

**WIPO's Work
on Intellectual Property
and Traditional Knowledge, Genetic Resources and
Folklore**

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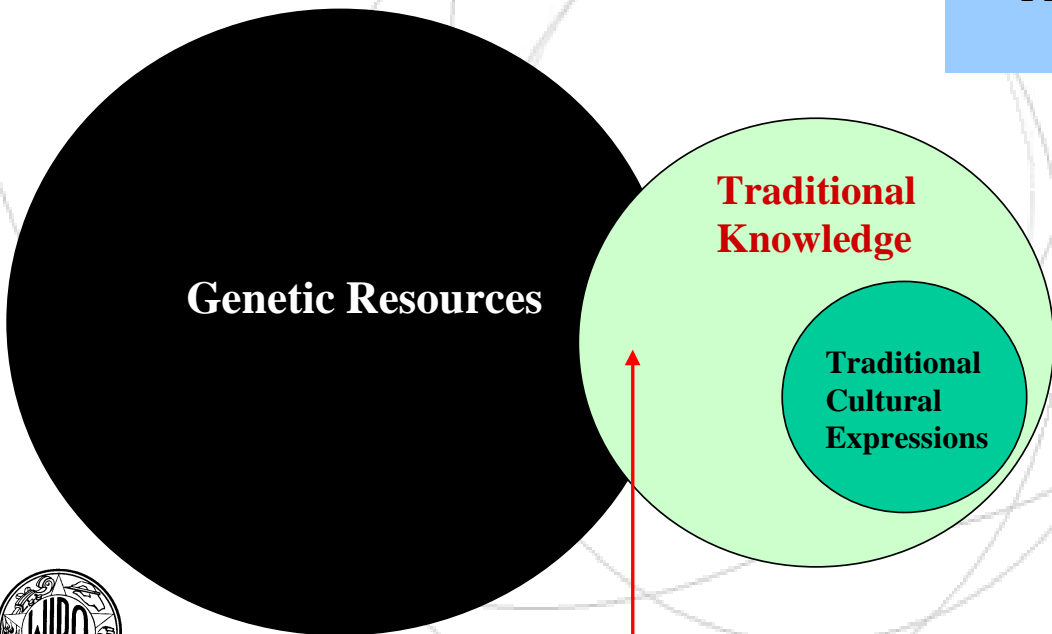
September 2004



Genetic Resources and Traditional Knowledge

Independent but overlapping and linked subjects

Linkage recognised variously in:
CBD
FAO International Treaty



TK related to genetic resources



Phases of WIPO's WORK

- Exploratory and preparatory (1997-2001)
 - fact-finding and review of adequacy of conventional IP protection
 - WIPO Report on Fact-finding Missions on Intellectual Property and Traditional Knowledge (1998-1999)
- Establishment of Intergovernmental Committee (IGC)
 - WIPO General Assembly 2000
 - consensus to address the issues
 - recognition of contribution of traditional knowledge
- Relationship with other international instances
 - CBD, FAO, WHO, UNESCO



Present Focus

- IGC
 - six sessions to date
 - seventh session in November 2004
- WIPO General Assembly decision September 2003
 - expedite work
 - all issues to be considered
 - international dimension
 - no outcome excluded



Main Orientations

- Practical assistance
 - application of conventional IP rights
 - guides, toolkits, databases
- Defensive protection
 - prevention of the unfair acquisition of rights by unauthorised third parties
- Positive protection
 - conventional IP rights
 - sui generis protection
- International dimension
 - Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources: The International Dimension (WIPO/GRTKF/6/6)





Underlying Questions: The Objectives of Intellectual Property Protection

- Innovation and creativity
 - reward to appropriate source
 - incentive
- Market order
 - avoidance of consumer deception
 - proper functioning of the market
- What is the objective of the protection of traditional knowledge?
 - Right in commerce
 - recognition of contribution
 - preservation of sacred status





Traditional Cultural Expressions (Folklore)

- Long pedigree
 - WIPO-UNESCO Model Provisions for National Laws 1982
 - WIPO Performances and Phonograms Treaty (WPPT), Art 2(a) (“performers”)
- Analytical work
 - questionnaires and compilation of national approaches
 - legal and policy options
- Draft provisions
 - November 2004



Traditional Knowledge

- **Defensive protection** (prevention of unfair acquisition of rights by unauthorised third parties)
- Traditional knowledge as prior art
 - Revision of International Patent Classification
 - Revision of PCT Minimum Documentation
 - Patent Law Harmonization: Prior art and quality
 - Digital libraries of disclosed TK
 - Portal of Online Databases and Registries of Traditional Knowledge and Genetic Resources
 - Inventories of Traditional Knowledge-related Databases and Periodicals
- Problem of cataloguing and the maintenance of rights
 - possible destruction of novelty



Traditional Knowledge

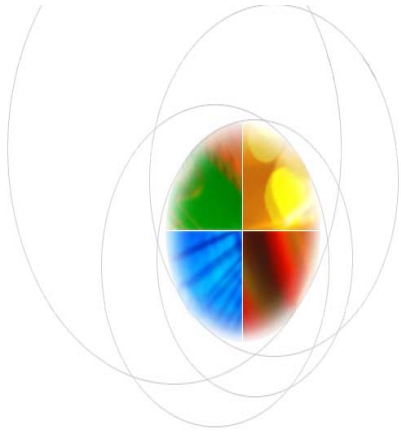
- Positive protection
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Genetic Resources

- Property status per se
 - intellectual property questions
- Practical assistance
 - Contracts database
 - Guidelines for contractual practices
- Relationship to the patent system
 - invitation from CBD COP
 - disclosure study
 - further invitation





Resources

<http://www.wipo.int/tk/en/index.html>

