



INFORMATION SYSTEMS AND DUE DILIGENCE MECHANISMS RELATING TO GR AND ASSOCIATED TK

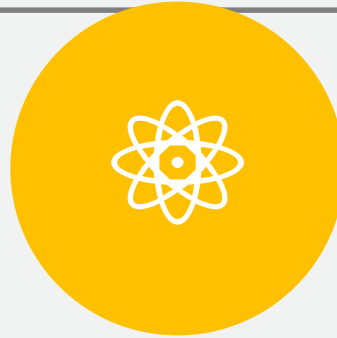
Dede Mia Yusanti
Director of Patent, Integrated Circuit Layout Design and Trade Secret
DGIP – INDONESIA
WIPO ROUNDTABLE SEMINAR ON IP AND GR
21 JANUARY 2021



INTELLECTUAL PROPERTY



Copyrights and related rights



Industrial property rights

PATENT, TRADEMARK,
INDUSTRIAL DESIGN,
INTEGRATED CIRCUIT LAYOUT
DESIGN, TRADE SECRET,
PLANT VARIETY,
GEOGRAPHICAL INDICATION



Communal IP

TK, TCE, GR, ***GI POTENTIALS***

PROTECTION OF COMMUNAL IP

1. THROUGH IP SYSTEM
2. OUTSIDE IP SYSTEM



Communal IP Protection in IP system



Traditional Knowledge

- Article 26 Law No. 13 of 2016 regarding Patent
- Article 24 of Government Regulation No. 38/2018 regarding Patent Application



Traditional Culture Expression



- Art. 38 of Law No. 28 of 2014 regarding Copyrights
- Article 72 point 7c Law No. 20 of 2016 ticle 38 Regarding Trademark and Geographical Indication



Genetic Resources

- Article 26 Law No. 13 of 2016 regarding Patent
- Article 24 of Government Regulation No. 38/2018 regarding Patent Application

GI potentials
Law No 20 of 2016
regarding Trademark
and GI



OBJECTIVE OF PROTECTION OF GR AND ASSOCIATED TK

1

ACCESS AND BENEFIT SHARING

CBD and NAGOYA
PROTOKOL



2

DEFENSIF PROTECTION

- INVENTORY OF TK AND GR THROUGH NATIONAL DATA CENTRE AS EVIDENCE OF OWNERSHIP IF THERE IS CLAIM FROM OTHER PARTIES
- DIRECTORATE GENERAL OF IP AS NATIONAL VOCAL POINT

