely to apply for their protection.

TK is a living body of knowledge that is developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity. In a few words, TK is understood as:

- knowledge, know-how, skills, innovations or practices;
- that are passed between generations;
- in a traditional context; and
- that form part of the traditional lifestyle of indigenous and local communities who act as their guardian or custodian.

Box 3 Note on Definitions and Terminology

No single definition would do justice fully to the diverse forms of knowledge and expressions that are held and created by indigenous peoples and local communities throughout the world. Their living nature also means that they are not easy to define.

There is not, as yet, any generally accepted, formal definition of these terms. Instead, WIPO uses working descriptions. Similarly, the terms used in this booklet are not intended to suggest any consensus on their validity or appropriateness.

A WIPO *Glossary* proposes definitions of the terms used most frequently in the field.

Box 4 A Holistic View of Traditional Knowledge

While in discussions about IP protection, TCEs are generally discussed distinctly from TK, this is not to suggest that these are distinguished in the traditional context. The distinction between TK and TCEs does not necessarily represent any of the particular holders’ holistic comprehension of their own integrated heritage. For many holders, TK and its form of expression are seen as an inseparable whole. For example, a traditional tool may embody TK but also may be seen as a TCE in itself because of its design and ornamentation.

TK can be, for example, agricultural, environmental or medicinal knowledge, or knowledge associated with GRs. Examples include, among thousands of others:

- knowledge about traditional medicines;
- traditional hunting or fishing techniques;
- knowledge about animal migration patterns or water management.

Box 5 Examples of Traditional Knowledge

Thai traditional healers use the *plao-noi* plant to treat ulcers

The San people use the *hoodia* plant to stave off hunger while out hunting

Sustainable irrigation is maintained through traditional water systems such as the *afraj* in Oman and Yemen, and the *qanat* in Iran

The Cree and Inuit maintain unique bodies of knowledge of seasonal migration patterns of particular species in the Hudson Bay region

Indigenous healers in the western Amazon use the *Ayahuasca* vine to prepare various medicines, imbued with sacred properties.



The Hoodia plant ©iStock.com/Sproetniek

Traditional Cultural Expressions



Basket weaving

TCEs are, succinctly, the forms in which traditional culture is expressed. They can be, for example, dances, songs, handicraft, designs, ceremonies, tales or many other artistic or cultural expressions.

TCEs are seen as integral to the cultural and social identities and heritage of indigenous and local communities, reflecting core values and beliefs.

TCEs are handed down from one generation to another, and are maintained, used or developed by their holders. They are constantly evolving, developing and being recreated.

TCEs may be either tangible, intangible, or, most usually, a combination of the two. Indeed, in any material object, there is often a symbolic or religious element from which it cannot be separated. An example would be a woven rug (a tangible expression) that expresses elements of a traditional story (an intangible expression).

Although “expressions of folklore” was the term used most commonly in international discussions and is found in many national laws, some communities have expressed reservations about the negative connotations associated with the word “folklore.” WIPO nowadays uses the term “traditional cultural expressions” (or simply “TCEs”). Where it is used, “expressions of folklore” is understood as a synonym of TCEs.



Box 6 Examples of Traditional Cultural Expressions

Verbal expressions: stories, tales, poetry, riddles, signs, elements of languages, such as names, words, symbols and indications, etc.

Musical expressions: songs and instrumental music

Expressions by actions: dances, plays, artistic forms of rituals, etc.; whether or not reduced to a material form

Tangible expressions: drawings, paintings, carvings, jewelry, metalware, textiles, designs, carpets, sculptures, pottery, terracotta, crafts, mosaic, needlework, basket weaving, woodwork, costumes; musical instruments, architectural forms, etc.

Box 7 The Meaning of “Traditional”

What makes knowledge or cultural expressions “traditional” is not their antiquity: much TK and many TCEs are not ancient or inert, but a vital, dynamic part of the lives of many communities today.

The adjective “traditional” qualifies a form of knowledge or an expression which has a traditional link with a community: it is developed, sustained and passed on within a community, sometimes through specific customary systems of transmission. In short, it is the relationship with the community that makes knowledge or expressions “traditional.”

For example, the essential characteristics of “traditional” creations are that they contain motifs, a style or other items that are characteristic of and identify a tradition and a community that still bears and practices it. They are often regarded as “belonging” to the community.

Genetic Resources

GRs are defined in the Convention on Biological Diversity (CBD). In short, they are parts of biological materials that:

- contain genetic information of value; and
- are capable of reproducing or being reproduced.

Examples include material of plant, animal, or microbial origin, such as medicinal plants, agricultural crops and animal breeds.

Some TK is closely associated with GRs: through the utilization and conservation of the resource, often over generations, and through their common use in modern scientific research, because TK often provides researchers with a lead to isolate valuable active compounds within GRs.

Box 8 The Convention on Biological Diversity

In 1992, in Rio de Janeiro, the Rio Declaration on Environment and Development establishing the Convention on Biological Diversity (CBD) was adopted to promote the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising out of the utilization of GRs. Provisions on the respect and recognition of TK are a key element of the CBD, and important work is underway within the CBD framework to implement these provisions. Likewise, IP protection of TK is deeply linked to the objectives of the CBD. See www.cbd.int.



Who are the Holders of Traditional Knowledge and Traditional Cultural Expressions?

One central issue in the debate over the protection of TK and TCEs is the identity of their owners, bearers or custodians.

