

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 GRTKTCEs

Examples:

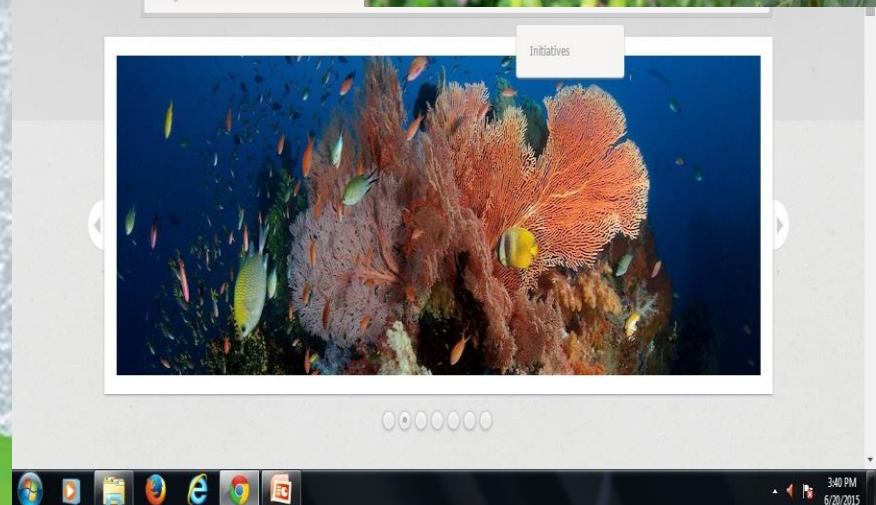
- musical instruments
 - gongs, xylophone, jaw harps
- bamboo instruments
- textile designs
- folk craft
- dances forms



SHARED GRTKTCEs

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



National Programmes/Initiatives

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



National Programmes/Initiatives

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

The screenshot shows the homepage of the Philippine Traditional Knowledge Digital Library on Health. The page has a green header with the title "Philippine Traditional Knowledge Digital Library on Health". Below the header, there is a search bar and a navigation menu. The main content area is divided into two columns. The left column contains a sidebar with the heading "Researches by ethno group" and a dropdown menu for "Completed researches by ethno". Below this, there are links for "Research sites", "Ethnopharm documentation", "Healing practices & rituals", "Traditional healers", and "Plant compendium". The right column contains three paragraphs of text. The first paragraph describes the national electronic database as a modern method of protecting cultural heritage. The second paragraph describes the digital library as a modern method of protecting cultural heritage. The third paragraph describes the digital library as an undertaking involving many institutions.

The screenshot shows the homepage of the HERDIN website. The page has a white background with a blue header. The header contains the HERDIN logo and navigation links for "Partners", "Contact Us", "Register", and "Login". Below the header, there is a search bar with the text "Researches" and a "Search" button. Below the search bar, there is a link for "Advance Search". The main content area contains the text "Welcome to HERDIN" and "Health Research and Development Information Network (HERDIN) database is the national health research repository of the Philippines." Below this, there is a paragraph describing the HERDIN database and its access to research information. At the bottom, there is a link for "Citations may include links to full-text content from publisher web sites or downloadable at HERDIN."

The screenshot shows the homepage of the Philippine Herbs and Supplements Research Database. The page has a green header with the title "Philippine Herbs and Supplements Research Database". Below the header, there is a navigation menu with links for "HOME", "ABOUT", "DATABANK", "RESEARCH TOOLS", "MONOGRAPHS & ADVISORIES", "BOOKS & REVIEWS", and "LINKS". The main content area is divided into three columns. The left column contains a search bar with the text "Enter a phrase or keyword/s in your research topic" and a "Log in" button. Below this, there are links for "Forgot your password?", "Forgot your username?", and "Create an account". The middle column contains a dropdown menu for "HERBS AND SUPPLEMENTS News & Features" and a "SEARCH DIRECTORIES" button. The right column contains a search bar with the text "Enter name of institution or name of contact". The main content area contains three paragraphs of text. The first paragraph describes the website as a repository of researches on Philippine medicinal plants. The second paragraph describes the website as a repository of researches on Philippine medicinal plants. The third paragraph describes the website as a repository of researches on Philippine medicinal plants.

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 from the Philippines' Biodiversity Resources

(Lead agency: Dept. of Environment & Natural Resources)



In summary, here are the Policy considerations:

➤ At the Regional level:

- Establish modalities through 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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