3

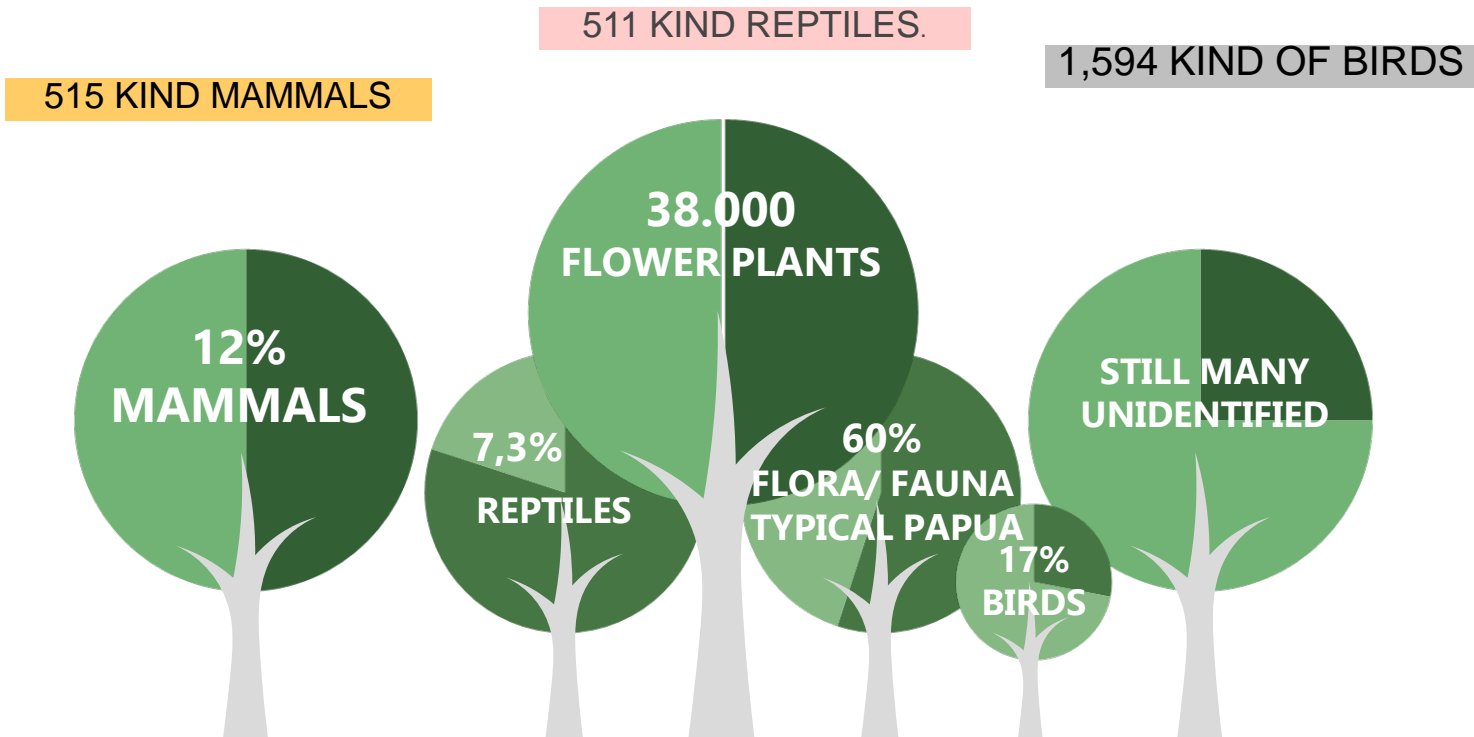
PROTECTION OF DEVELOPMENT OF TK AND GR



- THE VALUE OF TK AND GR HAS GREAT ECONOMIC POTENTIAL → PATENTS AND OTHER IPs
- ON THE OTHER SIDE: PRONE TO BE STOLEN (BIOPIRACY)

ABUNDANT OF INDONESIA GR

INDONESIA IS THE THIRD BIGGEST COUNTRY OF BIODIVERSITY IN THE WORLD



INDONESIA TRADITIONAL KNOWLEDGE

AGRICULTURE and PLANTATION

Use of plant, plant preservation strategy, pest and plant disease healing, environment observation for ecological change, and plant breeding selections and methodes

TRADITIONAL MEDICINE

Jamu and herbal medicine

TRADITIONAL L COSMETICS

TRADITIONAL HEALTH TREATMENT

FOOD AND BEVERAGES



DIREKTORAT JENDERAL KEKAYAAN INTELEKTUAL
KEMENTERIAN HUKUM & HAK ASASI MANUSIA R.I.

ARTICLE 26 OF THE PATENT LAW → DISCLOSURE REQUIREMENT → For ABS

1. If the invention relates to and/or originating from genetic resources and/or traditional knowledge, it must clearly and correctly states the origin of genetic resources and/or traditional knowledge mentioned in the description.
2. Information on genetic resources and/or traditional knowledge as referred to in paragraph (1) is determined by an official institution recognized by the government.
3. **Sharing of benefit and/or access to utilization of genetic resources and/or traditional knowledge as referred to in paragraph (1) shall be implemented in accordance with statutory regulations and international agreements in the field of genetic resources and traditional knowledge.**

ARTICLE 24 OF GOVERNMENT REGULATION 38/2018

→ STATEMENT LETTER

- (1) In case that the recognized official institution is not determined yet, the Applicant must make a **statement letter** stating the truth and clarity of the origin of genetic resources and/or traditional knowledge.
- (2) The validity of the contents of the statement letter shall be the responsibility of the Applicant.



Formulir Permohonan Paten

		<p><u>Diisi oleh petugas</u> <u>Tanggal pengajuan</u> : <u>Nomor permohonan</u> :</p>	
<p><u>Dengan ini saya/kami</u> ¹⁾ : (71) <u>Nama</u> : <u>Alamat</u>²⁾ :</p> <p><u>Alamat surat menyurat</u> :</p> <p><u>Warga Negara</u> : <u>Email</u> : <u>Telepon/HP</u> :</p>			
<p><u>mengajukan permohonan Paten / Paten Sederhana</u> <u>jenis usaha UMKM / Lembaga Pendidikan / Litbang Pemerintah / non UMKM</u></p>		[]	
<p><u>yang merupakan permohonan paten</u> <u>Internasional/PCT dengan nomor</u> : <u>Tanggal Penerimaan Internasional</u> :</p>		<p>[] []</p>	
<p>(74) <u>melalui/tidak melalui *) Konsultan KI</u> <u>Nama Badan Hukum</u> ³⁾ : <u>Alamat Badan Hukum</u> ²⁾ : <u>Nama Konsultan KI</u> :</p>		[]	

.....	
Bersama ini saya lampirkan ⁵⁾ :	
1 (satu) rangkap :	
[] dokumen non elektronik (sebutkan) :	[]
[] Surat Kuasa	
[] Surat Pengalihan Hak atas Invensi	
[] Surat Pernyataan Kepemilikan Invensi oleh Inventor	
[] Bukti penunjukan negara tujuan (DO/EO)	
[] Dokumen prioritas dan terjemahan halaman pertama	
[] Dokumen permohonan paten Internasional/PCT	
[] Sertifikat penyimpanan jasad renik dan terjemahannya	
[] Dokumen lain (sebutkan) :	
[] dokumen elektronik (<i>softcopy</i>) (sebutkan) :	[]
[] Formulir Permohonan Paten	
[] Deskripsi, Klaim, Abstrak, Sequence bahasa Indonesia/Inggris	
[] Gambar	
[] Formulir Substantif Paten / Formulir Kelebihan Klaim/Halaman	
[] Surat Kuasa	
[] Surat Pengalihan Hak	
[] Surat Pernyataan Kepemilikan Invensi oleh Inventor	
[] Dokumen Prioritas/PCT/lainnya	
[] surat pernyataan sumber asal genetika dan pengetahuan tradisional	[]
dan 1 (satu) rangkap invensi yang terdiri dari :	
[] uraian halaman	
[] klaim buah	
[] abstrak	





ARTICLE 62 PATENT LAW:

POSSIBILITY OF REJECTION OF PATENT APPLICATION BECAUSE OF FAILING TO DISCLOSE ORIGINATING GR AND/OR TK SINCE THE DISCLOSURE REQUIREMENT IS PART OF SUBSTANTIVE EXAMINATION



ARTICLE 132 PATENT LAW

Abolition of a Patent based on a court decision if Patents originating from genetic resources and/or traditional knowledge do not fulfill the provisions referred to in Article 26;

**GOVERNMENT OF INDONESIA
DECIDED COMMUNAL IP AS
NATIONAL PRIORITY PROGRAM
UNDER NATIONAL MEDIUM TERM
DEVELOPMENT PLAN 2020-2024**



2 PRIORITY PROGRAMS

1. Strengthening and establishing relevant Legal instruments
2. Building National Data Center for communal IP as a tool for defensive protection as well as used as reference of patent examiners → integrated data among related Ministries and stakeholders, DGIP as national vocal point





DIREKTORAT JENDERAL KEKAYAAN INTELEKTUAL
KEMENTERIAN HUKUM & HAK ASASI MANUSIA R.I.