It is generally agreed that protection should principally benefit TK/TCEs holders, in particular the indigenous peoples and local communities that develop, maintain and identify culturally with them and seek to pass them on between generations.

TK/TCEs are generally regarded as collectively originated and held, so that any rights and interests in this material should vest in communities rather than in individuals, including in cases where TK/TCEs are developed by an individual member of a community. In some instances though, beneficiaries may also include recognized individuals within the communities, such as certain traditional healers or individual farmers working within the community. Typically, this recognition arises through customary understandings, protocols, laws or practices.

It could be that more than one community qualifies for protection of their TK/TCEs, including communities which share the same or similar TK/TCEs in different countries.

What does “Protection” Mean?

Protection of Traditional Knowledge and Traditional Cultural Expressions

“Protection” can mean different things, depending on the context in which the term is used, but WIPO is concerned with a very specific understanding of the term: the use of IP tools and principles to prevent unauthorized or inappropriate uses of TK/TCEs by third parties. Put differently, the form of protection being developed at WIPO is the application of IP law, values and principles to prevent misuse, misappropriation, copying, adaptation or other kind of illicit exploitation. The objective, in short, is to make sure that the intellectual innovation and creativity embodied in TK or TCEs are not wrongly used.

IP protection can entail recognizing and exercising exclusive rights, i.e., excluding others from carrying out certain acts. IP protection can also include non-proprietary forms of protection like moral rights, equitable compensation schemes and protection against unfair competition.

In summary, IP laws typically establish:

- **exclusive property rights in creations and innovations in order to:**
- grant control over their exploitation, particularly commercial exploitation;
- provide incentives for further creativity;
- **other forms of protection, for example:**
- moral rights protection;
- equitable compensation; and
- protection against unfair competition.

IP-type protection could make it possible, for example, to protect traditional remedies and indigenous crafts and music against misappropriation, and enable communities to control and benefit collectively from their commercial exploitation.

Protection is different from “preservation” or “safeguarding,” which are the identification, documentation, transmission, revitalization and promotion of knowledge and cultural heritage in order to ensure its maintenance or viability. The objective, in that case, is to make sure that the TK or TCEs do not disappear, are not lost or degraded, and to ensure that they are maintained and promoted.

Box 9 Protection, Preservation and Safeguarding

“Protection,” “preservation” and “safeguarding” are not mutually exclusive. Having different objectives, they may be implemented in conjunction with one another and help promote each other.

However, these different forms of protection may also conflict. Preservation efforts through the documentation of TK/TCEs, particularly digitization, can make them more accessible and vulnerable to uses that are against the wishes of their holders, thereby undermining the efforts to protect them in an IP sense.

Care needs to be taken to ensure that acts of preservation do not inadvertently facilitate the misappropriation or illegitimate use of the TK/TCEs. Management of IP during such processes is therefore advisable.

Background Brief 9: Documentation of Traditional Knowledge and Traditional Cultural Expressions looks at these questions in greater detail.

The WIPO Creative Heritage Training Program also addresses these questions. See www.wipo.int/tk/en/resources/training.html.

Two Approaches to Intellectual Property Protection

The IP system can be approached from two different angles to ensure protection of TK and TCEs. These two approaches—generally referred to as “positive” and “defensive” protection—can be undertaken together in a complementary way.

Under a first approach — “positive protection”— the IP system is designed to enable holders, if they so wish, to acquire and assert IP rights in their TK and TCEs. This can allow them to prevent unwanted, unauthorized or inappropriate uses by third parties (including culturally offensive or demeaning use) and/or to exploit TK/TCEs commercially, for example through the granting of licenses, as a contribution to their economic development. In brief, positive protection is the granting of rights that empower communities to promote their TK/TCEs, control their uses by third parties and benefit from their commercial exploitation.

A second approach — “defensive protection”— is designed to prevent the illegitimate acquisition or maintaining of IP rights by third parties. Stated otherwise, defensive protection aims to stop people outside the community from acquiring IP rights over TK and TCEs. India, for example, has compiled a searchable database of traditional medical knowledge that can be used as evidence of prior art by patent examiners when assessing patent applications. Defensive strategies might also be used to protect sacred cultural manifestations, such as sacred symbols or words, from being registered as trademarks.

In short, a range of IP tools can be used to protect TK and TCEs. For their holders, positive protection means making use of these tools for their own purposes. Defensive protection, in contrast, means preventing anyone else from having access to these tools, when it would go against the interests of TK and TCE holders.

Box 10 Patent Examination and Defensive Protection

TK constitutes an increasingly relevant body of prior art. Therefore, its effective identification is of growing importance for the functioning of the IP system.

Existing international patent law already requires some patent information to be disclosed by the applicant. Some claim that patent applicants should in some way disclose TK and GRs used in the claimed invention or that are otherwise related to it. There are several proposals to extend and focus these requirements and to create specific disclosure obligations for TK and GRs.

WIPO's search tools and patent classification systems take TK into account. See for example the International Patent Classification System (www.wipo.int/classifications/ipc/en/index.html) and the Patent Cooperation Treaty Minimum Documentation (www.wipo.int/standards/en/part_04.html).

TK and defensive protection: the turmeric patent

United States Patent 5,401,504 was initially granted with a main claim directed at "a method of promoting healing of a wound in a patient, which consists essentially of administering a wound-healing agent consisting of an effective amount of turmeric powder to said patient." The patent applicants acknowledged the known use of turmeric in traditional medicine for the treatment of various sprains and inflammatory conditions. The patent application was examined, and the claimed invention was considered novel at the time of application on the basis of the information then available to the examining authority. The patent was subsequently challenged and found invalid, as further documentation was made available (including ancient Sanskrit texts) that demonstrated that the claimed invention was actually already known TK.



