

Capacity Building Strategies and Tools for the Protection of Traditional Knowledge and Traditional Cultural Expressions

REGIONAL EXPERT MEETING

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Building capacities: For Whom?

- Indigenous / local communities
 - For their own benefit
 - In consultation
 - With full respect for their values / customary laws
- Policy makers
 - Develop means of protection for TK/TCEs to achieve the goals and aspirations of local communities; clarify what to protect AGAINST, why and how?
- Professionals (TK representatives, NGOs, students, lawyers, administrators, enforcement authorities, etc.)
 - Build knowledge of IP and skills for feasible/enforceable implementation mechanisms

Building capacities: For What?

- Create in the **community** an awareness and an appreciation of the *value* of its TK/TCEs, thus giving it an opportunity to contribute to the wider society
- Provide **policy-makers** with the means and the skills to consider the technical, legal and policy dimension of the issues at hand, including the creation of appropriate legal frameworks and infrastructure
- Develop **professional skills** in the stakeholders in order to enable them to negotiate, advocate for, or enforce TK/TCE protection

Building capacities: Where?

- At 4 levels – as is the case with policy options and practical programs:
 - Community
 - National
 - Regional
 - International
- The stronger the integration among these levels, the more useful the outcome

Building capacities: ... In what policy environment?

- Building capacities on IP approaches to TK/TCEs may complement other capacity building efforts in other *non-IP related* policy areas:
 - Safeguarding intangible cultural heritage
 - Promotion of cultural diversity
 - Protection of the rights of indigenous peoples
 - Conservation of biological diversity and sustainable development
 - Primary health care
 - Promotion of community-based economic activity
 - Promotion of innovation and cultural exchange

Building capacities: How?

- General awareness and capacity building
 - Fact finding missions
 - Surveys of national experiences
 - Case studies
- National and Regional Consultations
 - National and regional workshops
 - Overview of legal and policy options
 - Draft questionnaire



Building capacities: How?

- Legislative concepts and materials
 - Legislative advice on drafting laws and
 - Legal comments on draft laws
 - Compilation of laws on TK, TCEs and genetic resources
 - Comparative summary on *sui generis* legislation
- Practical tools and materials
 - Distance learning course
 - Creative Heritage Project

Building capacities: How?



- Creative Heritage Project
 - Practical guidelines when recording and digitizing TCEs for communities
 - Consultation draft on managing IP issues for cultural institutions
 - Database of practices relating to digitization of cultural heritage
 - Pilot training program and documentation toolkit

Building capacities: lessons learned

- Respectful consultation and dialogue with the community
- Technical assistance tailored to the community's particular needs
- Consideration of customary laws and protocols as an alternative to conventional IP rights over TK/TCEs
- Importance of clarifying objectives:
 - What interests are involved? Preservation of TK/TCE against misuse and/or *use for the community's economic development*?
 - Positive protection, defensive protection, or both?

Building capacities: lessons learned (cont.)

- Capacity building is one of three indispensable pillars; each one addressing a complementary need for the protection of TK/TCE:
 - Defining IP principles, where needed, and establishing norms or standards, where there are gaps (**legal need**)
 - Creating operational systems for the administrative enforcement of IP rights relating to TK/TCEs (**practical need**)
 - Creating awareness and skills among TK/TCEs holders, their representatives and policy-makers concerned (**capacity-building need**)

Building capacities within a regional framework: The challenges

- Interrelationship between the three stakeholders leading to integrated capacity building approaches at the three levels
- A regional framework can operate at the levels of
 - Law (similar laws in all the countries)
 - Administration (centralized procedure for granting IP titles)
 - Information (uniform documentation standards and shared information)
- New capacities will have to be created with regard to all three levels

Building capacities within a regional framework: The benefits

- Pooling of expertise and resources, including financial and human resources
- Common approaches to awareness building
- Sharing legal and non-legal tools
- Central point to share information
- Channel of dialogue between countries, policy makers and professionals
- Common dispute resolution mechanisms and benefit-sharing
- Platform for testing new ideas and approaches, before insertion at international level

Thank you for your attention

Francesca Toso
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