STRENGTHENING LEGAL INSTRUMENTS

MINISTER OF LAW AND HUMAN RIGHTS
DECREE NO.13 OF 2017 REGARDING DATA
OF COMMUNAL IP

NATIONAL DATA CENTRE

BASED ON MINISTER OF LAW AND HUMAN RIGHTS DECREE
NO.13 OF 2017 REGARDING COMMUNAL IP DATA

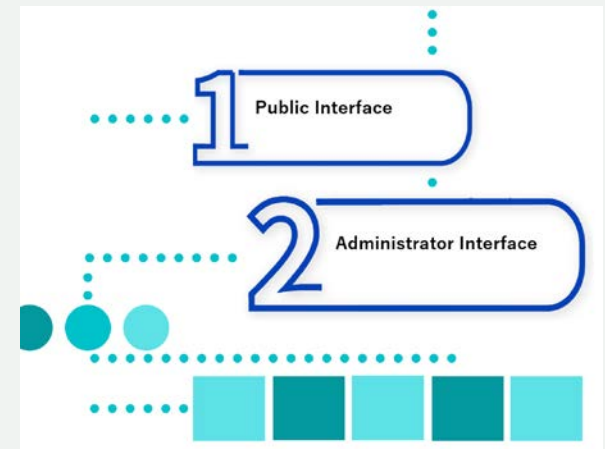
OBJECTIVE

- Defensive Protection:
 - ✓ Strengthening sovereignty and evidence of ownership of Indonesia communal IP
 - ✓ protect the rights of indigenous/local peoples, to prevent the use of their communal IP without permission and/or unfair benefit sharing
- Raising active participation of local governments to update data on communal IP in their regions.
- Providing accessible data and information on communal IP assets to be used positively, including for R&D as well as for patent examination purpose



NATIONAL DATA CENTER OF COMMUNAL IP

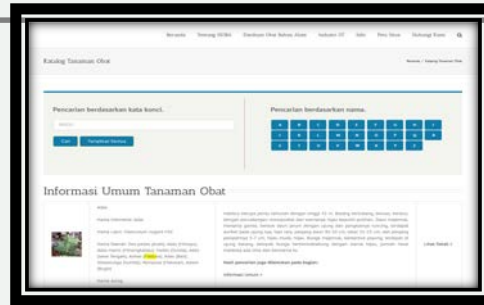
The screenshot shows the homepage of the National Data Center of Communal IP (KIKOMUNAL). At the top left is the logo of the Directorate General of Intellectual Property Rights (DJKI) and the text "KIKOMUNAL". A navigation menu includes "BERANDA", "TENTANG KAMI", "INFORMASI", "INFOGRAFIS", "PANDUAN", and "MASUK". The main header features the title "Pusat Data Nasional Kekayaan Intelektual Komunal Indonesia" and a search bar. Below the header are four featured categories: "Ekspresi Budaya Tradisional" (with an image of a colorful traditional dance), "Pengetahuan Tradisional" (with an image of a traditional wooden building), "Potensi Indikasi Geografis" (with an image of cinnamon sticks), and "Sumber Daya Genetik" (with an image of a red, textured biological specimen).



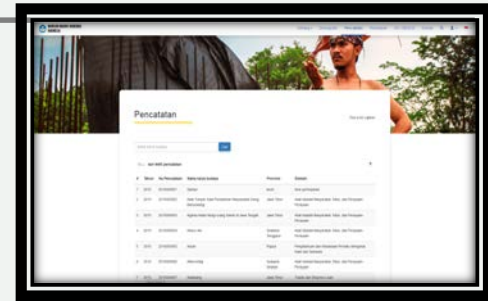
NATIONAL DATA CENTER FOR IP COMMUNAL: INTEGRATED DATA



Indonesia Biodiversity Information Facility LIPI



Natural Herbal Medicine Information System



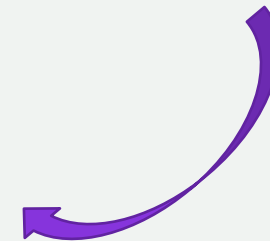
Database Intangible Cultural Heritage Ministry of Education and Culture



INTEGRATED



INTEGRATED



PROGRESS OF INVENTORY DATA

Total data collected in 2020: 2797 data, mainly from regional offices of Ministry of Law and Human Rights: consists of 60% TCE, 28% TK, 5% GR and 7% GI potentials

Pusat Data Nasional Kekayaan Intelektual Komunal Indonesia



Search...