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Protection of Genetic Resources

The relationship between IP and GRs is perhaps less clear than that between IP and TK/TCEs. GRs are subject to access and benefit-sharing regulations, in particular within the international frameworks defined by the CBD and its Nagoya Protocol, as well as by the International Treaty on Genetic Resources for Food and Agriculture of the United Nations Food and Agriculture Organization.

Furthermore, GRs as encountered in nature are not IP. They are not creations of the human mind and thus they cannot be directly protected as IP. Therefore, WIPO is not involved in the regulation of access to GRs or their direct “protection” as such. However, inventions based on or developed using GRs (associated with TK or not) may be patentable or protected by plant breeders’ rights.

There are nevertheless two main IP issues directly associated with GRs:

- **The “defensive protection” of GRs:** this refers to preventing patents from being granted over inventions based on or developed using GRs (and associated TK) which do not fulfill the existing patent requirements of novelty and inventiveness. In this context, to help patent examiners find relevant prior art and avoid the granting of erroneous patents, WIPO is looking at different options, such as the implementation and use of databases and guidelines, and the adjustment of search tools and patent classification systems.

Another, perhaps more controversial, aspect of this issue concerns the possible disqualification of patent applications that do not comply with CBD obligations related to prior informed consent (PIC), mutually agreed terms, fair and equitable benefit-sharing, and disclosure of origin.

- **Consistency and synergy between the IP system and the CBD:** a number of countries have enacted domestic legislation putting into effect the CBD obligations that access to a country’s GRs should depend on securing that country’s PIC and agreeing to fair and equitable benefit-sharing (Article 15). The question arises as to whether, and to what extent, the IP system should be used to support and implement these obligations. One of the options is to develop mandatory disclosure requirements, in other words, to make it mandatory for patent applications to show the source or origin of GRs, as well as evidence of PIC and a benefit-sharing agreement.

Box 11 Prior Informed Consent and Equitable Benefit-Sharing

The principle of PIC concerning access to GRs is one of the cornerstones of the CBD (See Article 15, which recognizes that States have sovereign rights over their GRs). Given the close relationship between GRs and some forms of TK, this same principle is also used in a number of national laws concerning access to and use of TK, as well as use of TCEs in some cases.

According to the principle of PIC, holders should be fully consulted before their knowledge/expression/genetic resource is accessed or used by third parties and an agreement should be reached on appropriate terms; they should also be fully informed about the consequences of the intended use. The agreed scope of use may be set out in contracts, licenses or agreements, which may specify how benefits arising from the exploitation should be shared.

In WIPO discussions, many argue that use of protected subject matter ought to be subject to PIC especially for sacred and secret materials. However, others fear that granting exclusive control over traditional cultures could stifle innovation, diminish the public domain and be difficult to implement in practice.

The idea of an equitable balancing of interests is common to many legal systems. In IP law, this is often phrased in terms of a balancing of the interests of right holders and the general public. According to this principle, the TK/TCEs/GRs holders receive an equitable share of the benefits that arise from the use of the TK/TCEs/GRs, which may be expressed in terms of a compensatory payment, or other non-monetary benefits. (See the *Bonn Guidelines on Access to Genetic Resources and the Fair and Equitable Sharing of the Benefits Arising from their Utilization*, www.cbd.int/abs/bonn/). An entitlement to equitable benefit-sharing may be particularly appropriate in situations where exclusive property rights are considered inappropriate.

WIPO has gathered examples of model IP clauses which may be considered for inclusion in contractual agreements when mutually agreed terms are being negotiated. WIPO regularly updates, on its website, an online database of relevant contractual practices (*Database of Biodiversity-related Access and Benefit-sharing Agreements*).

WIPO also has draft guidelines on IP clauses in access and benefit-sharing agreements (*Intellectual Property Guidelines for Access and Equitable Benefit-Sharing*), a set of *Case studies related to IP and GRs* (WIPO Pub. No. 769) and a *Technical study on the disclosure requirement proposal* (WIPO Pub. No. 786).

What is the Objective of Protection?

Protection of TK/TCEs is not undertaken as an end in itself, but as a means to reach broader policy goals and to respond to the needs of their holders.

Stakeholders have expressed a variety of policy objectives underlying the protection of TK and TCEs, including:

- Wealth creation, trading opportunities and sustainable economic development, including promotion of equitable benefit-sharing from use of TK/TCEs;
- Preservation, promotion and development of TK/TCEs;
- Prevention and repression of misappropriation and unauthorized exploitation, illicit use and abuse, as well as other unfair and inequitable uses of TK/TCEs;
- Protection of tradition-based creativity and innovation;
- Recognition of value of and promotion of respect for TK/TCEs and the communities that preserve them; including prevention of insulting, derogatory and/or culturally and spiritually offensive uses;
- Safeguarding of the cultural identity and values of communities;
- Empowerment of TK/TCEs holders;
- Prevention of false and misleading claims to authenticity and origin; prevention of third party failure to acknowledge the source;
- Promotion of cultural diversity.

Box 12 Cultural Heritage and Economic Development

While the artistic heritage of a community plays significant social, spiritual and cultural roles, it can also play a role in economic development. The use of TCEs as a source of contemporary creativity can lead to the establishment of community enterprises, local job creation, skills development, appropriate tourism, and foreign earnings from community products.