Ekspresi Budaya
Tradisional



Pengetahuan
Tradisional



Potensi Indikasi
Geografis



Sumber Daya Genetik



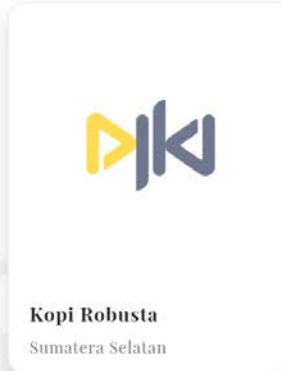
Sumber Daya Genetik

— Semua Provinsi —

Cari



Ikan NIKE
Gorontalo



Kopi Robusta
Sumatera Selatan



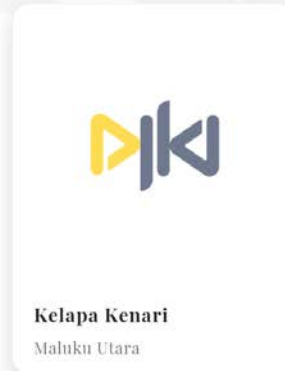
Anggrek Wayabula
Maluku Utara



Kayu Surrien
Jambi



Ikan Semah
Jambi



Kelapa Kenari
Maluku Utara

Kayu Surrien

Link Referensi: Kanwil Kemenkumham Prov. Jambi

Asal: Jambi

Jenis:

Pelapor: Bambang Palasara, S.H

Deskripsi botani

Pohon berukuran sedang sampai besar, dapat mencapai tinggi 40-60 m dengan tinggi bebas cabang hingga 25 m. Diameter dapat mencapai 100 cm, bahkan di pegunungan dapat mencapai hingga 300 cm. Berbanir hingga tinggi 2 m. Kulit batang terlihat pecah-pecah dan seolah tumpang tindih, berwarna coklat keputihan, pucat hingga keabu-abuan, dan mengeluarkan aroma apabila dipotong. Kayunya ringan, dengan gubal merah muda dan teras coklat.

Kegunaan / manfaat :

Sebagai kayu perkakas: papan; peti; kotak cerutu; kayu bangunan; plywood; rangka pintu & jendela; kayu perkapalan; seni ukir & pahat; potlot; moulding.

Kayunya sering digunakan untuk lemari, mebel, interior ruangan, panel dekoratif, kerajinan tangan, alat musik, kotak cerutu, finis, peti kemas, dan konstruksi.

"Berdasarkan berat jenis, kekuatan, dan nilai dekoratifnya, kayu kibawang, salamander, mahoni, dan suren cocok untuk dijadikan bahan baku mebel indah."

Sering ditanam di perkebunan teh sebagai pemecah angin. Jenis ini cocok sebagai naungan dan pohon di sepanjang tepi jalan. Kayunya bernilai tinggi dan mudah digergaji serta memiliki sifat kayu yang baik.

Beberapa bagian pohon, terutama kulit dan akar sering digunakan untuk ramuan obat, yaitu diare. Kulit dan buahnya dapat digunakan untuk minyak atsiri.

Berdasarkan penelitian, suren memiliki kandungan bahan surenon, surenin dan surenolakton yang berperan sebagai penghambat pertumbuhan, insektisida dan antifedant (menghambat daya makan) terhadap larva serangga uji ulat sutera. Bahan-bahan tersebut juga terbukti merupakan repellent (pengusir atau penolak) serangga, termasuk nyamuk.



Beranda / Pengetahuan Tradisional

Pengetahuan Tradisional

— Semua Provinsi —

Cari



**Rumah Gadang Kampai
Nan Panjang**
Sumatera Barat



Teknologi Padi Salibu
Sumatera Barat



Bendi
Sumatera Barat



Keris / Karih
Sumatera Barat



**Wayoi atau wayuik (logat
Pariaman)**
Sumatera Barat



Rumah Adat Padang
Sumatera Barat

Teknologi Padi Salibu

Asal: Sumatera Barat

Jenis: Kecakapan teknik (know how), keterampilan, inovasi, konsep, pembelajaran dan praktik kebiasaan lainnya

Kondisi: Masih Bertahan

Upaya Pelestarian: Internet

Pelapor: Dwi Prasetyo Santoso,SH.,MH

Teknologi Padi Salibu adalah salah satu inovasi teknologi untuk memacu produktivitas/ peningkatan produksi. Teknologi Padi Salibu merupakan tanaman padi yang tumbuh lagi setelah batang sisa panen dipotong, tunas akan muncul dari buku yang ada dalam tanah. Tunas ini akan mengeluarkan akar baru sehingga suplai hara (aliran makanan) tidak lagi tergantung pada batang lama, hal inilah yang membuat pertumbuhan dan produksinya sama atau lebih dibanding tanaman pertama (ibunya). Paket Teknologi Padi Salibu: Parameter Kegiatan Panen sebelumnya Lebih awal 7-10 hari Persiapan lahan Penyemprotan gulma (herbisida konta), penggenan gan 2-3 hari Pemotongan batang Pemotongan batang sisa panen dilakukan umur 7-10 hari setelah panen (hsp) Pengolahan tanah Tidak ada Persemaian Tidak ada Tanam Tidak ada Penjarangan Penjarangan umur 2-25 hari Penyisipan Penyisipan umur 20-25 hari Pemupukan Umur 20-25 hsp, susulan 30-40 hsp rekomendasi setempat dan ditingkatan N 25-50 % dari pupuk awal Pengendalian gulma/ siang Lebih awal dan membenan jerami, umur 20-25 dan 35-40 hsp Pemeliharaan Standar OPT dan PHT Umur panen Lebih awal 20 % dari umur biasa Potensi hasil 110-120 % dari hasil tanam pindah

PATENT PROTECTION FOR DEVELOPMENT OF TK AND GR



1. PATENT PROTECTS PRODUCT, PROCESS, USE OF DEVELOPMENT OF TRADITIONAL KNOWLEDGE AND GENETIC RESOURCES
2. PATENT DOES NOT PROTECT TK AND GR *per se* (NO NOVELTY)
3. INVENTIVE STEP AND INDUSTRIAL APPLICABILITY MUST ALSO BE FULFILLED
4. NO DIFFERENT TREATMENT FOR GR AND TK

Databases used by examiners for patent application related to GR and TK

- ANY PATENT DATABASE (NATIONAL, INTERNATIONAL)
- NATIONAL DATA CENTER FOR COMMUNAL IP AND RELATED LINKS : Indonesia Biodiversity Information Facility – LIPI, Natural Herbal Medicine Information System etc.
- JOURNALS AVAILABLE IN THE INTERNET

DEVELOPMENT OF GR & TK CAN BE PROTECTED BY PATENT

PRODUCTS

MOLECULE OF SUBSTANCE
(FROM PLANT) IN ISOLATED
FORM



PROCESS

PROCESS FOR
PRODUCING HERBAL
FOODS, BEVERAGES,
MEDICINES, COSMETICS,

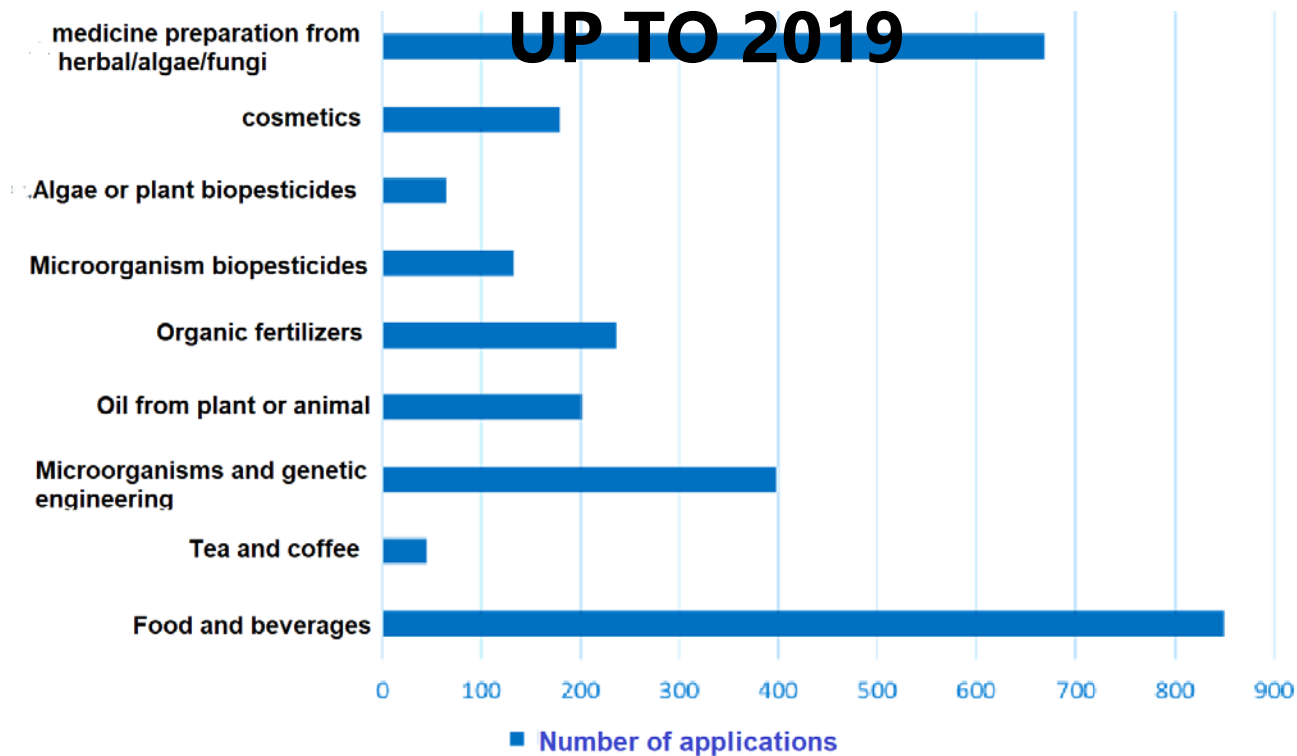
PRODUCTS

COMPOSITIONS THAT
CONTAINING PLANT
COMPONENT, FOR EX.
TRADITIONAL
COSMETIC/MEDICINE OR
HERBAL MEDICINE, FOOD,
BEVERAGES, PESTICIDES,
HERBICIDES, ETC.