IP can enable communities to commercialize their tradition-based creations, should they wish to do so, and to exclude free-riding competitors. Communities may thus use their IP to exercise control over how their TCEs are used, and to defend against insensitive and degrading use of traditional expressions.

The marketing of artisanal products also represents a way for communities to strengthen their cultural identity and contribute to cultural diversity. IP can assist in differentiating artisanal products and handicrafts, certifying their origin, or by combating the passing off of fake products as “authentic.”

TCEs are also a source of inspiration for creative industries, such as the entertainment, fashion, publishing, crafts and designs industries. Many businesses today create wealth using the forms and materials of traditional cultures. IP could assist communities in putting a commercial value on their TCEs and entering into commercial relations, notably through the use of IP licenses and other kinds of legal agreements.

Background Brief 5 Intellectual Property & Traditional Handicrafts provides insight on this particular topic.

Box 13 Intellectual Property and Cultural Institutions

The growing interests of indigenous peoples and traditional communities in owning, controlling and accessing documentation of their cultures held by museums, libraries and archives raises a number of IP issues. For example, to whom do the TCEs in the collections belong? To whom do the rights in the TCEs belong? Who should determine the conditions for display, access and use of the material in the collections? How should an institution respond to the cultural and customary needs of the traditional holders of the TCEs in its collection? How could traditional holders gain more control on the representation of their culture by institutions? And the list goes on...

Cultural institutions play an invaluable role in the preservation, safeguarding and promotion of collections of TCEs, such as photographs, sound recordings, films and manuscripts, which document communities' lives, cultural expressions and knowledge systems.

Institutions in many countries are developing frameworks for understanding the implications of caring for TK and TCEs. Many museums, libraries and archives have established best practices to deal with IP issues.

The WIPO publication *Intellectual Property and the Safeguarding of Traditional Cultures—Legal Issues and Practical Options for Museums, Libraries and Archives* (WIPO Pub. No. 1023) presents legal information and best practices from institutions and communities.

Options for the Intellectual Property Protection of Traditional Knowledge and Traditional Cultural Expressions

Diversity is the very essence of TK and TCEs, precisely because they are so closely intertwined with the cultural identity of many diverse communities. It is therefore not surprising that no single template or comprehensive “one-size-fits-all” solution is likely to suit all the needs of holders in all countries. This diversity requires flexibility in fashioning an international instrument.

It is true that no form of legal protection system can replace the complex systems that sustain TK and TCEs within their traditional and customary context. Indeed, customary laws, protocols and practices often define how traditional communities develop, hold and transmit TK and TCEs.

Box 14 Respect for Customary Laws and Practices

Customary law is the set of customs, practices and beliefs that are accepted as obligatory rules of conduct by a community. Customary law forms an intrinsic part of social and economic systems and the way of life of indigenous and traditional communities.

IP protection recognizes and complements traditional patterns of TCE and TK systems, and operates beyond the original community: it is not aimed to supplant or imitate the community’s own customs and practices.

Background Brief 7 Customary Law and Traditional Knowledge may be consulted for further details.

Background Brief 3 Developing a National Strategy on Intellectual Property and Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources provides detailed information on the possibilities for creating a system of protection at the national level. Very succinctly, the options for IP protection include:

- existing IP laws and legal systems;
- extended or adapted IP rights specifically focused on TK/TCEs; and
- new, stand-alone *sui generis* systems specifically designed for TK/TCEs.

Non-IP options are also available, such as trade practices, consumer protection and labeling laws, the use of contracts, customary and indigenous laws and protocols, cultural heritage preservation, civil liability and common law remedies such as unjust enrichment, rights of privacy, blasphemy, as well as criminal law.

Existing Conventional Intellectual Property Systems

Some uses of TK and TCEs can be protected through the existing IP system. Various holders have already found existing IP rights useful and their protection strategies make some use of the IP system. WIPO *Gap Analyses* provide some in-depth analysis of the protection of TK and TCEs by existing, conventional IP law at the international level.

Existing Intellectual Property to Protect Traditional Cultural Expressions

TCEs can sometimes be protected by existing systems, such as copyright and related rights, geographical indications (GIs), trademarks and certification and collective marks.

Copyright and Related Rights

Contemporary original adaptations of TCEs — made by members of the communities or by third parties — may be copyrightable. Copyright protects the products of creativity against certain uses such as reproduction, adaptation, public performance, broadcasting and other forms of communication to the public.

Performances of TCEs may come under international related rights protection, such as that provided under the WIPO Performances and Phonograms Treaty, 1996, and the Beijing Treaty on Audiovisual Performances (2012) which grant performers of folklore the right

to authorize recordings of their performances, and the right to authorize certain dealings with those recordings.

Box 15 Legitimate Inspiration and Inappropriate Adaptation

In a dynamic and creative context, it is often difficult to know what constitutes independent creation. Yet, under current copyright law, a contemporary expression derived from or inspired by pre-existing traditional materials and which incorporates new elements can often be sufficiently original to qualify as a copyright work and thus benefit from copyright protection. However, the protection afforded to such “derivative” works vests only in their new material or aspects.

While the adaptation of a protected work is the exclusive right of the copyright holder, this does not prevent, in general, creators from being inspired by other works or from borrowing from them. Copyright indeed supports the idea that new artists build upon the works of others.