PROCESS

PROCESS USING GR TO
PRODUCE ANOTHER
PRODUCTS

PATENT APPLICATIONS RELATED TO TK AND GR



EXAMPLES OF PATENT APPLICATIONS FROM GR, TK

FOOD:

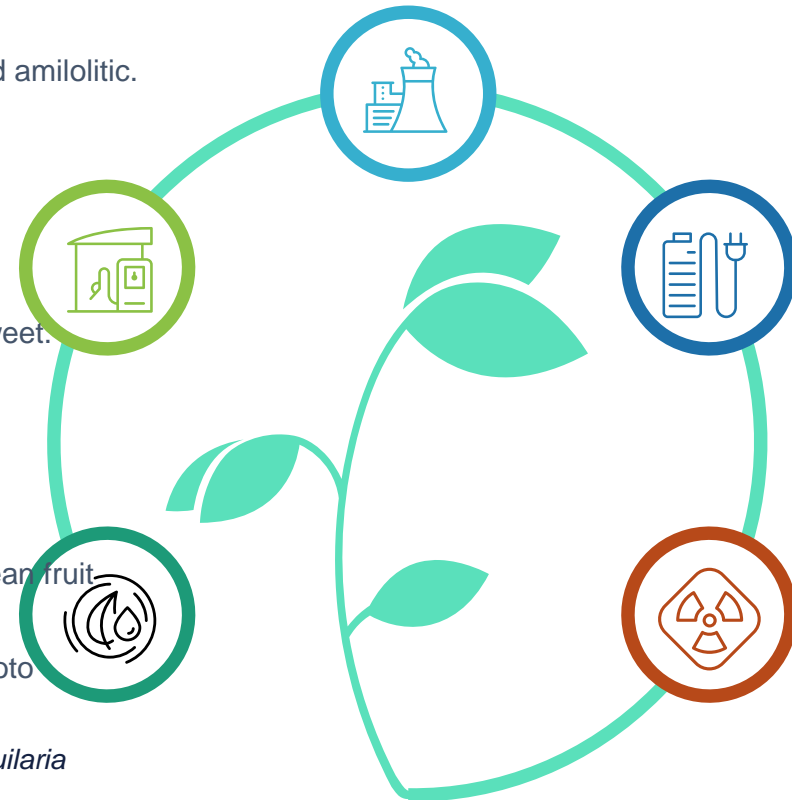
- P00201201170 Process of making rice from *aruk ubi kayu* with isolated amilolitic.
- S00201706647 Chili sauce made from fermented bamboo root.
- P00201704148 Fermented Bakasang fish

BEVERAGES

- P00201000396: Composition traditional drink *brem* made from purple potato sweet.
- P00201804326: Faloak bark skin tea

HERBAL MEDICINE/COSMETICS

- P00201000438: Herbal composition for aphrodisia containing extracted krangean fruit (*Litsea cubeba (Lour) Pers.*).
- P00201100712: Combination formula *Kaempferia pandurata Roxb* and *sambiloto (Andrographis paniculata Nees)* as anticancer.
- PID201809284: Cosmetic products sunscreen containing extracted gaharu leaf (*Aquilaria microcarpa*)



LAW AND REGULATION OUTSIDE IP SYSTEM

1. LAW NO. 4/2006 REGARDING ACCESSION TO INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE
2. LAW NO. 11/2013 REGARDING ACCESSION TO NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION TO THE CONVENTION ON BIOLOGICAL DIVERSITY
3. MINISTER OF ENVIRONMENT AND FORESTRY NO. P.2/MENLHK/SETJEN/KUM.1/1/2018 REGARDING ACCESS TO GENETIC RESOURCES WILD SPECIES AND BENEFIT SHARING ON THEIR UTILISATION

BENEFIT SHARING IN THE PIC (PRIOR INFORMED CONCENT)

1. MONETARY:

- Genetic resources economic value to be paid
- Profit from commercialization of genetic resources development
- Joint ownership of IPR

2. NON-MONETARY

- Capacity increase: Improvement/provision of research facilities of genetic resources, Infrastructure development, Sharing results of research and development, Joint publication, Participation in the products development, Collaboration, cooperation and contribution in education and training, Permission to enter the facility for ex situ source of genetic resources, Facilitating community capacity building of indigenous and local communities to conserve and utilize genetic resources in a sustainable manner, Institutional and professional relationships that arise from access and benefit sharing agreement that is fair and balanced and collaborative activities to be developed, Advantages of food security and livelihoods, social acknowledgments
- Utilization of technology development results: Transfer of knowledge and technology transfer, Access to scientific information, Access to technology developed from the utilization of genetic resources

GR INFORMATION SYSTEM USED TO ENCOURAGE INNOVATION

**PUSAT GENOME PERTANIAN INDONESIA (INDONESIA AGRICULTURE
GENOME CENTER) BUILT BY INDONESIAN AGENCY FOR
AGRICULTURAL RESEARCH (IAARD)
→ A DATABASE FOR SPECIES SEQUENCE DATA.**



INTEGRATED INFORMATION SYSTEM WITH IP RIGHT MANAGEMENT

> 28,500,000,000 raw sequence reads

PUSAT GENOM PERTANIAN INDONESIA (PGPI) HOME AB

ABOUT US

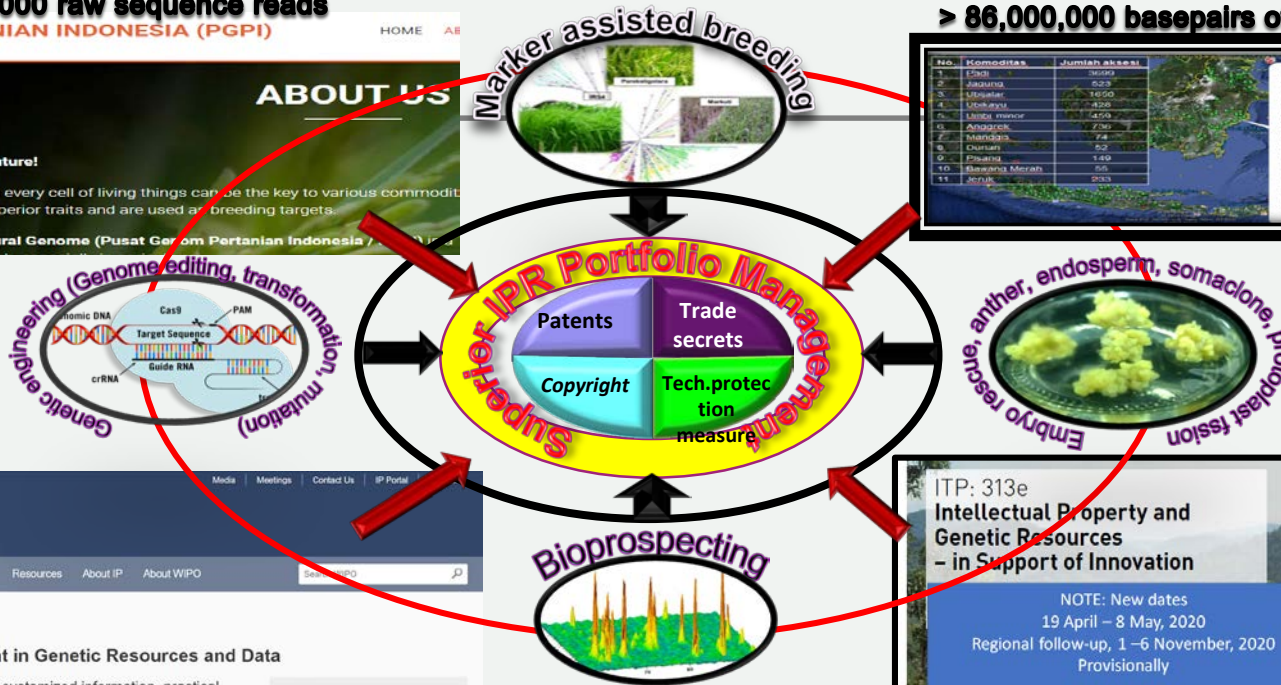
Reading Genomes, designing the Future!

The genetic information contained in every cell of living things can be the key to various commodity variations can be associated with superior traits and are used as breeding targets.

The Indonesian Center for Agricultural Genome (Pusat Genom Pertanian Indonesia /

> 86,000,000 basepairs of seq data

No.	Komoditas	Jumlah sb.seq
1.	Citrus	3600
2.	Jakmania	523
3.	Ulin/ulam	1600
4.	Ulin/ulam	800
5.	Ulin/ulam	400
6.	Ulin/ulam	400
7.	Ulin/ulam	400
8.	Ulin/ulam	400
9.	Ulin/ulam	400
10.	Ulin/ulam	400
11.	Ulin/ulam	400



WIPO INTELLECTUAL PROPERTY ORGANIZATION

IP Services Policy Cooperation Resources About IP About WIPO

Home Policy Traditional Knowledge

IP Rights Management in Genetic Resources and Data

This WIPO service provides customized information, practical tools and training related to the management of intellectual property (IP) in genetic resources (GRs), information and data.

The digital transformation of GRs in the modern life sciences creates new and unique IP needs, which cut across multiple branches of IP law and practice. WIPO's program on IP Rights Management in Genetic Resources and Data provides a one-stop source for cross-cutting products and services, including practical tools and information on how to protect and manage trade secrets, patents, technological protection measures, effective public disclosures and regulatory compliance for GRs and GR data in the life sciences.

FEATURED

No. 10
Background Brief – No.10 Intellectual Property and Genetic Resources

Download

ITP: 313e
Intellectual Property and Genetic Resources – in Support of Innovation

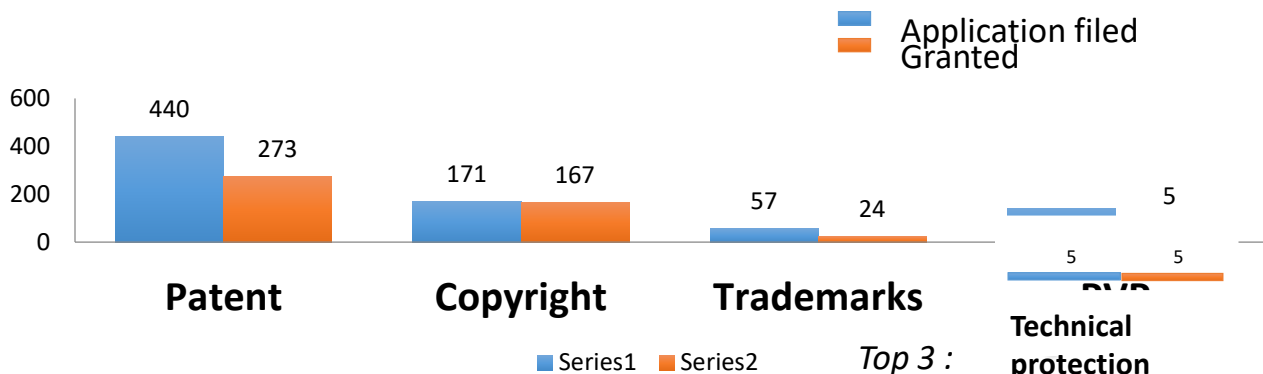
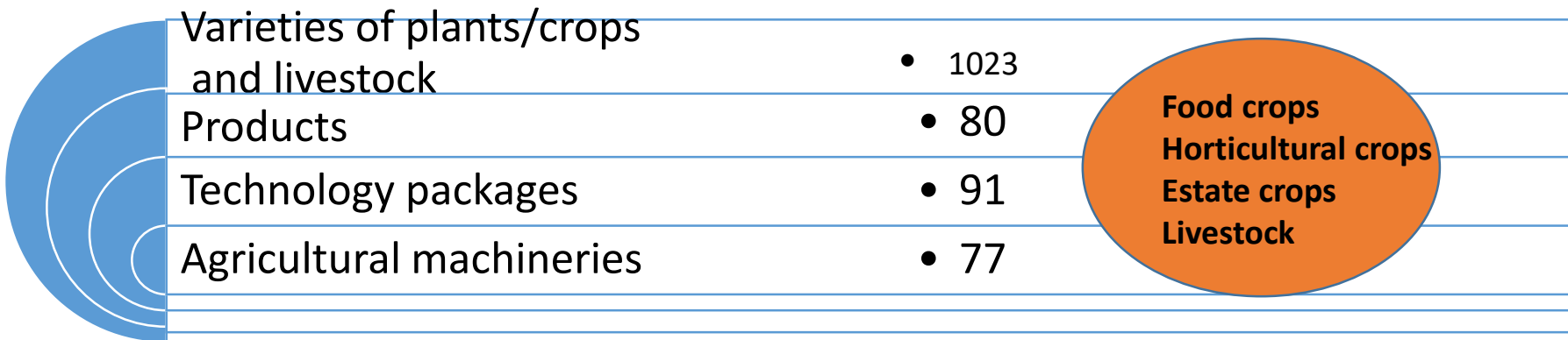
NOTE: New dates
19 April – 8 May, 2020
Regional follow-up, 1–6 November, 2020
Provisionally