Distinguishing between borrowing or inspiration, on the one hand, and adaptation and copying, on the other, is not always easy. The nature of the protection of TCEs will vary depending on where the line is drawn between legitimate borrowing and unauthorized appropriation.

All rights reserved



The indigenous artist of this well-known work, based on traditional creation stories, (depicted on the left) successfully claimed infringement of copyright against the maker of the carpet (depicted on the right). Because of cultural and spiritual offence, the court awarded extra damages to be shared by the artist's community according to its customary law.

Author: Ms. Banduk Marika. All rights reserved. This work is the copyright of the artist and may not be reproduced in any form without the permission of the artist and the clan concerned.

Article 15.4 of the Berne Convention for the Protection of Literary and Artistic Works (1886) provides a mechanism for the international protection of unpublished and anonymous works, including TCEs.

Copyright can also provide protection against insulting, derogatory, offensive, demeaning or degrading use of a work, an issue that is often of concern in relation to TCEs which embody spiritual qualities and the very cultural identity of a community. Preventing such misuse, and promoting respect for cultural and spiritual values, may be the principal goal of protection for some.

Distinctive Signs, Designs and Unfair Competition

Laws for the protection of marks, GIs, and industrial designs, as well as unfair competition law may offer direct or indirect protection to TCEs. These branches of IP aim at the protection of established reputation, distinctiveness and goodwill,

such as may be enjoyed by a traditional community in the production of handicrafts, artworks and other traditional products. Hence, some indigenous and traditional signs and symbols can be protected as trademarks.

One of the kinds of appropriations that communities often complain about is the use of false and misleading claims as to authenticity and/or origin. For example, a cheaply made souvenir item may carry a label falsely indicating that it is "authentic" or originates from a particular community. Certification marks can be used to safeguard the authenticity and quality of authentic indigenous arts. For instance, the registered certification mark "Toi Iho" was launched in 2002 in New Zealand to promote and market authentic, quality Maori arts and crafts.

The **Indian Arts and Crafts Act, 1990, of the United States of America** protects Native American artisans by assuring the authenticity of Indian artifacts under the authority of an Indian Arts and Crafts Board. The Act, a 'truth-in-marketing' law, prevents the marketing of products as 'Indian made' when the products are not made by Indians as defined by the Act.

Mr. Cun Fablao, a designer from the Yunnan Province, China, received industrial design protection for his tradition-based silver-plated tea-set



Unfair competition law, as well as trade practices and labeling laws, are also helpful. Unfair competition and trade practices laws allow for action to be taken against false or misleading claims that a product is authentically indigenous, or has been produced or endorsed by, or is otherwise associated with, a particular community.

TCEs often have a strong link with a specific region or locality. This means that GIs can be used, in particular for tangible products such as handicrafts that have qualities or characteristics derived from their geographical origin.

The design, shape and visual characteristics of textiles, carvings, sculptures, pottery, woodwork, metalwork, jewelry, basket weaving and other handicraft could be protected as industrial designs.



In **South India** the medicinal knowledge of the Kani tribes led to the development of a sports drug named Jeevani, an anti-stress and anti-fatigue agent, based on the herbal medicinal plant arogyapacha. Indian scientists at the Tropical Botanic Garden and Research Institute used the tribal know-how to develop the drug. The knowledge was divulged by three tribal members, while the customary rights to the practice and transfer of certain traditional medicinal knowledge within the Kani tribes are held by tribal healers, known as Plathis. The scientists isolated 12 active compounds from arogyapacha, developed the drug Jeevani, and filed two patent applications on the drug. The technology was then licensed to the Arya



Images: Wend Wendland

Vaidya Pharmacy, Ltd., an Indian pharmaceutical manufacturer pursuing the commercialization of Ayurvedic herbal formulations. A trust fund was established to share the benefits arising from the commercialization of the TK-based drug.



Kani tribal member identifies components of the arogyapaacha plant. The arogyapaacha plant from which the Jeevani drug was developed and subsequently patented by the Indian research institute. JEEVANI is a product of the Arya Vaidya Pharmacy, an Indian company.

Existing Intellectual Property to Protect Traditional Knowledge

Existing IP laws have been successfully used to protect against some forms of misuse and misappropriation of TK, including through the laws of patents, trademarks, GIs, industrial designs, unfair competition and trade secrets or confidential information.

When people innovate within the traditional framework, they may use the patent system to protect their innovations. In other words, innovations based on TK may benefit from patent protection. Equally, systems have been developed to ensure that illegitimate patent rights are not granted over TK subject matter that is not a true invention.

Distinctive names, signs and symbols associated with TK can be protected under trademark law and safeguarded against third parties' claims.

For instance, the Seri people of Mexico, faced with competition from mass production, registered the "*Arte Seri*" trademark to protect authentic ironwood products that are produced by traditional methods from the *Olneya tesota* tree. Conservation of this unique species of tree was also a factor in creating the trademark. Also in Mexico, the appellations of origin *olinalá* and *tequila* are used to protect lacquered wooden products and the traditional spirit derived from the blue agave plant, both products of TK that derive their unique characteristics also from the GRs of these localities.

The law of confidentiality and trade secrets has been used to protect non-disclosed TK, including secret and sacred TK. Courts may award remedies for breach of confidence when customary laws of secrecy are violated.