Programme open for application
Closing date 29 November 2019

14 June 2019

Sweden Sverige Sida

IAARD AGRICULTURAL INNOVATIVE TECHNOLOGIES- 2020

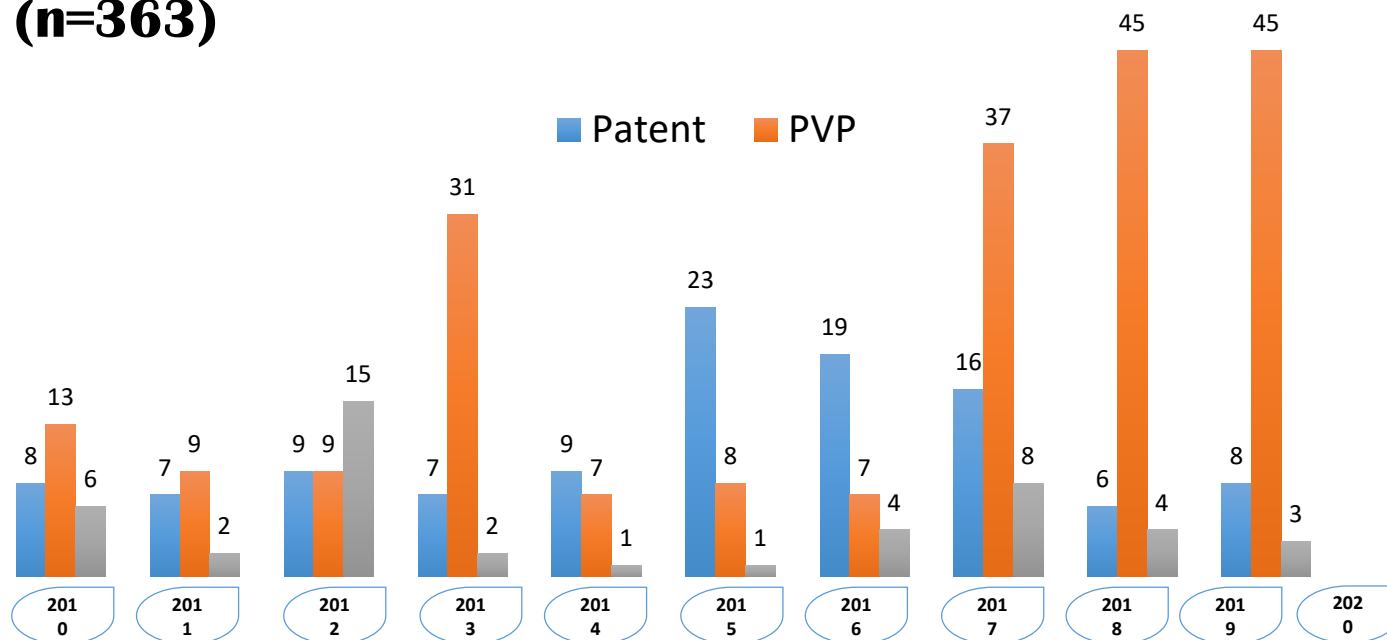


IP – APPLICATION FILLED AND GRANTED OF MOA (2006 - 2020)

17% of technology has been applied in industry

- Top 3 :
- Maize (25%)
 - Rice (22%)
 - Chrysanthemum (13%)

LICENSE (EXC. & NON EXC.) AGREEMENT OF MOA (n=363)



Achievements:

- * 114 private sector enterprises have adopted 139 IAARD technologies
- * 108 license agreement has terminated
- * Other license has trade secrets and livestock

NEEDS

- Mentoring for rights management of IPRs and GRs
- Technical assistance and study visit to improve IPR management and continue IP ecosystem development
- Licensing models for genetic sequence data and technologies
- IPR metadata for simple licensing of sequence data

THANK YOU

<http://www.dgip.go.id>