For example, publication of sacred-secret materials has been successfully prevented using a breach of confidence action. In *Foster v Mountford* members of the Pitjantjatjara Council obtained an interlocutory injunction, on the basis of breach of confidence, to restrain the publication of a book entitled *Nomads of the Australian Desert*. The plaintiffs successfully argued that the book contained information that could only have been supplied and exposed in confidence to the anthropologist Dr Mountford, 35 years earlier. The plaintiffs also successfully argued that the “revelation of the secrets contained in the book to their women, children and uninitiated men may undermine the social and religious stability of their hard-pressed community.” (Case Study from “Stopping the Rip-offs”, Australian Attorney-General’s Department at www.ag.gov.au).

Adaptation of Existing Intellectual Property

Policy debate has underlined the limitations of existing IP laws in meeting all the needs and expectations of TK/TCEs holders. For example, TK/TCEs are often held collectively by communities, rather than by individual owners – collective ownership of rights is often alien to most current IP systems. Certain adaptations or modifications to IP law may be needed to better accommodate the interests of TK/TCEs holders.

For example, many countries and several regional organizations have elected to protect TCEs through adaptation of their copyright law; most have done so following largely the Model Provisions, 1982. In 1982, an expert group convened by WIPO and UNESCO developed a *sui generis* model for the IP-type protection of TCEs: the WIPO-UNESCO Model Provisions, 1982. Prior to that, in 1976, the Tunis Model Law on Copyright for Developing Countries was adopted and also includes *sui generis* protection for TCEs.

A Database of Official Insignia of Native American Tribes prevents others from registering these insignia as trademarks in the United States of America. New Zealand’s trademark law prevents the registration of trademarks that cause offence, and this applies especially to Maori symbols.

India's Patent Act clarifies the status of TK within patent law. The Chinese State Intellectual Property Office has a team of patent examiners specializing in traditional Chinese medicine.

At the international level, the principal tool for locating technical information for patent purposes, the International Patent Classification (IPC), has been expanded to take better account of TK subject matter, in particular concerning medicinal products based on plant extracts. This increases the likelihood that patent examiners locate already published TK that is relevant to claimed inventions in patent application, without adversely affecting the legal status of TK from the point of view of TK holders.

The Patent Cooperation Treaty (PCT), a WIPO-administered treaty for international cooperation in the field of patents, provides for an international search and examination, which takes into account TK-related information resources, thus increasing the likelihood that relevant TK will be located at an early stage in the life of a patent. See also Box 10 "Patent Examination and Defensive Protection."

***Sui Generis* Systems**

In most cases, conventional IP systems and adaptations thereof are not considered sufficient to cater to the unique character of TK/TCEs. For example, when community members innovate within the TK framework, they may use the patent system to protect their innovations. However, TK "as such"—knowledge that has ancient roots and is often informal and oral—is not protected by conventional IP systems.

This has prompted a number of countries and regions to develop their own distinct *sui generis* (specific, special) systems for protecting TK/TCEs.

Sui generis measures are specialized measures aimed exclusively at addressing the characteristics of specific subject matter, such as TK or TCEs. What makes an IP system a *sui generis* one is the molding of its features to properly accommodate special characteristics and specific policy needs.

The online [*Database of Legislative Texts on the Protection of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources*](#) is a selection of national and regional laws, regulations and model laws on the protection of TK and TCEs against misappropriation and misuse, as well as legislative texts relevant to GRs.

Box 16 Key questions to be considered when developing a national policy on TK and TCEs

- What TK and TCEs should be protected? What form and characteristics do TK and TCEs have?
- What objectives are sought to be achieved through according IP protection?
- Who should benefit from any such protection or who holds the rights to protectable TK/TCEs?
- What forms of behavior in relation to the protectable TK/TCEs should be considered unacceptable/illegal?
- How can the existing IP system be used to protect TK and TCE-related interests?
- Are there gaps in the protection available, and if so, could those gaps be filled by adapting the existing IP framework, or would TK and TCEs be better protected by a distinct *sui generis* system?
- For how long should protection be accorded?
- Should there be any formalities?
- Should there be any exceptions or limitations to rights attaching to protectable TK/TCEs?
- What sanctions or penalties should apply to behavior or acts considered unacceptable/illegal?
- Should newly recognized rights in TK and TCEs have retrospective effect?
- How should foreign rights holders/beneficiaries be treated?

For more information, see [Background Brief 3 Developing a National Strategy on Intellectual Property and Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources](#)

Box 17 Documentation of Traditional Knowledge

There are many initiatives underway around the world to document TK, TCEs and GRs. Many holders and several governments are involved in a wide range of collections, databases, inventories, registries, lists and other forms of documenting and recording. In most cases the purpose is preservation or safeguarding rather than legal protection.

There are nevertheless concerns that if documentation makes TK, TCEs and GRs more widely available to the general public, especially if they can be accessed on the Internet, this could lead to misappropriation and use in ways that were not anticipated or intended by their holders.

In an IP context, documentation can help protect TK, TCEs and GRs, for example, by providing a confidential or secret record of TK reserved for the relevant community only. Some formal registries support some *sui generis* protection systems, while databases of TK and GRs can play a role in defensive protection within the existing patent system, such as India's database on traditional medicinal knowledge: the Traditional Knowledge Digital Library.

These examples demonstrate the importance of ensuring that documentation is linked to an IP strategy and does not take place in a policy or legal vacuum.

The World Intellectual Property Organization Traditional Knowledge Documentation Toolkit provides practical assistance to TK holders and custodians of GRs in managing the IP implications of their documentation work.

The Cultural Documentation and IP Management Training Program provides training on the technical aspects of documentation and on the IP management related thereto: www.wipo.int/tk/en/resources/training.html

The Creative Heritage Digital Gateway showcases examples of indigenous and traditional creativity documented with the support and IP advice of WIPO.

Background Brief 9 Documentation of Traditional Knowledge and Traditional Cultural Expressions may be consulted for further details.





TK and environmental planning

The Nunavut Planning Commission (NPC) has been mapping wildlife populations, human use and areas of archaeological significance while examining land use issues. This mapping work combines the TK of the Inuit with the latest computer mapping technology. The database resulting from this work includes the Nunavut Environmental Database (NED), which is a subset of the Arctic Institute of North America's Arctic Science and Technology Information System (ASTIS) database). NED has been prepared for the Nunavut Planning Commission by selecting ASTIS records about Nunavut. NPC has made the Nunavut Environmental Database available on the Internet for search and retrieval. Practical information on intellectual property implications and technical modalities of such public disclosure was required in light of the NPC's plans to develop a comprehensive documentation strategy for all TK in Nunavut and possible incorporation into databases.



The Work of WIPO in the Field of Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources

WIPO's Traditional Knowledge Division:

- facilitates a normative process among Member States aimed at developing an international legal instrument: the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC);
- provides complementary capacity-strengthening; and
- maintains inter-agency and external relations (with OHCHR, CBD, UNESCO, WTO, FAO, UNCTAD, United Nations Permanent Forum on Indigenous Issues, etc.).

The Intergovernmental Committee

Because the existing international IP system does not fully protect TK and TCEs, many communities and governments have called for a legal instrument or instruments to provide *sui generis* protection. Many argue that, because of the international scale of the misappropriation and misuse of TK, TCEs and GRs, there is a need for well-established, culturally appropriate and predictable rules at the international level.

Negotiations on an international legal instrument take place within the WIPO IGC and address the linkages between the IP system and the concerns of practitioners and custodians of TK, GRs, and TCEs. Although the negotiations underway have been initiated and propelled mainly by developing countries, the discussions are not neatly divided along “North-South” lines. Communities and governments do not necessarily share the same views, and some developed countries, especially those where indigenous peoples live, are also active.

WIPO members are developing an international legal instrument (or instruments) that would give TK and TCEs effective protection and that would regulate the interface between IP and access and benefit-sharing in GRs. An international legal instrument would define what is meant by TK and TCEs, who the rights holders would be, how competing claims by communities would be resolved, and what rights and exceptions ought to apply. Working out the details is complex and there are divergent views on the best ways forward, including whether IP-type rights are appropriate for protecting traditional forms of innovation and creativity.

All meeting reports and relevant documents of the IGC are available online: www.wipo.int/tk/en/igc. *Background Brief 2 The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore* may also be consulted for more information and an overview of the negotiation process.

Projects and Activities: the Practical Work of WIPO

In addition to administering and facilitating the IGC process, WIPO offers practical assistance and technical advice to enable stakeholders to make more effective use of existing IP systems and participate more effectively in the IGC's negotiations. Beneficiaries of WIPO's technical capacity-building activities range from governments to indigenous and local communities, research, scientific and cultural institutions, academia, non-governmental organizations and other members of civil society.

As part of this program, upon request, and within its budgetary limits, WIPO organizes workshops and seminars, develops information material as well as other types of resources, including information databases, and provides legislative advice, education and training. WIPO's work includes assistance to develop and strengthen national and regional systems for the protection of TK (policies, laws, information systems and practical tools). WIPO also offers training, such as the Cultural Documentation and IP Management Training Program. Furthermore, WIPO has a distance learning program on IP and TK, TCEs and GRs, in cooperation with the WIPO Academy.

Box 18 Intellectual Property and Arts Festivals

Effective IP management is an important aspect of the planning process that festival organizers need to address to both safeguard and promote their own long-term interests and those of festival participants.

As part of its capacity-building activities, WIPO is working with organizers of events to develop appropriate IP management strategies and tools to deal with the various IP issues that can arise before, during and after such events. *Background Brief 4 Intellectual Property and Arts Festivals* and the *Intellectual Property and Folk, Arts and Cultural Festivals – Practical Guide* identify the main IP challenges organizers face and outline some practical elements of an effective IP management strategy for festivals.

Box 19 Alternative Dispute Resolution

Disputes between holders and third party users of TK, GRs and TCEs over ownership and control, access and benefit-sharing can emerge. Such disputes are complex and bring about not only legal, but also cultural or ethical questions. For example, inappropriate use of a sacred cultural artifact, symbol or design may not cause financial loss but can cause considerable spiritual offence. Therefore remedy through litigation in a national court is not always possible or desirable.

Alternative Dispute Resolution (ADR) offers an option for tackling the disputes that arise in relation to TK, TCEs and GRs.

The WIPO Arbitration and Mediation Center can assist parties in the resolution of disputes and has a dedicated service for art and cultural heritage issues: www.wipo.int/amc/en/center/specific-sectors/art. It also has specific Mediation Rules developed in cooperation with the International Council of Museums (ICOM).

Background Brief 8 Alternative Dispute Resolution for disputes related to Intellectual Property and Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources may be consulted for further details.

Indigenous Participation in WIPO

WIPO's work is founded on extensive consultation with representatives of indigenous peoples and local communities and other NGOs which are permanent observers to WIPO or specifically accredited to the IGC. Accredited representatives are assisted by the WIPO Voluntary Fund for Accredited Indigenous and Local Communities to attend the WIPO talks, and their active participation is crucial for a successful outcome of the negotiations. WIPO's work often refers to and takes into consideration the UN Declaration on the Rights of Indigenous Peoples.

Sessions of the IGC commence with presentations by a panel of representatives of indigenous and local communities. These presentations are a rich source of information on the experiences, concerns and aspirations of indigenous and local communities. Presentations are available online: www.wipo.int/tk/en/igc/panels.html

The law and practice of IP is of increasing interest to indigenous peoples, stemming from concerns that indigenous cultural heritage and knowledge systems should be recognized and dealt with in conformity with the interests, values and customary practices of their custodians.

The WIPO Indigenous Intellectual Property Law Fellowship builds on a series of initiatives to ensure that indigenous peoples are actively and effectively involved in the work of WIPO on issues that matter to them. It recognizes the strong legal expertise that exists within indigenous communities, and offers an opportunity both for a professional experience and a practical role within the WIPO Secretariat, including the WIPO IGC and related consultations and program activities. For details, visit: www.wipo.int/tk/en/indigenous/fellowship

For more information in an indigenous perspective, see the Indigenous Portal: www.wipo.int/tk/en/indigenous

Further Reading

This booklet draws from many documents, studies and other materials prepared and consulted within the context of WIPO's work, and all of which are available from WIPO at: www.wipo.int/tk/en/ and, particularly, www.wipo.int/tk/en/resources/. Many of those resources are referenced in *italics* throughout this booklet.

Further WIPO materials include:

Background Brief 1: Traditional Knowledge and Intellectual Property
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief1.pdf

Background Brief 2: The Intergovernmental Committee
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief2.pdf

Background 3: Developing a National Strategy on IP and TK, TCEs and GRs
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief3.pdf

Background 4: IP and Arts Festivals
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief4.pdf

Background 5: IP and Handicrafts
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief5.pdf

Background 6: IP and Traditional Medical Knowledge
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief6.pdf

Background 7: Customary Law and Traditional Knowledge
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief7.pdf

Background 8: Alternative Dispute Resolution for Disputes Related to IP and TK, TCEs and GRs
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief8.pdf

Background 9: Documentation of Traditional Knowledge and Traditional Cultural Expressions

www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_brief9.pdf

Biodiversity-related Access and Benefit-sharing Agreements

www.wipo.int/tk/en/databases/contracts/

Case studies related to IP and GRs

www.wipo.int/edocs/pubdocs/en/tk/769/wipo_pub_769.pdf

Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions/Expressions of Folklore

www.wipo.int/edocs/pubdocs/en/tk/785/wipo_pub_785.pdf

Customary Law, Traditional Knowledge and Intellectual Property: Outline of Issues

www.wipo.int/export/sites/www/tk/en/resources/pdf/overview_customary_law.pdf

Database of Legislative Texts relevant to Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources

www.wipo.int/tk/en/legal_texts/

Documenting Traditional Medical Knowledge

www.wipo.int/export/sites/www/tk/en/resources/pdf/medical_tk.pdf

Draft Intellectual Property Guidelines for Access to Genetic Resources and Equitable Sharing of the Benefits arising from their Utilization

www.wipo.int/export/sites/www/tk/en/resources/pdf/redrafted_guidelines.pdf

Gap Analyses

www.wipo.int/tk/en/igc/gap-analyses.html

Glossary

www.wipo.int/tk/en/resources/glossary.html

Intellectual Property and Folk, Arts and Cultural Festivals—Practical Guide

www.wipo.int/edocs/pubdocs/en/wipo_pub_1043.pdf

Intellectual Property and the Safeguarding of Traditional Cultures—Legal Issues and Policy Options for Museums, Libraries and Archives

www.wipo.int/edocs/pubdocs/en/tk/1023/wipo_pub_1023.pdf

Intellectual Property Guidelines for Access and Equitable Benefit-Sharing

www.wipo.int/meetings/en/doc_details.jsp?doc_id=32239

Intellectual Property Needs and Expectations of Traditional Knowledge Holders: Report on Fact-finding Missions on Intellectual Property and Traditional Knowledge (1998-1999)

www.wipo.int/edocs/pubdocs/en/tk/768/wipo_pub_768.pdf

Marketing Crafts and Visual Arts: The Role of Intellectual Property – A practical guide
www.wipo.int/edocs/pubdocs/en/intproperty/itc_p159/wipo_pub_itc_p159.pdf

Minding Culture: Case Studies on Intellectual Property and Traditional Cultural Expressions
www.wipo.int/edocs/pubdocs/en/tk/781/wipo_pub_781.pdf

National Experiences with the Protection of Traditional Cultural Expressions/ Expressions of Folklore - India, Indonesia, the Philippines
www.wipo.int/edocs/pubdocs/en/tk/912/wipo_pub_912.pdf

Note on the Meanings of the Term “Public Domain” in the Intellectual Property System with Special Reference to the Protection of Traditional Knowledge and Traditional Cultural Expressions/ Expressions of Folklore
www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_17/wipo_grtkf_ic_17_inf_8.pdf

Technical study on the disclosure requirement proposal
www.wipo.int/edocs/pubdocs/en/tk/786/wipo_pub_786.pdf

The World Intellectual Property Organization Traditional Knowledge Documentation Toolkit
www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_toolkit_draft.pdf

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